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File #5617

February 20, 2009

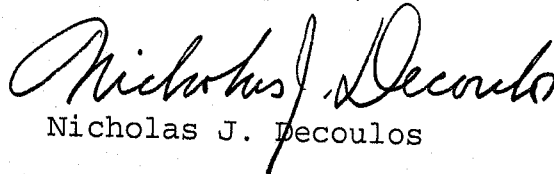
Massachusetts Land Court
226 Causeway Street
Boston, MA 02114

Re: Maria A. Kitras, Trustee, et al.
Vs. Town of Aquinnah, et al .
No. 238738

Dear Sir or Madam:

I enclose a Joint Submission Relating to the Introduction of and Objections to Exhibits 1 Through 86. Also enclosed is a Certificate of Service.

Very truly yours,


Nicholas J. Decoulos

NJD:aw
Enclosure
cc: Service List w/enc.

COMMONWEALTH OF MASSACHUSETTS

DUKES, ss

LAND COURT DEPARTMENT
MISC. CASE NO. 238738, TROMBLY, J

MARIA A. KITRAS, AS SHE IS THE
TRUSTEE OF BEAR REALTY TRUST,
ET AL,

Plaintiffs

v.

TOWN of AQUINNAH, ET AL,

Defendants

JOINT SUBMISSION RELATING TO THE INTRODUCTION OF AND OBJECTIONS TO
EXHIBITS 1 THROUGH 86

The Plaintiffs, Maria A. Kitras as Trustee of the Bear Realty Trust, Maria A. Kitras and James J. Decoulos as Trustees of the Bear II Realty Trust, Maria A. Kitras and James J. Decoulos as Trustees of the Gorda Realty Trust and the Defendants, Martha's Vineyard Land Bank, Town of Aquinnah, the Commonwealth of Massachusetts, Vineyard Conservation Society, Inc., and Jack Fruchtman, Jr., hereby submit to the Court the following chart listing Exhibits 1 through 86 with the parties' respective positions and objections, if any.

<u>Proposed Exhibit</u>	<u>Position of Defendants</u>	<u>Basis for objection, if any</u>
<u>Plaintiffs' Proposed Exhibits</u>		
1. Plan of existing ownership of all parties - plaintiffs and defendants Pg. 1	Objection Plaintiff agrees. Will use as a chalk.	Hearsay. No foundation as to information on plan; not a "Survey"; No objection to use as a chalk.
2. August 25, 1859: Letter from Zacheus Howwasswee to John Milton Earle, Indian Commissioner, reproduced from the records of the American Antiquarian Society,	No objection	

<u>Proposed Exhibit</u>	<u>Position of Defendants</u>	<u>Basis for objection, if any</u>
with transcription, re: custom of holding lots in severalty and title thereto Pg. 2		
3. January 28, 1860: Letter from Leavitt Thaxter to John Milton Earle, Indian Commissioner, with transcript Pg. 5	No objection	
4. March 30, 1862: Report of John Milton Earle, Indian Commissioner, consisting of excerpts pertaining to the Gay Head tribe Pg. 11	No objection	
5. March 30, 1863: Chapter 42 of the Acts of 1863 - Resolve relating to the establishment of boundary lines of Indian lands Pg. 56	No objection	
6. March 13, 1866: Report statement by Charles Marston recorded in Book 49, Page 2 [it reads page 3 on bottom, but is recorded in Page 2], with transcription Pg. 58	No objection	
7. March 23, 1866: Boundary Lines in Gay Head, House No. 219. Report of Charles Marston, Commissioner, to Governor Alexander H. Bullock and the Executive Council of the Commonwealth of Massachusetts, re: boundary lines between the common lands and individual owners adjoining said lands Pg. 60	No objection	
8. April 30, 1866: Chapter 67 of the Acts of 1866 - Resolve relating to the establishment of the boundary lines of Indian lands at Gay Head Pg. 65	No objection	

