

Appendix C

CACO Enabling Legislation: Public Law 87-126

GENERAL AGREEMENT
1443 GA 1730-01-002

Between

The Commonwealth of Massachusetts

Division of Fisheries and Wildlife

and

The National Park Service

Cape Cod National Seashore

ARTICLE I – BACKGROUND AND OBJECTIVES

This GENERAL AGREEMENT is between the Massachusetts Division of Fisheries and Wildlife, represented by the Director (hereinafter referred to as the “Division”), and the National Park Service as represented by the Superintendent, Cape Cod National Seashore (hereinafter referred to as the “Service”).

Whereas, the Division has been created under the constitution of the Commonwealth of Massachusetts to provide an adequate and flexible system of control, propagation, management, protection and regulation of all flora and fauna within Massachusetts; and

Whereas, the Cape Cod National Seashore (hereinafter referred to as the “Seashore”) was authorized and established by the Congress to be administered in accordance with 16 USC 1, as amended; and

Whereas, Congress specifically provided in Section 7, Public Law 87-126, the Act establishing the Seashore, that:

“(c) The Secretary may permit hunting and fishing, including shellfishing, on lands and waters under his jurisdiction within the Seashore in such areas and under such regulations as he may prescribe during open seasons prescribed by applicable local, state and federal law. The Secretary shall consult with officials of the Commonwealth of Massachusetts and any political subdivision thereof who have jurisdiction of hunting and fishing, including shellfishing, prior to the issuance of any such regulations, and the Secretary is authorized to enter into cooperative arrangements with such officials regarding such hunting and fishing, including shellfishing, as he may deem desirable, except that the Secretary shall leave all aspects of the propagation and taking of shellfish to the towns referred to in Section 1 of this Act.”; and

Whereas, Congress further provided in Section 7 of the Act establishing the Seashore:

“(a). Except as otherwise provided in this Act, the property acquired by the Secretary under this Act shall be administered by the Secretary subject to the provisions of the Act entitled “An Act to establish a National Park Service, and for other purposes”, approved August 26, 1916 (46 Stat. 535), as amended and supplemented, and in accordance with laws of general application relating to the National Park System as defined by the Act of August 8, 1953 (67 Stat. 496); except that authority otherwise available to the Secretary for the conservation and

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management of natural resources may be utilized to the extent he finds such authority will further the purposes of this Act.

(b)(1). In order that the Seashore shall be permanently preserved in its present state, no development or plan for the convenience of visitors shall be undertaken therein which would be incompatible with the preservation of the unique flora and fauna or the physiographic conditions now prevailing or with the preservation of such historic sites and structures as the Secretary may designate.”; and

Whereas, the parties to this agreement wish to implement the aforesaid act and policy through joint and cooperative endeavors which will focus the skills and abilities of the Division and the Service toward achieving maximum public benefit and proper management of the lands and waters involved.

ARTICLE II – STATEMENT OF WORK

A. Now, therefore, the Service agrees, on lands within the Seashore which are administered by the Service:

1. To cooperate with the Division of Law Enforcement, through a separate agreement with the Division, in the joint enforcement of applicable environmental laws through appointments as Deputy Environmental Police Officers without compensation, for certain uniformed employees of the Service.

2. To practice those forms of resource management that perpetuates the native flora and fauna of the Seashore as part of the natural ecosystem.

3. As provided for in Section 7 of the Act establishing the Seashore, to provide opportunities for hunting and fishing consistent with ecosystem preservation and public safety and compatible with other authorized uses of the Seashore and in accordance with state and federal laws and regulations.

4. To consult with the Division prior to issuing regulations which affect hunting and fishing in the Seashore for reasons of resource protection, public safety, administration, or public use and enjoyment or in designating zones where, or establishing periods when, no hunting and fishing will be permitted, as provided for in Section 7 of the Act establishing the Seashore.

B. The Division agrees:

1. To consult with the Service before revising or establishing any hunting or fishing seasons and regulations which may affect the management of the Seashore, preservation of its resources, for public use and safety.

2. In the performance of work under this agreement, and any supplemental agreement which may result from this agreement, to comply with Section 202 of Executive Order No. 11246, dated September 24, 1965, as amended by Executive Order No. 11375, dated October 13, 1967, which is attached and made a part of this agreement.

