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COMMONWEALTH OF MASSACHUSETTS

DUKES COUNTY, ss

SUPERIOR COURT  
CIVIL ACTION  
No. 97-0028

VINEYARD CONSERVATION SOCIETY,  
INC.,  
Plaintiff,  
  
v.  
  
KLAUS F. BROSCHEIT and  
VICTORIA B. BROSCHEIT,  
Defendants

AFFIDAVIT IN OPPOSITION TO  
APPLICATION FOR PRELIMINARY  
INJUNCTION

Now comes affiant hereunder and does say and depose under oath as follows:

1. My name is David Howell and I reside at 94 Mason Road, Whitinsville, MA 01588-1388. I make this affidavit upon my own personal knowledge.

2. I am the son of Theodore L. Howell and Nell L. Howell (aka Nell Howell Blackmar). My mother is 89 years old. My father is deceased, and I am 51 years old.

3. I am familiar with a parcel of land located on Martha's Vineyard and identified in these proceedings as Assessor's Map Lot 561.

4. In 1963 my mother acquired Lot 561. In January of 1963, she leased a portion of that property to Offshore Navigation, Inc. to be used as a radio transmitting and receiving station. The lease for the property from my mother to Offshore Navigation, Inc. ran from 1963 through 1984 or 1985, although of my knowledge only three of those leases were recorded at the Dukes County Registry of Deeds.

5. I am familiar with the use that was made of Lot 561 by Offshore Navigation, Inc. It was a top secret operation involving United States Navy nuclear submarines and radio contact

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location work.

6. When the station was operational, a radio technician had to be at the station 24 hours a day because the station could not run itself.

7. I have knowledge that an individual named Lee Zimmerman was one of the technicians who operated the station during the period of time that the lease was in effect.

8. I am familiar with the road that serviced Lot 561 from Moshup Trail in 1963, and it was the same road which served as access throughout Offshore Navigation, Inc.'s lease.

9. The road which led to the property was there before my mother bought the property. I believe that this road was an ancient way, an old ox cart road, and part of the Old Kings Highway and about 300 years old.

10. When Offshore Navigation, Inc. first rented the space of Lot 561, there was no commercial power to the station, and it ran off two generators which were located in one of the two buildings on the site. The technicians needed to refuel the generators and maintain the transmitters regularly even when not in operation. Sometime during the leasehold by Offshore Navigation, Inc., commercial power was installed to run to the radio station.

11. After the lease to Offshore Navigation, Inc. terminated, my mother Nell occasionally checked the property between the period 1985 and <sup>1997 DRA</sup>~~1987~~ when it was sold, and she gained access via the same road described above.

Further affiant sayeth naught.

SIGNED under pains and penalties of perjury this 26 day of April 1997

*David R. Howell*  
David Howell  
94 Mason Road  
Whitinsville, MA 01588-1388

Dated \_\_\_\_\_

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Now comes affiant hereunder and does say and depose under oath as follows:

1. My name is Joseph De Lerno and I make this affidavit on my own personal knowledge.
2. This affidavit pertains to the use of Lot 561 on the assessor's map in Gay Head on the Island of Martha's Vineyard and the use of a way which served Lot 561.
3. During the period of January 1, 1963 through 1986, I served as Vice President of Off shore Navigation, Inc. ("Offshore"), a Delaware Corporation. I served as President and Chief Executive Officer of Offshore until my retirement in 1991.

From January 1963 through September 30, 1984, Offshore leased a portion of Lot 561 for radio transmission and reception. Three of the yearly leases were recorded at Dukes County Registry of Deeds respectively at Book 340, Page 66; Book 370, Page 447; and Book 397, Page 658 for the periods 1 October 1976 through 1 October 1977, 1 November 1979

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through 31 October 1980, and 1 November 1982 through 31 October 1983, and a copy of those leases are attached.

4. Lot 561 was improved by Offshore with a 100-foot radio transmitting and receiving antenna and two small buildings. One of the buildings contained the radio equipment, a bed and chemical toilet, and the other building was an auxiliary power shed.

5. The radio and antenna were used to provide radio positioning services to calibrate navigation systems aboard United States Navy submarines. It was part of a system named Raydist which used the Martha's Vineyard installation and an installation at Montauk, Long Island offshore to provide contract services to the U.S. Navy for a period in excess of 20-plus years relative to navigation calibration for POLARIS, POSEIDON and TRIDENT submarines.

6. Prior to January 1, 1963, as Vice President of Offshore, I selected Lot 561 as the site for the station and negotiated a lease with Mrs. T. L. Howell, the owner who lived nearby. I also performed the land survey for the site since the exact geodetic position of the antenna was critical to the system's operation.

7. The site was served by a sand road off of a public road, now known as Moshup Trail Road.

*Flat Ballistic Missile JRE*

8. The Raydist system served all Navy submarines that were built and launched during the relevant period. When a submarine would undergo its Sea Trials, that is an extensive testing and calibration cruise after launch, it required that the Raydist system be in operation on a 24-hour-a-day basis from the time the submarine went to sea until it returned to port, a period of five to six days. During Sea Trials, it was necessary for an offshore technician to monitor the signals continuously and be on the site during the entire period. During those periods, the

technician lived on the site. It was intended that the technician remain on the site during the entire Sea Trial and radio communication was maintained with the submarine being tested.

9. Each submarine then built by the Navy <sup>for JREL</sup> underwent three separate Sea Trials of five to six days during each before the U.S. Navy accepted it. Depending on the length of time between the Sea Trials for each boat, the technician would remain on the site for the next Trial or return to the headquarters.

