

COMMONWEALTH OF MASSACHUSETTS

DUKES, ss.

LAND COURT DEPARTMENT  
MISC. CASE NO. 238738

\_\_\_\_\_  
MARIA A. KITRAS, AS SHE IS THE TRUSTEE )  
OF BEAR REALTY TRUST, MARIA A. KITRAS and )  
JAMES J. DECOULOS, AS THEY ARE THE CO-TRUSTEES )  
OF BEAR II REALTY TRUST, MARIA A. KITRAS and )  
JAMES J. DECOULOS, AS THEY ARE THE CO-TRUSTEES )  
OF GORDA REALTY TRUST, MARK D. HARDING, )  
SHEILA H. BESSE AND CHARLES D. HARDING, JR., )  
AS THEY ARE THE TRUSTEES OF THE )  
ELEANOR P. HARDING REALTY TRUST, )

Plaintiffs )

vs. )

TOWN of AQUINNAH, COMMONWEALTH OF MASSACHUSETTS )  
ACTING THROUGH ITS EXECUTIVE OFFICE OF )  
ENVIRONMENTAL AFFAIRS, GEORGE D. BRUSH AS TRUSTEE )  
OF THE TOAD ROCK REALTY TRUST, CHARLES E. DERBY, )  
JOANNE FRUCHTMAN AND JACK FRUCHTMAN, BENJAMIN )  
L. HALL, JR. AS TRUSTEE OF GOSSAMER WING REALTY )  
TRUST, BRIAN M. HALL AS TRUSTEE OF THE BARON'S )  
LAND TRUST, CAROLINE KENNEDY, JEFFREY MADISON )  
AS TRUSTEE OF TACKNASH REALTY TRUST, THE MARTHA'S )  
VINEYARD LAND BANK, MOSHUP TRAIL II LIMITED )  
PARTNERSHIP, PETER OCHS, PERSONS UNKNOWN OR )  
UNASCERTAINED BEING THE HEIRS OF SAVANNAH COOPER, )  
SUSAN SMITH AND RUSSELL SMITH, BARBARA VANDERHOOP, )  
EXECUTRIX OF THE ESTATE OF LEONARD F. VANDERHOOP, )  
JR., VINEYARD CONSERVATION SOCIETY, INC., )  
DAVID WICE AND BETSY WICE, AND PERSONS UNKNOWN )  
OR UNASCERTAINED WHO MAY HAVE AN INTEREST IN )  
ANY LAND HERETOFORE OR HEREINAFTER MENTIONED OR )  
DESCRIBED )

Defendants )

\_\_\_\_\_  
**THIRD AMENDED VERIFIED COMPLAINT,**  
**JANUARY 18, 2007**

## INTRODUCTION

This action is brought under the provisions of General Laws, Chapter 185, Section 1(k), Chapter 240, Section 6, and Chapter 231A to determine the claims or rights of the Plaintiffs and the Defendants named herein and persons unascertained, not in being, unknown, out of the Commonwealth, or who cannot be actually served with process and made personally amenable to the Judgment of the Court, and that such persons should be made Defendants and are described generally.

## PARTIES

1. The plaintiff, Maria A. Kitras is the Trustee of Bear Realty Trust ("Bear"), under a Declaration of Trust recorded at the Dukes County Registry of Deeds in Book 650, Page 282 with an address at 38 Bow Road, Belmont, Middlesex County, Massachusetts. (Lots 178, 241 and 711)<sup>1</sup>
2. The plaintiffs, Maria A. Kitras and James J. Decoulos are the Trustees of Bear II Realty Trust ("Bear II"), under a Declaration of Trust recorded at said Registry of Deeds, Book 745, Page 475, with an address at 38 Bow Road, Belmont, Middlesex County, Massachusetts. (Lot 713)

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<sup>1</sup> The lot numbers after the name of each party refer to lots that are depicted on either of the following plans. "Sectional Plans of Indian Lands of Gay Head recorded at Dukes County Registry of Deeds on October 26, 1871" (Sectional Plans) or "Plan of Gay Head Showing the Partition of the Common Lands as made by Joseph T. Pease and Richard L. Pease, Commissioners appointed by the Judge of the Probate under Section 6 of Chapter 213 of the Acts of 1870, by John H. Mullin, Scale: 200 feet to an inch" (the "Partition Plan").