C. The Service and the Division mutually agree:

1. To meet jointly at least once every year and to provide for other meetings as deemed necessary for discussion of matters relating to the management of flora and fauna populations on lands and waters within the Seashore.

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2. To initiate or continue cooperative studies pertaining to flora and fauna populations and routinely to exchange information and resources on such studies or programs.

3. To encourage the joint publications of studies, press releases and the interchange between parties of all pertinent agency policies and objectives, statutes, rules and regulations, and other information required for the appropriate use and perpetuation of the natural and historic resources of the Seashore.

4. To enter into working arrangements, as occasion demands, for the use of lands, buildings, and other facilities owned and operated by either party hereto, for special projects.

5. To evaluate jointly the overall ecological effects of proposals to manage biotic resources and to initiate and carry out mutually agreeable management programs.

6. Each and every provision of this General Agreement is subject to the laws of the Commonwealth of Massachusetts and the laws of the United States, and to the delegated authority in each instance.

7. Nothing in this General Agreement shall be construed as obligating either party hereunto to the expenditures of funds or for the future payment of money in excess of appropriations authorized by law.

8. Nothing contained herein shall be construed as limiting in any way the responsibility and authority, as defined by law, of the Director, Massachusetts Division of Fisheries and Wildlife, and the Superintendent, Cape Cod National Seashore, in connection with the administration and protection of lands and resources under their respective authorization and jurisdiction.

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ARTICLE III – TERM OF AGREEMENT

This General Agreement shall become effective when signed by the parties hereto and shall continue in force for five (5) years from the date of execution.

ARTICLE IV – KEY OFFICIALS

The Superintendent, Cape Cod National Seashore and the Director, Massachusetts Division of Fisheries and Wildlife are the key officials responsible for this General Agreement. The Superintendent, Cape Cod National Seashore has delegated responsibility for the day to day administration of this agreement to the Chief Ranger and the Chief of Natural Resources. The Director, Massachusetts Division of Fisheries and Wildlife has delegated the day to day administration of this agreement to the Deputy Director, Field Operations.

Contact information for key officials is as follows:

Cape Cod National Seashore
Superintendent, Maria Burks, 508-349-3785 X201
Chief Ranger, Kevin FitzGerald, 508-349-3785 X213
Chief of Natural Resources, Nancy Finley, 508-349-3785 X216

Massachusetts Division of Fisheries and Wildlife
Director, Wayne F. MacCallum, 617-792-7270
Deputy Director/Field Operations, Carl Prescott, 508-792-7270

ARTICLE V – PROPERTY UTILIZATION

Not applicable.

ARTICLE VI – PRIOR APPROVAL

Not applicable

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ARTICLE VII – REPORTS AND/OR DELIVERIES

Not applicable

ARTICLE VIII – TERMINATION

This General Agreement may be terminated by mutual agreement, or by either party's providing sixty (60) days notice in writing to the other of its intention to do so.

Amendments to this General Agreement may be proposed by either party and shall become effective upon approval by both parties.

ARTICLE IX – STANDARD CLAUSES

1. Civil Rights

During the performance of this agreement, the participants agree to abide by the terms of US Department of the Interior Civil Rights Assurance Certification, non discrimination and will not discriminate against any person because of race, color, religion, sex or national origin. The participants will take affirmative action to ensure that the applicants are employed without regard to their race, color, religion, sex or national origin.

2. Officials Not to Benefit

No member of, or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of the General Agreement or to any benefit to arise therefrom, unless it is made with a corporation for its general benefit.

3. Promotions

The Commonwealth of Massachusetts, Division of Fisheries and Wildlife shall not publicize, or otherwise circulate, promotional material (such as advertisements, sales brochures, press releases, speeches, still and motion pictures, articles, manuscripts or other publications) which states or implies Federal Governmental, Departmental, Service or Federal Government employee endorsement of a product, service, or position which the

Commonwealth of Massachusetts, Division of Fisheries and Wildlife represents. No release of information relating to this agreement may state or imply that the Government endorses the Commonwealth of Massachusetts, Division of Fisheries and Wildlife work product as superior to other products or services.