<u>Proposed Exhibit</u>	<u>Position of Defendants</u>	<u>Basis for objection, if any</u>
<p>9. Undated, "Map of Gay Head, Martha's Vineyard, Mass. Showing the Lands of Individual Owners and the General Fields or Commons, Made Under the Direction of Richard L. Pease, Esq. Commissioner Appointed by Gov. Bullock Under Resolve Chap. by 1866 to Determine the Boundary Lines of the Indian Lands at Gay Head. By: John H. Mullin, Top. Engr. Scale 50 Rods = One Inch." (Full scale is not available) Pg. 67</p>	No objection	
<p>10. January, 1870: Report of the condition of the Gay Head Indians, including proposed act to incorporate the Town of Gay Head Pg. 68</p>	No objection	
<p>11. April 30, 1870: Chapter 213 of the Acts of 1870 - An Act to incorporate the Town of Gay Head. Section 2 conveys title to the Common Lands to the Town of Gay Head, which includes Lots 174 to 736 Pg. 85</p>	No objection	
<p>12. September 1, 1870: Petition, Citation and Decree to the Dukes County Probate Court (the "Probate Court") for the Division and Setting Off of Our Lands in Gay Head (returned on December 5, 1870) pursuant to Chapter 213, Section 6 of the Acts of 1870, with transcription Pg. 88</p>	No objection	
<p>13. September 7, 1870: Remonstrance to the Petition of persons in Gay Head for Division of Common Lands, with transcription Pg. 91</p>	No objection	

<u>Proposed Exhibit</u>	<u>Position of Defendants</u>	<u>Basis for objection, if any</u>
14. October 17, 1870: Petition in and of the Citizens of Gay Head, with transcription Pg. 94	No objection	
15. December 5, 1870: Decree for Division of Gay Head Common Lands and Establishing Boundaries of Other Lands. Appointment of Joseph T. Pease and Richard L. Pease to make division of lands by Judge Theodore G. Mayhew, with transcription Pg. 97	No objection	
16. December 5, 1870: Appointment of Joseph T. Pease and Richard L. Pease by the Probate Court, with transcription Pg. 101	No objection	
17. May 12, 1879: Return of Warrant by Joseph T. Pease and Richard L. Pease, with transcription Pg. 104	No objection	
18. May 22, 1871: Report of the Commissioner, Richard L. Pease, appointed to complete the examination and determination of all questions of title to land, and of all boundary lines between the individual owners, at Gay Head, on the island of Martha's Vineyard; under a Resolve of the Legislature of 1866, Chapter 67 Pg. 107	No objection	
19. May, 1871: Summary Land titles and Boundary Lines of the Indian Lands at Gay Head, Martha's Vineyard, Mass., as Reported to his Excellency, the Governor and the Honorable Council, by Richard L. Pease, Commissioner, May, 1871. Deeds conveyed by Richard L. Pease to the aforementioned	No objection	

<u>Proposed Exhibit</u>	<u>Position of Defendants</u>	<u>Basis for objection, if any</u>
Lots 1-173 recorded at Book 49, Pages 100-198 Pg. 152		
20. October 26, 1871: Reduced Sectional Plans recorded at the Registry and referenced at Book 49, Pages 89-198, depicting Lots 1-173, consisting of 23 pages, with letter dated May 22, 2007, acknowledging the original receipt of the Sectional Plans, signed by Diane E. Powers, Register, Dukes County Registry of Deeds Pg. 162	No objection	
21. December 21, 1878: Report of Joseph T. Pease and Richard L. Pease to the Probate Court and order and approval by the Probate Court, as recorded in Book 65, Pages 150 to 152, with transcription. The original set off plan measures over 10 feet in length. That plan has been cut in sheets of 26 x 28 and is in a bound volume consisting of approximately 15 sheets and is on file with the Dukes County Probate Court. It cannot be copied because of its size Pg. 189	No objection	
22. December 21, 1878: Summary Map of Gay Head lands depicting a substantial portion of lots partitioned from the common land by Joseph T. Pease and Richard L. Pease, prepared by John Mullin, Civil Engineer, (1878). Lots 1-173 and homestead lots deeded between 1866-1871 are cross-hatched and Lots 174-189 conveyed in 1878 are labeled Pg. 195	No objection	