3. The plaintiff, Maria A. Kitras is a Trustee of Gorda Realty Trust ("Gorda") with an address at 38 Bow Road, Belmont, Middlesex County, Massachusetts. Kitras was appointed Trustee of Gorda in a Certificate of Appointment recorded at said Registry of Deeds in Book 841, Page 628. (Lots 232 and 243)
4. The plaintiff, James J. Decoulos is a Trustee of Gorda with an address at 38 Bow Road, Belmont, Middlesex County, Massachusetts. Decoulos was appointed Trustee of Gorda in a Certificate of Appointment recorded at said Registry of Deeds in Book 886, Page 851. (Lots 232 and 243)
5. The plaintiff, Mark D. Harding, resides at 299 Falmouth Road, Mashpee, Massachusetts. (Lot 554)
6. The plaintiffs, Sheila H. Besse and Charles D. Harding are the Trustees of the Eleanor P. Harding Realty Trust. The address of the Trust is 141 Herring Pond Road, Buzzard Bay, Massachusetts. (Lot 555)
7. The defendants are as follows:
  - i. Town of Aquinnah (the "Town"), is a municipal corporation having a usual place of business at 65 State Road, Aquinnah, Dukes County, Massachusetts; (Lots 549, 550, 556 and 570 with Commonwealth).
  - ii. Commonwealth of Massachusetts acting through its Executive Office of Environmental Affairs, with an address of 100 Cambridge Street, Suite 900, Boston, Suffolk County, Massachusetts; (Lots 549, 550 and 570 with Aquinnah)

- iii. George B. Brush as Trustee of Toad Rock Realty Trust, with an address c/o Muskeget Associates, State Road, West Tisbury, Dukes County, Massachusetts; (Lot 712)
- iv. Charles E. Derby, residing at 2 Massasoit Avenue, Northampton, Hampshire County, Massachusetts; (Lot 561 with VCS)
- v. Joanne Fruchtman and Jack Fruchtman, residing at 1807 Kenway Road, Baltimore, Maryland; (Lots 543 and 544)
- vi. Benjamin L. Hall, Jr. as Trustee of Gossamer Wing Realty Trust, with an address at 45 Main Street, Edgartown, Dukes County, Massachusetts; (Lot 710)
- vii. Brian M. Hall, as Trustee of the Baron's Land Trust, with an address of 45 Main Street, Edgartown, Dukes County, Massachusetts; (Lots 177 and 242)
- viii. Caroline Kennedy with an address c/o Edwin Schlossberg, Inc., 641 6th Avenue, 5th floor, New York, New York; (Lots 240, 560, 562, 572, 577)
- ix. Jeffrey Madison, as Trustee of Tacknash Realty Trust, with an address at State Road, Aquinnah, Dukes County, Massachusetts;
- x. The Martha's Vineyard Land Bank, a corporate body politic, with a principal place of business at 167 Main Street, Edgartown, Massachusetts. (Part of Lot 578, Lots 238 and 569)
- xi. Moshup Trail II Limited Partnership c/o Barry White, Esq., Foley, Hoag & Eliot, 155 Seaport Boulevard, Boston, Suffolk County, Massachusetts;

- xii. Peter Ochs, residing at 39 Moshup Trail, Aquinnah, Dukes County, Massachusetts; (Lot 708)
- xiii. Persons unknown or unascertained being the heirs of Savannah F. Cooper; (Lot 547)
- xiv. Susan Smith and Russell Smith, residing at 4 Towhee Lane, Aquinnah, Dukes County, Massachusetts; (Part of Lot 578, Lot 580)
- xv. Barbara Vanderhoop, Executrix of the Estate of Leonard F. Vanderhoop, Jr., residing at 568 East Foothill Boulevard No. 205, Asuza, California; (Lot 709 and Walmsley Homestead)
- xvi. Vineyard Conservation Society, Inc. (the "VCS"), is a Massachusetts corporation having a usual place of business at The Wakeman Center, Lambert's Cove Road, Vineyard Haven, Dukes County, Massachusetts; (Lots 548, 553, 559, 561 as tenant in common with Charles Derby, 563, 564, 567, 568, 571, 714)
- xvii. David Wice and Betsy Wice, residing at 2410 Spruce Street, Philadelphia, Pennsylvania; (Lots 89, 237, 239, 247, 579);
- xviii. Persons unknown or unascertained who may have an interest in any land heretofore or hereinafter mentioned or described.

**ALLEGATION OF FACTS COMMON TO ALL DEMANDS AND CAUSES OF ACTION**

8. All of the lots that are owned by the plaintiffs and the defendants were held in common by the Commonwealth of Massachusetts prior to 1856.
9. The general location of this dispute is shown on the Locus Map attached hereto as Exhibit 1.<sup>2</sup>
10. The plaintiffs and the defendants are the owners of record of land located in Aquinnah as shown on the plan attached hereto as Exhibit 2 and further identified under the "PARTIES" section hereof.
11. The plaintiffs claim a right of access over the property of the defendants from their property to the Moshup Trail, Zack's Cliffs Road and the Radio Tower Road, although no easement has ever been expressly granted to plaintiffs or their predecessor in title to pass over the property of the defendants and an easement to drain surface water from their properties to the Atlantic Ocean.
12. Prior to 1856, the plaintiffs' and the defendants' land was located in an area known as the Plantation of Gay Head and the Commonwealth of Massachusetts held title in fee simple to all of the lands occupied by and for the benefit of the Wampanoag Indians residing there.