4. Public Information Release

Commonwealth of Massachusetts, Division of Fisheries and Wildlife must obtain prior approval from the National Park Service Key Official for any public information releases which refer to the Department of the Interior, the National Park Service, any sub-unit or employee thereof (by name or title), or this agreement. The specific text, layout, photographs, etc., of the proposed release must be submitted, with a request for approval

ARTICLE X – AUTHORIZING SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this General Agreement as of the date last signed below.

NATIONAL PARK SERVICE

Date: 3/13/01

By: Maria Burks
Maria Burks
Superintendent
Cape Cod National Seashore

MASSACHUSETTS DIVISION OF
FISHERIES AND WILDLIFE

Date: 3/23/01

By: Wayne F. MacCallum
Wayne F. MacCallum
Director

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December 27, 2001

Ms. Ellie C. Horwitz
Mass Wildlife Field Headquarters
1 Rabbit Hill Rd.
Westborough, MA 01581

Dear Ms Horwitz:

The National Park Service and U.S. Fish and Wildlife Service are requesting that a new piece of information be included in the next publication of the Mass Wildlife abstract of fish and wildlife laws. Often times hunters believe that all regulations in the state abstracts apply to federal lands as well. This is not always the case. In order to better inform the hunting and fishing public, we are requesting that agencies be contacted directly to learn of any specific regulations or restrictions not listed in the abstracts. Below are some examples of verbiage, which you might want to consider for inclusion in the abstract.

Example: NOTE! Regulations may differ on federal, state and MDC parks, refuges, and reservations. Contact the respective agency for more information.

Example: NOTE! Regulations may differ on federal parks, refuges, and reservations. Contact the agency directly for additional information.

This information will assist the public and us. Thank you for your assistance. Any questions may be directed to me at (508) 349-3785 x219.

Sincerely,

William Hooper
Cape Cod National Seashore

cc: Bill Davis, Mass Wildlife
cc: Chris Dowd, USF&WS

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APPENDIX A: LEGISLATION AND THE TRANSFER OF FORMER STATE AND TOWN LANDS

UNITED STATES CODE, TITLE 16 — CONSERVATION

§ 459b. Cape Cod National Seashore; description of area

(a) The area comprising that portion of the land and waters located in the towns of Provincetown, Truro, Wellfleet, Eastham, Orleans, and Chatham in the Commonwealth of Massachusetts, and described in subsection (b) of this section, is designated for establishment as Cape Cod National Seashore (hereinafter referred to as "the seashore").

(b) The area referred to in subsection (a) of this section is described as follows:

Beginning at a point in the Atlantic Ocean one-quarter of a mile due west of the mean low-water line of the Atlantic Ocean on Cape Cod at the westernmost extremity of Race Point, Provincetown, Massachusetts;

thence from the point of beginning along a line a quarter of a mile offshore of and parallel to the mean low-water line of the Atlantic Ocean, Cape Cod Bay, and Provincetown Harbor in generally southerly, easterly, and northerly directions rounding Long Point and then southwesterly to a point a quarter of a mile offshore of the mean low-water line on the harbor side of the dike depicted on the United States Geological Survey Provincetown quadrangle sheet (1949) crossing an arm of the Provincetown Harbor;

thence northerly, along a line a quarter of a mile offshore of and parallel to the low-water line at the dike to a point easterly of the point of intersection of the said dike with the boundary of the Province Lands Reservation as depicted on the said Provincetown quadrangle sheet;

thence westerly to the said point of intersection of the dike and the Province Lands Reservation boundary;

thence along the boundaries of the Province Lands Reservation northwesterly, northeasterly, northerly, and easterly to the easternmost corner of the reservation being near United States Route 6;

thence leaving the said easternmost corner along an extension of the southerly reservation boundary line easterly to the northerly right-of-way line of United States Route 6;

thence along the northerly right-of-way line of United States Route 6 in a general easterly direction crossing the Truro-Provincetown line and continuing in the town of Truro in a generally southeasterly direction to a point four-tenths of a mile southeasterly of the southerly right-of-way line of Highland Road;

thence easterly five-tenths of a mile to a point;

thence turning and running in a southeasterly direction paralleling the general alignment of United States Route 6 and generally distant therefrom five-tenths of a mile to a point approximately 700 feet northwesterly of Long Nook Road;

thence southwesterly along a ridge generally paralleling the alignment of Long Nook Road and distant approximately 700 feet therefrom to a point two-tenths of a mile northeasterly of the northerly right-of-way line of United States Route 6;

