

Conservation Restriction

We, John W. Douno, Chairman, Nathan S. Ellis, and Robert A. O'Loary, as we are the duly elected Commissioners of the County of Barnstable, Massachusetts, acting for and on behalf of the County of Barnstable (the "Grantor") hereby grant with quitclaim covenants to the inhabitants of the Town of Barnstable (the "Grantee") a Conservation Restriction, in perpetuity, under the provisions of MGL c. 184, s. 31-33 as amended, over the hereinafter described property (the "Premises") located in Barnstable, Massachusetts:

Being four parcels of land shown as parcel A (12.95 acres), parcel B (56.17 acres), parcel C (17.92 acres), and parcel D (4.69 acres) on a plan entitled, "Plan of Land in Barnstable, Mass. for The County Commissioners as made by the Town of Barnstable D.P.W. Engineering Section Date: May 18, 1988," said plan being recorded in the Barnstable County Registry of Deeds at the same time as this restriction. Said parcels of land contain an area which totals about 91.73 acres. Parcel E, being about 5.98 acres situated west of Flint Rock Road, a 12 foot traveled way, as shown on said plan, and north of the railroad right of way, as shown on said plan, shall not be subject to the terms of this Restriction.

There is included in this conveyance an easement of way appurtenant to parcel B to travel across the land of the Old Colony R.R. Company located between said parcel B and parcel A and also the right to use the cattle pass situated on said land of the Old Colony R.R. Company.

This conveyance is made subject to a pole-line easement in favor of the Radiomarine Corporation of America as granted in a deed from Amy L. Handy to Marconi Telegraph - Cable Company, Incorporated by deed dated June 16, 1915 recorded with Barnstable County Registry of Deeds in Book 262, Page 314.

For our title see Deed of William A. Jonas, et ux, to the County of Barnstable dated September 18, 1936 recorded in the Barnstable County Registry of Deeds Book 522, Page 419, and see Deed of Richard Cobb to the County of Barnstable dated December 30, 1948 recorded in Barnstable County Registry of Deeds Book 711, Page 369 and see Deed of Old Colony Railroad Company to the County of Barnstable dated August 26, 1937 recorded in Barnstable County Registry of Deeds Book 530, Page 329.

The purpose of this Conservation Restriction is to ensure that the Premises shall be used for conservation and agricultural purposes only, in perpetuity. Agricultural purposes shall mean the use of land for usual farm site activities including, but not limited to: production, harvesting, storage, grading, packaging, processing and farm stand retail marketing of food crops, plants, animals and

animal products, and the use and application of techniques of soil preparation and management, fertilization, weed, disease and pest control, land application of organic waste, irrigation, drainage and water management, grazing and conservation.

A. The terms of the Conservation Restriction are that, except as set forth in Paragraph B below, the Grantor will not perform or give permission to others to perform the following acts or uses on, above or under the Premises:

(1) The construction or placement of any building, road, sign, billboard, or other advertising display, mobile home, utility pole, tower, conduit or line or other temporary or permanent structure except as may be necessary and desirable in the best interests of the permissible uses of the Premises, provided that any such excepted man-made structure (with the exception of fences and buildings erected to secure the Premises) shall not materially diminish the scenic qualities of the Premises;

(2) The excavation, dredging or removal from the Premises of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit in such manner as to affect the surface thereof, except as necessary for customary agricultural practice or drainage ditching activities relating to mosquito and other insect control;

(3) The placement, filling, storing or dumping of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste or other substance or material whatsoever, except for composting activities or otherwise as necessary for customary agricultural practice;

(4) Cutting, removing or otherwise destroying trees, grasses or other vegetation, except for (a) the harvesting of hay and other crops, (b) ditching activities and (c) clearing of shrubbery, trees and other vegetation for the purposes of beautification and maintenance of vistas, or expanding the area of land used for agriculture, including land used for pasture and crops;

(5) Any commercial, industrial and institutional use not related to agriculture;

(6) Any use of the Premises and activity thereon which, in the reasonable opinion of the Grantee, is or may become inconsistent with the intent of this grant, being the preservation of the Premises predominantly in their agricultural condition, the protection of environmental systems and scenic enjoyment.

B. The provisions of Paragraph A notwithstanding, the following uses and activities by the Grantor shall not be prohibited by this Restriction or considered inconsistent with the intent of this

grant:

- (1) Carrying on agricultural operations, including the maintenance and expansion of the existing barn and other buildings used for agricultural operations;
- (2) Maintenance of cattle, horses and domestic animals;
- (3) Repair and maintenance of the existing driveway over the Premises, and the installation of underground utility lines therein;
- (4) Conducting educational tours, walks, demonstrations, exhibits and other forms of informational exchange suitable to convey an appreciation of the agricultural value and history of the Premises to interested groups and the general public, in conformity with the restrictions hereinabove set forth.

The Grantor agrees to notify the Grantee, in writing, before exercising any reserved right the exercise of which may impact on the conservation or agricultural interests associated with the Premises.