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<sup>2</sup> All exhibits are attached hereto, expressly made a part hereof and incorporated herein by reference.

13. On February 12, 1856, Massachusetts House of Representatives Report No. 48 was transmitted to the Speaker of the House and Commissioners were appointed under c. 15 of the Resolves of 1855 to establish the boundary line between the Plantation of Gay Head and the Town of Chilmark.
14. The District of Gay Head was established under c. 184, § 4 of the Acts of 1862. Section 5 of the Act ordered the clerk of the District to establish "a register of the lands of each Plantation, as at present held, whether in common or severalty, and if in severalty, by whom held."
15. By Chapter 42 of the Resolves of 1863, Charles Marston was appointed to "ascertain and determine the existing boundary lines of the land held in severalty."
16. Marston issued his final report to the Governor and the Executive Council on February 27, 1866. House Document No. 219 of 1866.
17. Marston died before completing his work and Richard L. Pease was appointed in accordance with Chapter 67 of the Resolves of 1866 to replace him.
18. On April 30, 1870, Chapter 213 of the Acts of 1870 was approved by the Commonwealth to incorporate the Town of Gay Head (the "Town Act").
19. Section 2 of the Town Act conveyed all Common Lands to the Town of Gay Head.

20. Section 5 of the Town Act required the Commissioners of the County of Dukes to lay out and construct a road from Chilmark to the light house on Gay Head.
21. Section 6 of the Town Act confirmed the rights of individuals who held land in severalty at the time of the Town Act to establish title.
22. Pursuant to Section 6 of the Town Act, Pease confirmed and established the lots held in severalty and assigned lot numbers 1 through 173 to these lands, which lots are depicted on the Sectional Plans, and confirmed that the remaining land, which was also depicted on the Sectional Plans, was held in common by the Town. Pease executed deeds confirming the title to the land held in severalty, Lots 1 through 173, to the respective owners and the deeds were recorded on October 22, 1871, at the Registry of Deeds in Book 49, Pages 116 to 198. All of these activities were set forth in Pease's 1871 Report to the Governor and Council.
23. Section 7 of the Town Act provided that the Selectmen of Gay Head, or any ten residents of the Town, may apply to the Probate Court of the County of Dukes to partition any or all of the Common Lands. If said petition was made, the Judge of the Probate Court was directed to identify lands rightfully held by individual owners and that upon the completion of the partition, all of the deeds were to be recorded at the Registry upon final approval of the Judge.



24. On September 1, 1870, a Petition to Partition the Common Lands was filed by seventeen (17) residents of the Town of Gay Head with the Probate Court.
25. On December 1, 1878, the Commissioners, Joseph T. Pease and Richard L. Pease, filed their report to the Probate Court (the "Commissioners' Report"), together with a map entitled "Plan of Gay Head showing the Partition of the Common Lands as made by Joseph T. Pease and Richard L. Pease, Commissioners appointed by the Judge of the Probate under Section 6 of Chapter 213 of the Acts of 1870, by John H. Mullin, Scale: 200 feet to an inch" (the "Partition Plan"). The original map is currently held by the office of the Dukes County Register of Probate.
26. The Commissioners' Report was approved by Judge Thaddeus G. Defriez of the Probate Court on December 1, 1878 and was recorded on January 20, 1879, at the Registry in Book 65, from Pages 150 to 376.
27. The parcels of real estate which are the subject of this dispute were created from the partition of the Common Lands previously owned by the Commonwealth of Massachusetts and the Town.
28. The Partition Plan depicts all of the land located in the Town of Aquinnah, and all of the houses in the Town are located on those lots which were subdivided from the original lots and are presently being used for residential purposes, except for approximately five lots which are being used for commercial

purposes.

29. At the time that the Sectional Plans and Partition Plan were prepared and the deeds were delivered by a common grantor to the initial grantees and predecessors in title of the parties hereto, none of the lots that are the subject matter of this complaint had any access on any public way.
30. At the time of the partition of the Common Lands, Old South Road and State Road were the only ways existing in the Town of Gay Head.
31. There is no evidence that either Old South Road or State Road were public ways at the time of the passage of the Town Act or the conveyance of the Common Lands.
32. Exhibit 3 is a reasonable, although not completely accurate, depiction of all of the lots shown on the Partition Plan combined with the Sectional Plans and also shows the location of State Road beginning at the Chilmark town line and ending at Gay Head and another road known as Old South Road which were the only ways servicing the entire Town.
33. Prior to 1940, traveled ways developed on and within the vicinity of Plaintiffs' and Defendants' lands that were used for access, pedestrian, horseback, cart, and vehicle travel.
34. One of the traveled ways that was developed on and within the vicinity of Plaintiffs' lands was known as "Zack's Cliffs Road", which is depicted on the 1944 U.S Geological Survey Map.
35. Also depicted on the 1944 U.S. Geological Survey Map is the

Radio Tower Road which intersected with Zack's Cliffs Road.