<u>Proposed Exhibit</u>	<u>Position of Defendants</u>	<u>Basis for objection, if any</u>
23. September 1, 1872: Last Will and Testament of Zacheus Howwasswee, filed in Probate Court. Docket I/1612, Date of Death: June 26, 1873, with transcription Pg. 196	Objection	Relevance. Lot 178 not included in remand. <i>"The Defendants misinterpreted the Appeals Court decision. Lot 178 was first depicted on the plan submitted to the Probate Court on December 21, 1878.</i>
24. December 21, 1878: Deed conveying Lot 178 to Elizabeth Howwasswee, widow of Zaccheus Howwasswee, with transcription Pg. 201	Objection	Relevance. Lot 178 not included in remand. <i>Previously submitted. See Document No. 21.</i>
25. Reduction of 1897-1898 Treasury Department, U.S. Coast and Geodetic Survey, Henry S. Pritchett, Supt., Martha's Vineyard Island, Western Part, Massachusetts, Plan Table Survey by W.C. Hodgkins, Assistant, Chief of Party; on file with the National Archives, depicting road network, together with a letter dated November 7, 2007, from the National Archives and Records Administration and zoomed section of affected land. Full size plan will be forwarded to any party upon request Pg. 204	Objection	Relevance. Not relevant (1897-1898) time period. <i>At the meeting (the Meeting) after the Court hearing, among J. Roberts, B. Hall and N. Decoulos, the parties agreed that Document No. 25 was offered by the Plaintiffs on the issues of prescription and "ancient way", not on the issue of intent to create an easement by necessity. So, out for now but may be offered later. That is to say, the second part of the bifurcated case. (Hereinafter referred to as "Deferred").</i>
26. February 27, 1941: (i) Aerial photograph RG373 Can ON 10573 - Exp. G-27 on file with the National Archives; (ii) zoomed section of aerial photograph enhanced to depict set of locations on Moshup Trail Pg. 207	Objection	Relevance. 1941 photo not relevant time period. <i>Deferred.</i>
27. Special Place Designation in Aquinnah Zoning By-Laws for Toad Rock Pg. 209	Objection	Relevance. <i>Deferred.</i>

¹ All italicized comments are those being made by the Plaintiffs.

28. September, 1860: Harper's New Monthly Magazine", specific reference to Toad Rock at pages 451-454 Pg. 216	Objection	Relevance, hearsay. <i>Deferred.</i>
29. December 15, 2005: Deed from David Wice, et ux. to Martha's Vineyard Land Bank, with Plan of Land prepared by Hollis A. Smith as referenced in Deed Pg. 237	Objection	Relevance. <i>Deferred.</i>
30. Chain of Title to Lots 178 and 711 Pg. 241	Objection The parties agree to defer the resolution to the second part of the bifurcated case.	Relevance. Back title not in dispute. <i>At the Meeting it was stated by J. Roberts, that the Defendants concede that title is vested in all of the Plaintiffs. The Defendants limit that concession to this litigation. That concession is not made as to the Hall trusts.</i>
31. Chain of Title to Lot 241 Pg. 277	Objection The parties agree to defer the resolution to the second part of the bifurcated case.	Relevance. Back title not in dispute. <i>At the Meeting it was stated by J. Roberts, that the Defendants concede that title is vested in all of the Plaintiffs. The Defendants limit that concession to this litigation. That concession is not made as to the Hall trusts.</i>
32. Chain of Title to Lot 243 Pg. 306	Objection The parties agree to defer the resolution to the second part of the bifurcated case.	Relevance. Back title not in dispute. <i>At the Meeting it was stated by J. Roberts, that the Defendants concede that title is vested in all of the Plaintiffs. The Defendants limit that concession to this litigation. That concession is not made as to the Hall trusts.</i>
33. Chain of Title to Lot 554 Pg. 317	Objection The parties agree to defer the resolution to the second part of the bifurcated case.	Relevance. Back title not in dispute. <i>At the Meeting it was stated by J. Roberts, that the Defendants concede that title is vested in all of the Plaintiffs. The Defendants limit that concession to this litigation. That concession is not made as to the Hall trusts.</i>