The foregoing Conservation Restriction is authorized by Massachusetts General Laws Chapter 184, Sections 31 through 33 and otherwise by law, and is intended to ensure that the Premises will be retained in perpetuity in their natural, scenic and open condition for conservation and agricultural purposes. In the event that agricultural use by the Grantor on the Premises is discontinued or abandoned, the Grantor shall take or cause to be taken measures to protect the conservation and scenic value of the property. These measures include, but are not limited to:

- 1) Soil stabilization measures on former cropland, including the planting of grasses, shrubs or trees, particularly those with wildlife nutrition value or habitat value; and
- 2) Removal or maintenance of existing buildings necessary to prevent structural decay and visual dilapidation.

In the event that a breach of these restrictions by the Grantor or by a third party comes to the attention of the Grantee, the Grantee must notify the Grantor in writing of such a breach. The Grantor shall have 30 days after receipt of such notice to undertake actions including restoration of the Premises that are reasonably calculated to correct swiftly the conditions constituting such a breach. If the Grantor fails to take such corrective action, the Grantee shall at its discretion undertake such actions, including appropriate legal proceedings, as are reasonably necessary to effect such corrections; and the cost of such corrections, including the Grantee's expenses, court costs and legal fees shall be paid by the Grantor, provided the Grantor is determined to be responsible for the breach.

The Conservation Restriction hereby conveyed does not grant to the Grantee, to the public, or to any other person any right to enter upon the Premises, except as follows: the Grantee shall have the right to enter the Premises at reasonable times for the purpose of inspecting the same to determine compliance herewith, of enforcing this Conservation Restriction, or of taking any and all actions with respect to the Premises as may be necessary or appropriate with or without order of court, to remedy or abate any violation hereof. The Conservation Commission of the Town of Barnstable shall have the primary authority to enforce the provisions of this Restriction.

The burdens of this Conservation Restriction shall run with the Premises and shall be enforceable against the Grantor and all future owners and tenants in perpetuity. The Grantor may lease the Premises for private agricultural use, provided that said lease shall be subject to the provisions of the foregoing Restriction.

In witness whereof, the said John W. Doane, Chairman, Nathan S. Ellis and Robert A. O'Leary, duly elected Commissioners of the County of Barnstable, and in Commissioners of the County of Barnstable have hereunto set their corporate names and seals this seventeenth day of August 1988.

County of Barnstable by:

John W. Doane
John W. Doane, Chairman
Nathan S. Ellis
Nathan S. Ellis
Robert A. O'Leary
Robert A. O'Leary
County Commissioners of
The County of Barnstable



COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, ss

On this seventeenth day of August 1988 before me appeared Robert A. O'Leary, Nathan S. Ellis and John W. Doane to me known, who, being by me duly sworn, did say that they are the duly elected Commissioners of the County of Barnstable and that as such they were duly authorized to execute the said instrument, and acknowledge the said instrument to be their free act and deed, before me



William H. Hartman
Notary Public

Commission expires: 12-7-88 1991

ACCEPTANCE BY CONSERVATION COMMISSION

The CONSERVATION COMMISSION of the TOWN OF BARNSTABLE, acting pursuant to Chapter 40, Section 8C of the General Laws of Massachusetts, hereby accepts the above Conservation Restriction Deed.

Dated: August 17, 1988

CONSERVATION COMMISSION
TOWN OF BARNSTABLE

D. Bruce McHenry, Chairman

Elisabeth Eaton Clark
Elisabeth Eaton Clark

William Lewis
William Lewis

Mark H. Robinson
Mark H. Robinson

Susan L. Nickerson

Edward S. Syrald
Edward S. Syrald

Paul G. Caruso
Paul G. Caruso

APPROVAL BY SELECTMEN

The undersigned BOARD OF SELECTMEN of the TOWN OF BARNSTABLE, acting pursuant to Chapter 40, Section 8C of the General Laws of Massachusetts, hereby approve the acceptance of the above Conservation Restriction Deed.

Dated: August 17, 1988

Francis I. Broadhurst
Francis I. Broadhurst, Chairman

BOARD OF SELECTMEN
TOWN OF BARNSTABLE

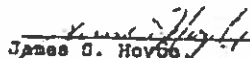
Martin J. Flynn
Martin J. Flynn

William T. Friel
William T. Friel

APPROVAL BY SECRETARY OF ENVIRONMENTAL AFFAIRS

The undersigned Secretary of Environmental Affairs of the Commonwealth of Massachusetts, acting pursuant to Chapter 184, Section 32 of the General Laws of Massachusetts, hereby approves the Conservation Restriction running from the County Commissioners on behalf of the County of Barnstable to the Inhabitants of the Town of Barnstable, covering certain Premises located in Barnstable (Barnstable Village), Barnstable County, Massachusetts, being described on plans recorded in the Barnstable County Registry of Deeds in Plan Book 452, Pages 20-22.

Approved this *Twenty* *Fifth* day of *August*, 1988.


James D. Hoyce
Secretary of Environmental Affairs
Commonwealth of Massachusetts

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