thence southeasterly paralleling the general alignment of United States Route 6 and generally distant two-tenths of a mile northeasterly thereof to a point 300 feet south of the southerly right-of-way line of Higgins Hollow Road;

thence in a general easterly direction paralleling the southerly alignment of Higgins Hollow Road and 300 feet distant southerly therefrom to a point five-tenths of a mile east of the easterly right-of-way line of said Route 6;

thence turning and running in a southeasterly and southerly direction paralleling the general alignment of United States Route 6 and distant five-tenths of a mile easterly therefrom to a point 300 feet north of the northerly right-of-way line of North Pamet Road;

thence in a generally southwesterly direction paralleling the general alignment of North Pamet Road and generally distant 300 feet northerly therefrom to a point approximately two-tenths of a mile east of the easterly right-of-way line of United States Route 6;

thence in a southerly direction paralleling the alignment of United States Route 6 and generally distant two-tenths of a mile easterly therefrom to a point three-tenths of a mile south of South Pamet Road;

thence west to the intersection of Old County Road and Mill Pond Road;

thence following the easterly right-of-way line of Old County Road southward to a point opposite the southerly right-of-way line of Ryder Beach Road at its intersection with Old County Road;

thence eastward to a point 300 feet east of the easterly right-of-way line of said Old County Road;

thence in a southerly direction paralleling Old County Road at a distance of 300 feet to the east of the easterly right-of-way line of said road to a point 600 feet south of the southerly right-of-way line of Prince Valley Road;

thence in a generally westerly direction, crossing Old County Road and the New York, New Haven, and Hartford Railroad right-of-way to the southern extremity of the town landing and beach in the Ryder Beach area, and continuing to a point in Cape Cod Bay a quarter of a mile offshore from the mean low-water line of Cape Cod Bay;

thence turning and running along a line a quarter of a mile offshore of and parallel to the mean low-water line of Cape Cod Bay in a general southerly and easterly direction rounding Jeremy Point and thence in a general northerly direction along a line a quarter

of a mile offshore of and parallel to the mean low-water line on the westerly side of Wellfleet Harbor, to a point one quarter of a mile due north of the mean low-water line at the eastern tip of Great Island as depicted on the United States Geological Survey Wellfleet quadrangle sheet (1958);

thence north to the mean high-water line on the north shore of the Herring River estuary in the vicinity of its confluence with Wellfleet Harbor;

thence following the mean, high-water line southwesterly, northwesterly, and northeasterly to the easterly right-of-way line of Chequesset Neck Road at its crossing of Herring River;

thence following the course of Herring River along the 20-foot contour line of the southeasterly shore thereof to a point near Mill Creek;

thence crossing Mill Creek in a northeasterly direction to the 20-foot contour level near to and northeast of the confluence of Mill Creek and Herring River;

thence following generally northerly and easterly along the easterly edge of the Herring River marshes on the 20-foot contour to a point north of which the easterly right-of-way line of a medium duty road, as depicted on said Wellfleet quadrangle sheet, crosses northward across a marshy stream near the juncture of said medium duty road with Bound Brook Island Road;

thence crossing said marshy stream along said easterly right-of-way line of said medium duty road and continuing in a northerly direction to the 20-foot contour level on the north side of said marshy stream;

thence following the 20-foot contour line westward approximately 1,000 feet to its intersection with an unimproved dirt road, as depicted on said Wellfleet quadrangle sheet, leading from a point near the juncture of Bound Brook Island Road and the said medium duty road;

thence following said unimproved dirt road northwesterly for approximately 1,600 feet to the 20-foot contour line bordering the southerly edge of the Herring River marshes;

thence following said 20-foot contour line in an easterly direction to Route 6;

thence crossing Route 6 and continuing to a point on the easterly right-of-way line of a power transmission line as depicted on said Wellfleet quadrangle sheet;

thence in a general southerly direction along the said easterly right-of-way line of a power transmission line to the Eastham-Wellfleet town line;

thence southeasterly for a distance of approximately 5,200 feet to a point due north of the intersection of the easterly right-of-way line of Nauset Road with the northerly right-of-way line of Cable Road;

thence due south to the intersection of the said easterly right-of-way line of Nauset Road and the said northerly right-of-way line of Cable Road;

thence in a general southerly direction crossing Cable Road and along said easterly right-of-way line of Nauset Road to a point