<p>34. Chain of Title to Lot 555 To be submitted by Besse.</p>	<p>Objection The parties agree to defer the resolution to the second part of the bifurcated case.</p>	<p>Relevance. Back title not in dispute.</p> <p><i>At the Meeting it was stated by J. Roberts, that the Defendants concede that title is vested in all of the Plaintiffs. The Defendants limit that concession to this litigation. That concession is not made as to the Hall Trusts.</i></p>
<p>35. Chain of Title to Lot 713 Pg. 339</p>	<p>Objection The parties agree to defer the resolution to the second part of the bifurcated case.</p>	<p>Relevance. Back title not in dispute.</p> <p><i>At the Meeting it was stated by J. Roberts, that the Defendants concede that title is vested in all of the Plaintiffs. The Defendants limit that concession to this litigation. That concession is not made as to the Hall trusts.</i></p>
<p>36. Chain of Title to Lot 557 Pg. 349</p>	<p>Objection The parties agree to defer the resolution to the second part of the bifurcated case.</p>	<p>Relevance. Back title not in dispute.</p> <p><i>At the Meeting it was stated by J. Roberts, that the Defendants concede that title is vested in all of the Plaintiffs. The Defendants limit that concession to this litigation. That concession is not made as to the Hall trusts.</i></p>
<p>37. Plan of set-off Lot 79, held in severalty by Zaccheus Howwasswee, with existing conditions as of December 11, 1992, depicting stone walls and old foundations, and Deed dated October 26, 1871, recorded at Book 49, Pages 153-154, with transcription Pg. 379</p>	<p>Objection</p>	<p>Relevance. Lot 79 not included in remand.</p> <p><i>This evidence will prove that Lot 79 was bounded by stone walls; therefore, the grantee had possession and enclosure at the time the Deed was granted to him. Furthermore, the deed states that it was Zaccheus Howwasswee's homestead.</i></p>
<p>38. Plan depicting Lot 178, existing conditions and certification Pg. 383</p>	<p>Objection</p>	<p>Relevance. Lot 178 not included in remand.</p> <p><i>The Defendants misinterpreted the Appeals Court decision. Lot 178 was not created until the 1878 Set-off Plan was utilized.</i></p>

39. Deed to set-off Lot 89 dated October 26, 1871, held in severalty by Serena Randolph, with transcription Pg. 384	Objection	Relevance. Lot 89 not included in remand. <i>This evidence will prove that Lot 89 was bounded by stone walls; therefore, the grantee had possession and enclosure at the time the Deed was granted to her.</i>
40. Circa 1887: Photograph of Gay Head from the lighthouse; Martha's Vineyard Landscapes: The Nature of Change, by Peter W. Dunwiddie, published by the Vineyard Conservation Society and Peter W. Dunwiddie, 1994, Page 56 Pg. 386	No objection	
41. Letter dated August 31, 2005, from Benjamin L. Hall, Jr. to the Appeals Court, attempting to call attention to the Appeals Court that Lots 174 thru 189 were not held in severalty. N.B. No one was aware of or had the benefit of the Sectional Plans until May 22, 2007. (See Ex. 20) Pg. 387	Objection	Hearsay, relevance, argument of counsel. <i>The Plaintiffs agree that Document No. 41 not be admitted.</i>
42. July 1926: publication of the Dukes County Historical Society "The Old South Road of Gay Head" by Edward S. Burgess, particularly pages 2-12, 19-20, 25-26. Pg. 394	Objection	Hearsay, relevance. <i>Document No. 42 should be read by the Court in order to acquaint the Court with the conditions of the land regarding lots in severalty and common lands.</i>
43. November, 1938: (i) Aerial photograph from USGS; and (ii) zoomed section of photograph Pg. 431	Objection	Relevance. 1938 time period not relevant. <i>Deferred.</i>
44. October 14, 1940 - October 1, 1941: File of the Land Court, Petition No. 17763, Relating to Lot 585, with plans Pg. 433	Objection	Relevance, hearsay. <i>Deferred.</i>
45. 1943: USGS quadrangle of Squibnocket (2 sheets) Pg. 464	Objection	Relevance. 1943 time period not relevant. <i>Deferred.</i>