36. In 1954, the Dukes County Commissioners laid out Moshope Trail, now known as the Moshup Trail. The purpose of the layout was that "common convenience and necessity require the layout of a new highway to be known as the Moshope Trail" quoting layout as recorded at the Registry in Book 227, Page 564.
37. The construction of Moshup Trail, was completed around 1960.
38. The Town owns Moshup Trail in fee simple absolute.
39. Moshup Trail is a public right-of-way.
40. Prior to the construction of the Moshup Trail, the surface waters drained and flowed from the lots owned by the plaintiffs and the defendants and followed the topography directly to the Atlantic Ocean.
41. By the construction of the Moshup Trail, the topography of the land was changed and thus prevents the flow of surface water to the Atlantic Ocean which has caused perching of the water up gradient of the Moshup Trail.
42. In 1996, the Town acquired title to Lots 549, 550 and 570 with funds given to the Town by the Commonwealth of Massachusetts pursuant to the Self-Help Program, which Program provides municipalities with funding to purchase land for conservation purposes, and the Commonwealth of Massachusetts has the benefit of a restriction on those three lots which prevents the sale of the lots without the approval of the Commonwealth.
43. In order for the plaintiffs to obtain access to public ways, it

will be necessary for the Court to establish public ways, the width thereof to be in compliance with the Town of Aquinnah Planning Board's Regulations, not to be located as reasonably possible within any areas subject to the jurisdiction of Chapter 131 of the General Laws of Massachusetts, the Town of Aquinnah Wetland Bylaws and the Massachusetts Endangered Species Act, Chapter 131A.

44. For the Court's assistance in locating an access road to the Moshup Trail, the plaintiffs, being the owners of landlocked lots, have prepared a plan (Exhibit 4) depicting a roadway which will allow the plaintiffs to have access to the Moshup Trail.
45. None of the deeds of the common grantors to the individual lots described any right of access or easement for access to and from any of the lots.
46. When the Commonwealth, through its appointed commissioners who had unity of title, divided and conveyed the Common Lands, it is by operation of law and incidental to the common grant presumed that the common grantors intended to provide every grantee of the Common Lands with whatever was necessary for the beneficial use and enjoyment of the granted land.
47. At the time of the subdivision and conveyance of the Common Lands, the Commonwealth, through its appointed commissioners, knew that passage over the Common Lands was necessary to access otherwise landlocked parcels of land.

48. At the time of the subdivision and conveyance of the Common Lands, the Commonwealth, through its appointed commissioners, knew that the residents of the Town traveled over the lands of others to gain access to otherwise landlocked parcels of land.
49. At the time of the subdivision and conveyance of the Common Lands by the common grantor, it was never the intent of the Commonwealth or its appointed commissioners to create lots without any means of access or to deprive landowners of any means of access to their set-off lots from existing ways.
50. The plaintiffs and their predecessors in title have used Zack's Cliffs Rod in an open, notorious, adverse and continuous manner for 20 years in order to gain access to their properties.
51. The plaintiffs and their predecessors in title have used the Radio Tower Road in conjunction with Zack's Cliffs Road in an open, notorious, adverse and continuous manner for 20 years in order to gain access to their properties.
52. An actual controversy exists as to the existence of easements by necessity, prescription and drainage required by the plaintiffs to gain access to their property which will allow their property to be used to its fullest extent and where such an easement may be located.

**CAUSES OF ACTION**

**Count One**

**(Easement by Necessity)**

53. The plaintiffs, being the owners of lots that were landlocked by the common grantors who had unity of title of the lots, are entitled by operation of law and incidental to that common grant to have access to public ways by a road network to be determined by the Court, taking into consideration the topography of the land, the soil conditions and compliance with the Rules and Regulations of the Planning Board of the Town of Aquinnah, which will grant to the plaintiffs the right to use the roadways and streets as commonly used in the Town of Aquinnah with the right to install utilities above ground and below ground to service the lots owned by the plaintiffs and the proper drainage of surface waters, which lots could be further subdivided provided that the subdivision meets the zoning requirements of the Town of Aquinnah and the rules and regulations of all governmental agencies.

**Count Two**

**(Easement by Prescription)**

54. The Plaintiffs and their predecessors in title have used Zack's Cliffs Road and the Radio Tower Road in an open, notorious, adverse and continuous manner for 20 years and have acquired an easement by prescription to gain access to their properties over Zack's Cliffs Road and the Radio Tower Road to install

above and below ground utilities therein, to be used as streets are commonly used in the Town of Aquinnah.

**Count Three**

**(Claim for Nuisance)**

55. The construction of Moshup Trail has prevented the natural flow of surface water from Plaintiffs' lands to the Atlantic Ocean.