500 feet north of the northerly right-of-way line of Doane Road and its intersection with Nauset Road;

thence west to a point 500 feet west of the westerly right-of-way line of Nauset Road;

thence southerly and westerly 500 feet from and parallel to the said right-of-way line of Nauset Road to the easterly right-of-way line of Salt Pond Road;

thence southerly along the easterly right-of-way line of said Salt Pond Road to its intersection with the southerly right-of-way line of Nauset Road;

thence westerly along the southerly right-of-way line of Nauset Road to its intersection with the easterly right-of-way line of United States Route 6;

thence southerly along the easterly right-of-way line of said Route 6 a distance of about four-tenths of a mile to the northerly boundary of the Eastham town hall property;

thence easterly to a point one-tenth of a mile from United States Route 6;

thence turning and running in a generally southerly direction paralleling the general alignment of United States Route 6 and generally distant therefrom one-tenth of a mile to a small stream approximately one-tenth of a mile beyond Governor Prence Road extended;

thence southeasterly along the said stream to the Orleans-Eastham town line;

thence along the Orleans-Eastham town line to the southerly tip of Stony Island;

thence generally southeasterly in the town of Orleans by Nauset Harbor Channel to a point due north of the northerly tip of Nauset Heights as depicted on United States Geological Survey Orleans quadrangle sheet (1946);

thence due south to the 20-foot contour line in Nauset Heights as delineated on the said Orleans quadrangle sheet;

thence generally southerly along the said 20-foot contour to a point about one-tenth of a mile northerly of Beach Road;

thence southwestward along a line intersecting Beach Road at a point two-tenths of a mile easterly of the so-called Nauset Road leading northerly to Nauset Heights;

thence southerly to a head of a tributary to Little Pleasant Bay at the northerly tip of Pochet Neck as depicted on the said Orleans quadrangle sheet;

thence generally southerly along the thread of channel of the said tributary passing westerly and southwestward around Pochet Island and thence southwestward into Little Pleasant Bay passing to westerly of the northerly tip of Sampson Island, the westerly tip of Money Head, and the southwestward tip of Hog Island following in general the centerline of Little Pleasant Bay to Pleasant Bay;

thence generally southeasterly in Pleasant Bay along a line passing midway between Sipsion Island and Nauset Beach to a point on the Chatham-Orleans town line one-quarter of a mile westerly of the mean low-water line of Pleasant Bay on the westerly shore of Nauset Beach;

thence generally southerly in Pleasant Bay in the town of Chatham along a line a quarter of a mile offshore of and parallel to the said mean low-water line of Pleasant Bay on the westerly shore of Nauset Beach to a point a quarter of a mile south of the mean low-water line of the southern tip of Nauset Beach;

thence easterly rounding the southern tip of Nauset Beach along a line a quarter of a mile offshore of and parallel thereto;

thence generally northerly and northwesterly, and westerly along a line a quarter of a mile offshore of and parallel to the mean low-water line of the Atlantic Ocean on the easterly shore of Nauset Beach and on to the outer cape to the point of beginning.

(Pub. L. 87-126, § 1, Aug. 7, 1961, 75 Stat. 284.)

SEPARABILITY OF PROVISIONS

Section 10 of Pub. L. 87-126 provided that: "If any provision of this Act [sections 459b to 459b-8 of this title] or the application of such provision to any person or circumstance is held invalid, the remainder of this Act [such sections] or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459b-1 to 459b-8 of this title.

§ 459b-1. Acquisition of property

(a) Authority of Secretary; manner and place; concurrence of State owner; transfer from Federal agency to administrative jurisdiction of Secretary

The Secretary of the Interior (hereinafter referred to as "Secretary") is authorized to acquire by purchase, gift, condemnation, transfer from any Federal agency, exchange, or otherwise, the land, waters, and other property, and improvements thereon and any interest therein, within the area which is described in section 459b of this title or which lies within the boundaries of the seashore as described pursuant to section 459b-2 of this title (both together hereinafter in sections 459b to 459b-8 of this title referred to as "such area"). Any property, or interest therein, owned by the Commonwealth of Massachusetts, by any of the towns referred to in section 459b of this title, or by any other political subdivision of said Commonwealth may be acquired only with the concurrence of such owner. Notwithstanding any other provision of law, any Federal property located within such area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the provisions of sections 459b to 459b-8 of this title.