46. June 20, 1950: Plan of land owned by Squibnocket Bass & Surf Club, Inc., Land Court Case No. 12591 (larger plan available) Pg. 466	Objection	Relevance. 1950 time period not relevant. <i>Deferred.</i>
47. 1951: USGS quadrangle of Squibnocket (2 sheets) Pg. 467	Objection	Relevance. 1951 time period not relevant. <i>Deferred.</i>
48. February, 1955: Layout of Moshup Trail, with plans Pg. 469	Objection	Relevance. 1955 time period not relevant. <i>Deferred.</i>
49. 1972: USGS quadrangle of Squibnocket, with Lots 178, 241, 711 and 713 shaded in red Pg. 477	Objection	Relevance. 1972 time period not relevant. <i>Deferred.</i>
50. July 14, 1975: Decision of the Land Court in <i>Black v. Cape Cod Co.</i> , Case No. 69813, by Judge William Randall Pg. 478	Objection [†]	Relevance, hearsay. <i>Document No. 50 sets forth many findings of fact which would be useful to the Court in the determination of this case.</i>
51. May 18, 1978: Petition of Alexander D. Forger and other documents in Land Court Case No. 39904 Pg. 487	Objection	Relevance, hearsay.* <i>Deferred.</i>
52. October 28, 1988: Affidavit of Philip J. Norton, Jr. filed with Land Court Case No. 129925, <i>Taylor v. Vanderhoop</i> Pg. 516	Objection	Relevance, hearsay.* <i>Document No. 52 evidences the policies of the Land Court relating to property that was included in the Set-Offs and Plan of 1878.</i>
53. July 19, 1989: Decision of the Land Court, Case No. 129925, <i>Taylor v. Vanderhoop</i> , by Judge Robert V. Cauchon, with 6 plans (larger plans available) Pg. 524	Objection	Relevance, hearsay.* <i>Document No. 53 sets forth many findings of fact which would be useful to the Court in the determination of this case.</i>
54. September 26, 1989: 3 Plans of Land in Gay Head prepared for Wampanoag Tribal Council of Gay Head, Inc. (larger plans available). Pg. 543	Objection	Relevance. 1989 time period not relevant. <i>Deferred.</i>

[†] The Commonwealth of Massachusetts does not join in this objection.

* The Commonwealth of Massachusetts does not join in these objections to the extent they are based on grounds of hearsay. The Commonwealth does object on the basis of relevance.