56. The failure to adequately drain surface water by a conduit under the Moshup Trail has created perched wetlands north of Moshup Trail that prevent Plaintiffs from using either the Radio Tower Road or Zack's Cliffs Road on a year round basis.

57. As a result of the failure of the Town to install a conduit, the Town has created a private nuisance on the properties of the plaintiffs.

**REQUEST FOR RELIEF AS TO COUNTS ONE AND TWO**

WHEREFORE, the plaintiffs request that the Court enter a Judgment declaring that:

1. It was the intent of the common grantors who had unity of title, when they subdivided the common lands, that the grantees of the lots conveyed by the common grantors were to have access to a road network which would have included the roads in existence in 1870 and any new roads that were created thereafter and that the access would be equivalent to streets as presently used in the Town of Aquinnah and that the plaintiffs and defendants would have the right to install and maintain above and below ground utility systems, drainage and any other improvements as found on ways

commonly used in the Town of Aquinnah.

2. Each and every defendant is permanently enjoined from preventing the plaintiffs from using said road network as streets are commonly used in the Town of Aquinnah and any and all other improvements thereon.

3. For such further relief as this Court deems just and proper.

**Request for Relief as to Count Three**

WHEREFORE, the plaintiffs request Judgment against the Town as follows:

1. Declaring that the construction of the Moshup Trail has created a private nuisance by preventing the natural flow of surface water from the up gradient side of the Moshup Trail to the Atlantic Ocean.

2. Ordering the Town to install properly sized conduits to adequately drain the surface water.

3. For such further relief as this Court deems just and proper.

Dated: February 9, 2007.

Maria A. Kitras as she is the Trustee of  
Bear Realty Trust, Bear II Realty Trust  
and Gorda Realty Trust; James J.  
Decoulos as he is the Trustee of Bear II  
Realty Trust and Gorda Realty Trust;  
Plaintiffs



By their Attorneys,

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Nicholas J. Decoulos  
BBO# 117760  
39 Cross Street, Suite 204  
Peabody, MA 01960  
Tel. 978-532-1020

Mark D. Harding; Sheila H. Besse and  
Charles D. Harding, Jr., as they are the  
Trustees of the Eleanor P. Harding  
Realty Trust,

By their attorney:

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Leslie-Ann Morse  
BBO#542301  
477 Old Kings Highway  
Yarmouthport, MA 02675  
Tel. 508-375-9080

I, James J. Decoulos, hereby state that I have read the above Third Amended Complaint; that I am familiar with all matters stated therein; that I have actual personal knowledge of such matters and that from such knowledge I know the matters stated are true and correct and so far as based upon information and belief, I do believe the information to be true.