10. For the first several years of the contract period (1963-1971), there were an average of two submarines built and tested each year <sup>at the Electric Boat Division of General Dynamics.</sup> When the last of these submarines had been delivered to the Navy, the submarines were brought back to a shipyard on a rotating schedule for refurbishing and update, which required new Sea Trials for the submarines which this station monitored. <sup>JREL</sup>

11. From 1963 to 1971, Offshore used the site as described for three to four months each year. From 1971 through 1984, Offshore used the site as described for from one to three <sup>months</sup> <sup>JREL</sup> months each year. During all that period, Offshore Navigation personnel, including the resident technicians, gained access to the station by the sand road leading to the site as described in paragraph 7 above.

Further affiant sayeth naught.

SIGNED under pains and penalties of perjury this 24<sup>th</sup> day of April, 1997

199 Joseph De Lerno  
Joseph De Lerno  
5618 Cheryl Drive  
New Orleans, LA 70124

Dated: April 23, 1997

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SUPERIOR COURT  
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VINEYARD CONSERVATION SOCIETY,  
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Now comes affiant hereunder and does say and depose under oath as follows:

1. My name is George Roussel, and I make this affidavit upon my personal knowledge.
2. During the period 1963 through 1985, I was employed by Offshore Navigation, Inc. as Vice President of Operations and as a Corporate Director.
3. During the period from 1963 through 1985, Offshore Navigation, Inc. leased from Nell L. Howell a plot of land on the southwestern part of the island of Martha's Vineyard, Massachusetts, described as:  
Approximately, one (1) acre in size, comprising the southwest corner of Lot 561, Gay Head Township, Dukes County, Massachusetts; situated approximately two and one-half (2 1/2) miles from Gay Head Lighthouse and approximately fifteen hundred (1,500) feet from the shore of the Atlantic Ocean.
4. Ingress to and egress from this site was by means of an unimproved road running from Moshup Trail to the site.

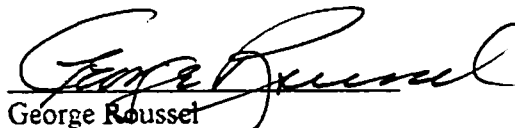
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5. The described site was utilized as a radio transmitting station, and consisted of a 100-foot tall transmitting antenna and two small buildings. One building housed the transmitter and associated electronics equipment together with living facilities for the operating technician. The second building housed an electric generator to power the station.

6. The station transmitted, in conjunction with other similar stations, radionavigation signals to POLARIS, POSEIDON and TRIDENT guided missile submarines operating out of the Electric Boat Company shipyard in New London, Connecticut. Offshore Navigation, Inc.'s contract was with the special Projects Office, Department of the Navy. Operations were conducted on schedules specified by the Special Projects Office or by the Navy Supervisor of Shipbuilding at the shipyard.

Further affiant sayeth naught.

SIGNED under pains and penalties of perjury this 24<sup>TH</sup> day of April, 1997.



George Roussel  
ONI International, Inc.  
2121 Airline Highway, Suite 400  
Metairie, LA 70004-0578

(21)

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AFFIDAVIT OF WILLIAM VANDERHOOP

William Vanderhoop, being duly sworn, deposes and says:

1. I was born in \_\_\_\_\_ on Martha's Vineyard in 1950 and have lived in Gay Head all of my life.

2. As a child, my friends and I explored all of the old ways and paths in Gay Head, there not being much else to do in Gay Head in those days. In addition, I started deer hunting at the age of eight, and have hunted in Gay Head all of my life, including in the area that is at issue in this litigation.

Before Moshup Trail was built, in about 1958, there was an old path that went from State Road in Gay Head down to an area of the beach along Moshup Trail known as Zack's Cliffs. We called this path "Zack's Cliffs Road." There was no road to what later became the radio tower site.

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4. To the best of my memory, the radio tower, two shacks, and the road in to the site were constructed in about 1963 or 1964. The site was used for no more than about three weeks at a stretch, one or two <sup>WDV</sup> times each year. You could always tell when the site was in use, because the person there would fire up the generator, which made so much noise that it could be heard from considerable distances away. ~~So~~ The ~~generator~~ <sup>signal</sup> ~~from the tower, which was only on when someone was at the site, would interrupt T.V. and radio~~

5. I became friendly with one of the people who worked at the radio tower site when I was about 15 or 16 years old, in 1965 or 1966, and I used to visit him at the site. He lived in one the shacks, which is about 8 <sup>WDV</sup> feet by 12 <sup>WDV</sup> feet in dimension. He had a cot and an electric burner, and not much else. He used to go into town to get <sup>WDV</sup> some of his meals, and would bring back food to reheat on the electric burner. There was no toilet or shower, no kitchen, no insulation, just a plain wood shack. <sup>WDV</sup> reception in Gay Head with 20-30 beeps every minute around the clock, so I was definitely aware when they were on-site.

6. I did not see anyone <sup>or hear</sup> ~~at~~ <sup>WDV</sup> the site after 1980 <sup>about 2</sup> <sup>WDV</sup>. By 1983, when I went to the site, one of the two radio towers there had blown down completely and the other was half down, the doors to the two shacks were open and flapping in the wind, and the site looked abandoned to me.

7. From 1963 <sup>WDV</sup> until about 1980 <sup>WDV</sup>, I worked for Nell Howell doing brush cutting, lawn mowing and similar work a couple of <sup>WDV</sup> days per month <sup>WDV</sup>. I knew that she owned the land on which the radio tower was sited. She never asked me to do any work at that site, and I never saw her go to that site.

Signed under the pains and penalties of perjury this 29th day of April, 1997.

William D. Vanderhoop  
William Vanderhoop