<p>55. September 4, 1990: Plan of Land in Gay Head surveyed for Rebecca J. Cournoyer, et al Pg. 546</p>	<p>Objection</p>	<p>Relevance. 1990 time period not relevant <i>Deferred.</i></p>
<p>56. 1994: publication of Vineyard Conservation Society, Martha's Vineyard Landscapes: The Nature Of Change, pages 54-55 Pg. 547</p>	<p>Objection</p>	<p>Relevance. 1994 time period not relevant <i>Deferred.</i></p>
<p>57. 1997: Affidavits relating to an application for a preliminary injunction in the case of <i>Vineyard Conservation Society, Inc. v. Broscheit</i>, Dukes County Superior Court No. 97-0028: (1) David Howell (2) Joseph DeLerno (3) George Rousell (4) William Vanderhoop Pg. 549</p>	<p>Objection</p>	<p>Relevance, hearsay. <i>Deferred.</i></p>
<p>58. December 31, 1997: Plan of land in 'Gay Head owned by David B. Smith and South Shore Beach, Inc. (larger plan available) Pg. 558</p>	<p>Objection</p>	<p>Relevance. 1997 time period not relevant. <i>Deferred.</i></p>
<p>59. December 18, 2001: Letter of Bernard E. McCourt District Highway Director to James J. Decoulos Pg. 559</p>	<p>Objection</p>	<p>Hearsay, relevance.* <i>Deferred.</i></p>
<p>60. June 3, 2002: Plan of Moshup Trail to State Road along Zach's Cliffs Road; Set-Off Lot Delineations; Aquinnah, Massachusetts Pg. 560</p>	<p>Objection</p>	<p>Hearsay, relevance. No foundation as to data shown on plan. <i>This Plan should be introduced as a chalk.</i></p>
<p>61. March 22, 2002: Composite Development, Town of Aquinnah, Prepared by Commonwealth of Massachusetts Executive Office of Environmental Affairs Pg. 561</p>	<p>Objection</p>	<p>Relevance. 2002 time period not relevant. <i>Deferred.</i></p>

62. May 28, 2003: Deposition transcript of Jeffrey Madison, pages 146-152 Pg. 563	Objection	Relevance, hearsay. <i>Deferred.</i>
63. May 9, 2008: Plan of existing wetland resources Moshup Trail (larger plan available) Pg. 572	Objection	Relevance, hearsay. <i>This Plan should be introduced as a chalk.</i>
64. August 27, 2008: Deposition transcript of John J. Decoulos, pages 22-25 Pg. 573	Objection	Hearsay, relevance. <i>Deferred.</i>
65. April 15, 2008: Plan of land in Aquinnah, Mass. Subdivision of Red Gate Farm 5 sheets (larger plans available) Pg. 576	Objection	Hearsay, relevance. <i>Deferred.</i>
66. October 30, 2008: Deposition transcript of James J. Decoulos, pages 25-29, 106-117 Pg. 581	Objection	Hearsay, relevance. <i>Deferred.</i>
67. November 3, 2008: Aquinnah Overlay Zoning Map Pg. 602	Objection	Relevance. Current zoning overlay has no relevance to issue before court. <i>Deferred.</i>
<u>Defendants' Exhibits</u>		<u>Position of Plaintiffs:</u>
68. Certified copy, plan of Gay Head Showing the Petition 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, on file with the Dukes County Registry of Probate and Exhibit 4 to the Affidavit of Jennifer S.D. Roberts sworn to on October 3, 2000, previously filed in this matter Pg. 603		<i>Plaintiffs agree.</i>
69. Charles Edward Banks, M.D., <u>The History of Martha's Vineyard, Dukes County, Massachusetts, Vol. I, Preface,</u>	History was prepared between 1890 and 1911. See preface.	<i>Relevance. This history was prepared in 1966 and therefore is not relevant.</i>