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James J. Decoulos, Trustee

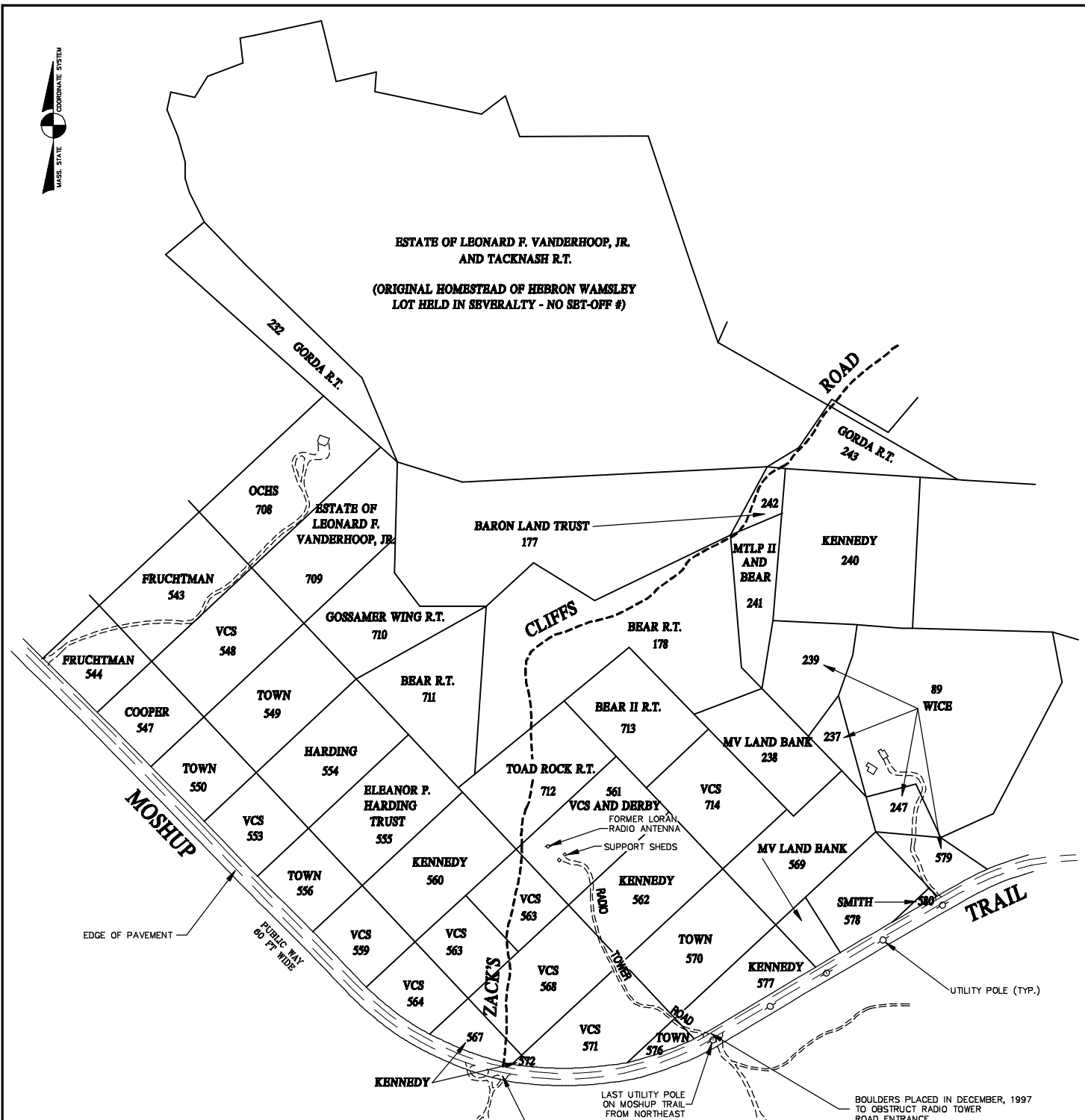


**REFERENCE:**

USGS QUADRANGLE  
SQUIBNOCKET, MA  
DATE: 1977  
SCALE: 1:25 000



**LOCUS MAP  
EXHIBIT 1**



**REFERENCES**

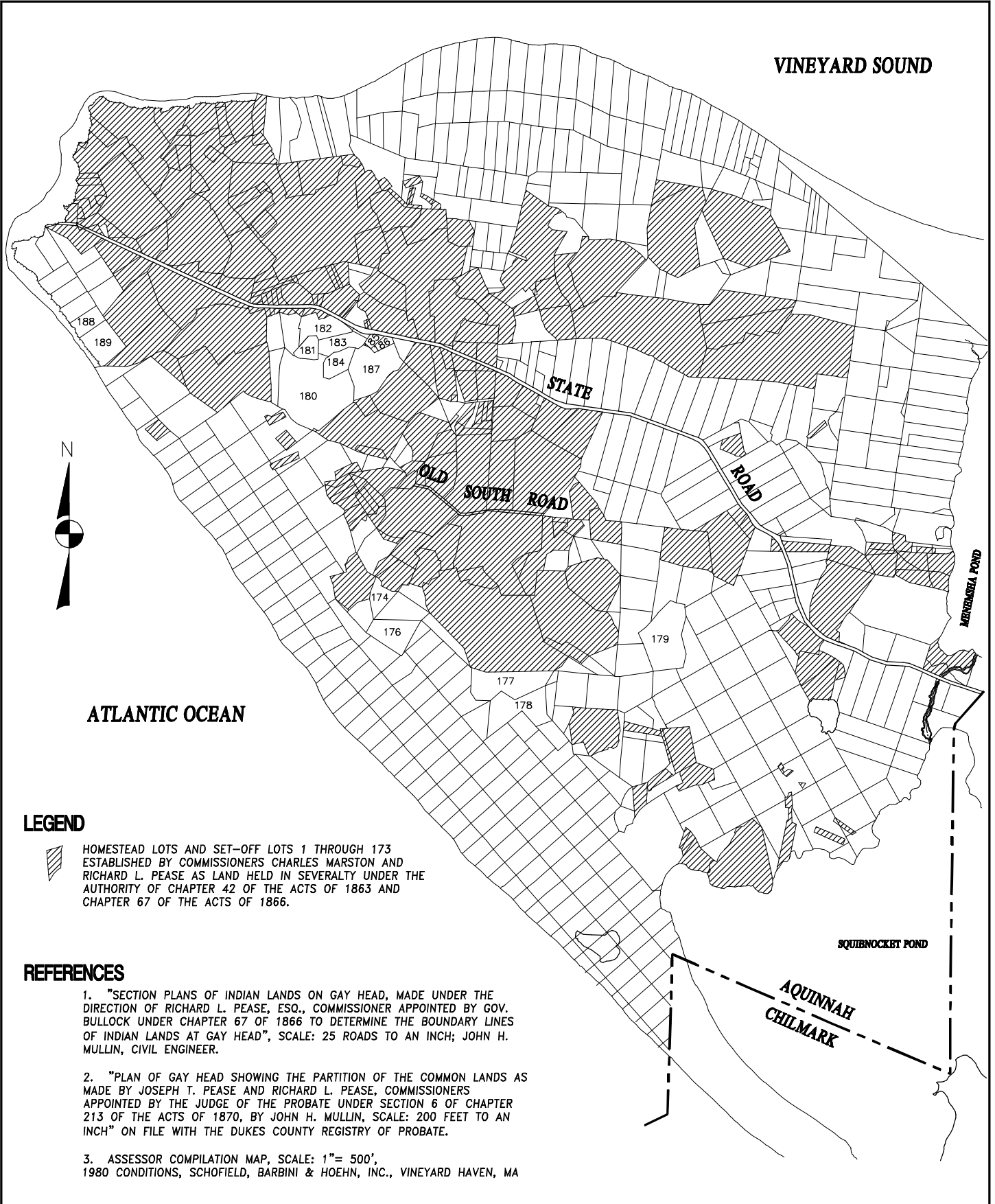
1. PLAN OF GAY HEAD SHOWING THE PARTITION OF THE COMMON LANDS, AS MADE BY JOSEPH T. PEASE AND RICHARD L. PEASE, COMMISSIONERS, APPOINTED BY THE JUDGE OF PROBATE UNDER SECTION 6, CHAPTER 213 OF THE ACTS OF 1870, BY JOHN H. MULLIN, CIVIL ENGINEER.
2. AERIAL PHOTOGRAMMETRY PROVIDED BY LOCKWOOD MAPPING ROCHESTER, NY, MARCH, 1979
3. U.S. GEOLOGICAL SURVEY TOPOGRAPHIC QUADRANGLES SQUIBNOCKET, MA; 1944, 1951 and 1977
4. TOWN OF AQUINNAH ASSESSOR RECORDS. OCTOBER 2006

**EXHIBIT 2 - EXISTING OWNERSHIP**  
**MARIA A. KITRAS, TRUSTEE ET AL. V. TOWN OF AQUINNAH ET AL.**  
**MASSACHUSETTS LAND COURT MISC. CASE NO. 238738**

DATE  
 JAN 2007  
 SCALE  
 1" = 500'  
 FIGURE NO.  
 2



VINEYARD SOUND



ATLANTIC OCEAN

LEGEND



HOMESTEAD LOTS AND SET-OFF LOTS 1 THROUGH 173 ESTABLISHED BY COMMISSIONERS CHARLES MARSTON AND RICHARD L. PEASE AS LAND HELD IN SEVERALTY UNDER THE AUTHORITY OF CHAPTER 42 OF THE ACTS OF 1863 AND CHAPTER 67 OF THE ACTS OF 1866.

REFERENCES

1. "SECTION PLANS OF INDIAN LANDS ON GAY HEAD, MADE UNDER THE DIRECTION OF RICHARD L. PEASE, ESQ., COMMISSIONER APPOINTED BY GOV. BULLOCK UNDER CHAPTER 67 OF 1866 TO DETERMINE THE BOUNDARY LINES OF INDIAN LANDS AT GAY HEAD", SCALE: 25 ROADS TO AN INCH; JOHN H. MULLIN, CIVIL ENGINEER.
2. "PLAN OF GAY HEAD SHOWING THE PARTITION OF THE COMMON LANDS AS MADE BY JOSEPH T. PEASE AND RICHARD L. PEASE, COMMISSIONERS APPOINTED BY THE JUDGE OF THE PROBATE UNDER SECTION 6 OF CHAPTER 213 OF THE ACTS OF 1870, BY JOHN H. MULLIN, SCALE: 200 FEET TO AN INCH" ON FILE WITH THE DUKES COUNTY REGISTRY OF PROBATE.
3. ASSESSOR COMPILATION MAP, SCALE: 1"= 500', 1980 CONDITIONS, SCHOFIELD, BARBINI & HOEHN, INC., VINEYARD HAVEN, MA