pp. 5-10; Vol. II, Town Annals, Preface, pp. 5-10 and Annals of Gay Head, pp. 1-19, 28-29; Vol. III, Preface Pg. 605		
70. Vol. V., North American Review (1817), pp. 312-324 Pg. 633		Relevance. 1817 time period is not relevant.
71. F.W. Bird's Report, House Doc., No. 46 (1849) Pg. 647		Relevance. 1849 time period is not relevant.
72. 1856 House Doc., No. 48 Pg. 734		Relevance. 1856 time period is not relevant.
73. St. 1862, c. 184 Pg. 750		Relevance. 1862 time period is not relevant.
74. Certified copy, first three pages of "Set-Off" book of Indian Lands at Gay Head, on file with the Probate & Family Court Department of the Trial Court, Dukes County Pg. 755		Already included as Document 21, Page 189, of Plaintiffs' submittal.
<u>Plaintiffs' Proposed Exhibits</u>	<u>Defendants' Position:</u>	
75. May 28, 1995: Application for Self-Help Program, Moshup Trail, SH #2. See Affidavit of Nicholas J. Decoulos. See also, Town of Aquinnah's Answers to Plaintiff's Interrogatories in the case of <u>Frangos, Trustee v. Town of Aquinnah, U.S. District Court, District of Massachusetts, Docket No. 03-CV-11159-MLW, in particular, #2 and #12.</u> Pg. 760	Objection	Relevance, hearsay.* <i>Since the preparation of Document No. 25, Page 775, John Donnelly has submitted to the Plaintiffs copies of all of the records pertaining to the Self-Help Program which should be included in the record.</i>
76. March 14, 1996: Self-Help Program Agreement recorded at Book 672, Page 436 Pg. 775	Objection	Relevance, hearsay.* Deferred.
77. March 15, 1996: Deed of Haskell to Town of Gay Head conveying Lot 549, recorded at Book 672, Page 439 Pg. 778	Objection	Relevance. Title to Lot 549 not in dispute. Deferred.
78. May 29, 1996: Letter of Conservation Commission to Joel Lerner with Application Pg. 780	Objection	Hearsay, relevance.* Deferred.

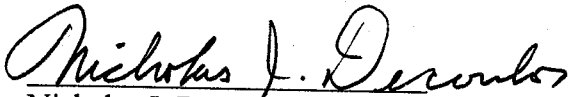
79. April 3, 1996: Deed of Flanders to Vineyard Conservation Society, et al. conveying Lot 556, recorded at Book 674, Page 57 Pg. 788	Objection	Relevance. Title to Lot 556 not in dispute. Deferred.
80. June 22, 1996: Deed of Vineyard Conservation Society, et al. to Town of Gay Head through its Conservation Commission conveying Lot 556, recorded at Book 688, Page 102 Pg. 790	Objection	Relevance. Title to Lot 556 not in dispute. Deferred.
81. December, 1997: Moshup Trail Project. Letter of Friends of Moshup Trail Project Pg. 793	Objection	Relevance, hearsay. <i>The relevancy of Document No. 81 is that it clearly states the intentions of the parties named in the header of the notice. See 4th paragraph, p. 794. "The Vineyard Conservation Society is currently in litigation with would-be developers of landlocked property to the north of the project area, who seek to force access to Moshup Trail over land acquired by the Moshup Trail Project. We strongly believe that this attempt will fail."</i>
ADDITIONAL DEFENDANTS' EXHIBITS		
82. March 13, 1866: Deeds recorded at Book 49, Pages 1-39.		Plaintiffs object. See Plaintiffs' Motion to Strike in opposition to this exhibit filed with the Court on or about January 30, 2009.
83. October 26, 1871. Gay Head lots held in severalty, numbered 1-173.		No objection by Plaintiffs.
84. December 21, 1878. Gay Head lots derived from common lands, numbered 174-736.		No objection by Plaintiffs.
85. 1850 Set-off of lands in Chappaquiddick.		Plaintiffs object. relevance. 1850 time period not relevant.
86. Map of Gay Head recorded in 1917 at the Dukes County Registry of Deeds, Plan Book 5, Plan 34.		No objection by Plaintiffs.

Dated: February 20, 2009

Respectfully submitted,

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

By their Attorney,



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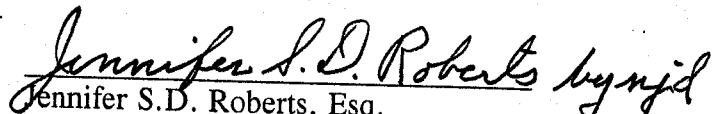
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TOWN OF AQUINNAH

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COMMONWEALTH OF MASSACHUSETTS

By its Attorney,

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