SQUIBNOCKET POND

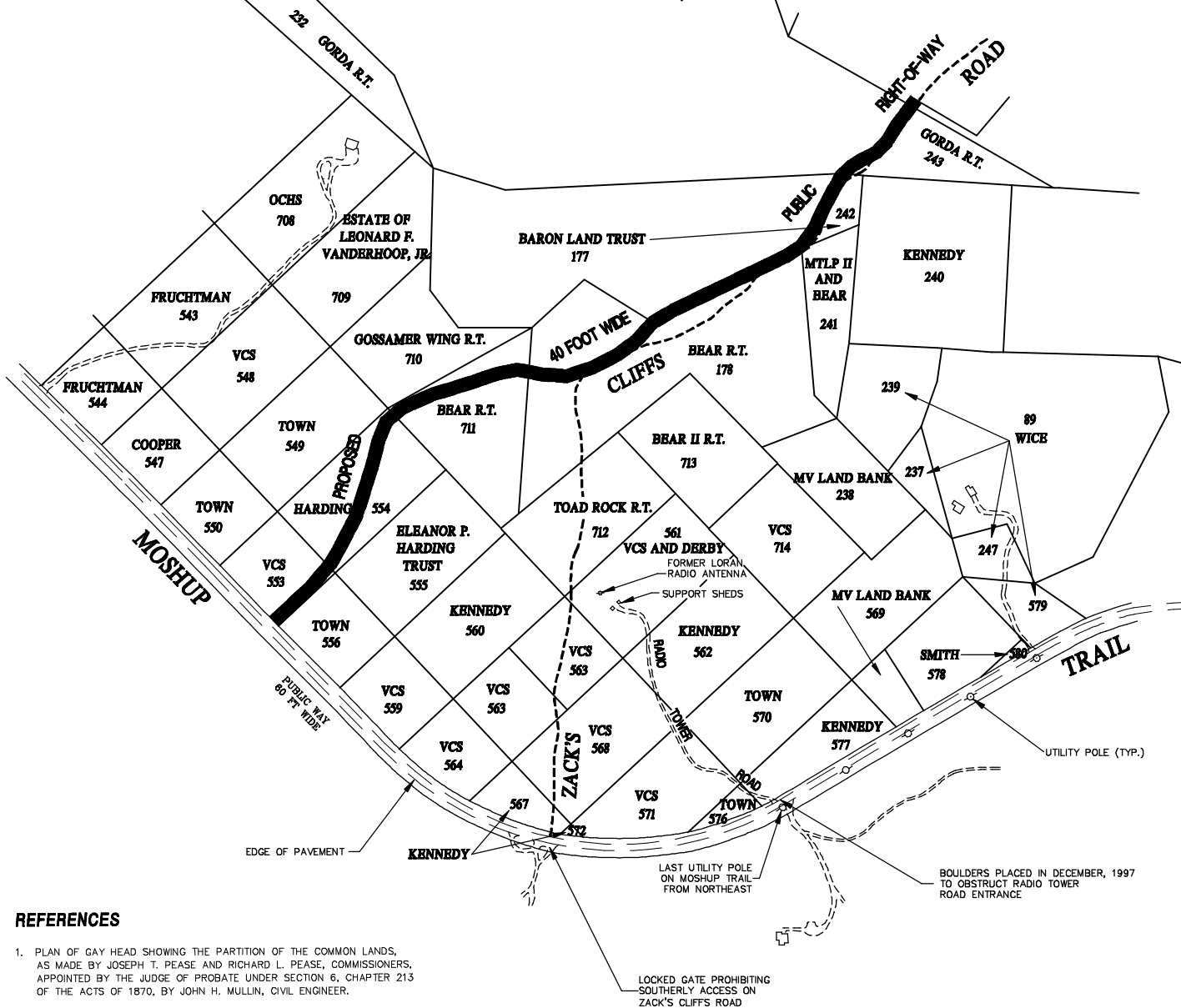
AQUINNAH  
CHILMARK

**EXHIBIT 3 - LOTS ESTABLISHED UNDER C. 42 OF 1863,  
C. 67 OF 1866 AND 1878 ORDER OF DUKES COUNTY PROBATE COURT  
AQUINNAH, MASSACHUSETTS**

DATE  
JAN 2007  
SCALE  
1" = 2000'  
FIGURE NO.  
3



ESTATE OF LEONARD F. VANDERHOOP, JR.  
AND TACKNASH R.T.  
(ORIGINAL HOMESTEAD OF HEBRON WAMSLEY  
LOT HELD IN SEVERALTY - NO SET-OFF #)



**REFERENCES**

1. PLAN OF GAY HEAD SHOWING THE PARTITION OF THE COMMON LANDS, AS MADE BY JOSEPH T. PEASE AND RICHARD L. PEASE, COMMISSIONERS, APPOINTED BY THE JUDGE OF PROBATE UNDER SECTION 6, CHAPTER 213 OF THE ACTS OF 1870, BY JOHN H. MULLIN, CIVIL ENGINEER.
2. AERIAL PHOTOGRAMMETRY PROVIDED BY LOCKWOOD MAPPING ROCHESTER, NY, MARCH, 1979
3. U.S. GEOLOGICAL SURVEY TOPOGRAPHIC QUADRANGLES SQUIBNOCKET, MA; 1944, 1951 and 1977
4. TOWN OF AQUINNAH ASSESSOR RECORDS. OCTOBER 2006

**EXHIBIT 4 - PROPOSED ACCESS ROAD TO MOSHUP TRAIL**  
**MARIA A. KITRAS, TRUSTEE ET AL. V. TOWN OF AQUINNAH ET AL.**  
**MASSACHUSETTS LAND COURT MISC. CASE NO. 238738**

DATE  
JAN 2007  
SCALE  
1" = 500'  
FIGURE NO.  
4