(b) Use of funds; fair market value

The Secretary is authorized (1) to use donated and appropriated funds in making acquisitions under sections 459b to 459b-8 of this title, and (2) to pay therefor not more than the fair market value of any acquisitions which he makes by purchase under sections 459b to 459b-8 of this title.

(c) Exchange of property; cash equalization payments; reports to Congress

In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property located within such area and convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary within such area. The properties so exchanged shall be approximately equal in fair market value: *Provided*, That the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged.

The Secretary shall report to the Congress on every exchange carried out under authority of sections 459b to 459b-8 of this title within thirty days from its consummation, and each such report shall include a statement of the fair market values of the properties involved and of any cash equalization payment made or received.

(d) "Fair market value" defined; appraisal

As used in sections 459b to 459b-8 of this title the term "fair market value" shall mean the fair market value as determined by the Secretary, who may in his discretion base his determination on an independent appraisal obtained by him.

(Pub. L. 87-126, § 2, Aug. 7, 1961, 75 Stat. 287.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459b-2 to 459b-8 of this title.

§ 459b-2. Establishment

(a) Notice in Federal Register

As soon as practicable after August 7, 1961, and following the acquisition by the Secretary of an acreage in the area described in section 459b of this title that its in the opinion of the Secretary efficiently administrable to carry out the purposes of sections 459b to 459b-8 of this title, the Secretary shall establish Cape Cod National Seashore by the publication of notice thereof in the Federal Register.

(b) Distribution of notice and map

Such notice referred to in subsection (a) of this section shall contain a detailed description of the boundaries of the seashore which shall encompass an area as nearly as practicable identical to the area described in section 459b of this title. The Secretary shall forthwith after the date of publication of such notice in the Federal Register (1) send a copy of such notice, together with a map showing such boundaries, by registered or certified mail to the Governor of the Commonwealth of Massachusetts and to the board of selectmen of each of the towns referred to in section 459b of this title; (2) cause a copy of such notice and map to be published in one or more newspapers which circulate in each of such towns; and (3) cause a certified copy of such notice, a copy of such map, and a copy of sections 459b to 459b-8 of this title to be recorded at the registry of deeds for Barnstable County, Massachusetts.

(Pub. L. 87-126, § 3, Aug. 7, 1961, 75 Stat. 288.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459b-1, 459b-3 to 459b-8 of this title.

§ 459b-3. Acquisition by condemnation

(a) Right of use and occupancy for residential purposes for life or fixed term of years; exercise of right of election; impairment of interests of lienholders, etc.; right as running with land; transfer, assignment and termination of right; computation of compensation

(1) The beneficial owner or owners, not being a corporation, of a freehold interest in improved property which the Secretary acquires by condemnation may elect, as a condition to such acquisition, to retain the right of use and occupancy of the said property for noncommercial residential purposes for a term of twenty-five years, or for such lesser time as the said owner or owners may elect at the time of such acquisition.

(2) The beneficial owner or owners, not being a corporation, of a freehold estate in improved property which property the Secretary acquires by condemnation, who held, on September 1, 1959, with respect to such property, an estate of the same nature and quality, may elect, as an alternative and not in addition to whatever right of election he or they might have under paragraph (1) of this subsection, to retain the right of use and occupancy of the said property for noncommercial residential purposes (i) for a term limited by the nature and quality of his or their said estate, if his or their said estate is a life estate or an estate pur auter vie, or (ii) for a term ending at the death of such owner or owners, or at the death of the survivor of them, if his or their said estate is an estate of fee simple.

(3) Where such property is held by a natural person or persons for his or their own life or lives or for the life or lives of another or others (such person or persons being hereinafter called "the life tenant"), with remainder in another or others, any right of election provided for in paragraph (2) of this subsection shall be exercised by the life tenant, and any right of election provided for in paragraph (1) of this subsection shall be exercised by the concurrence of the life tenant and the remainderman or remaindermen.

(4) The beneficial owner or owners of a term of years in improved property which the Secretary acquires by condemnation may elect, as a condition to such acquisition, to retain the right of use and occupancy of the said property for noncommercial residential purposes for a term not to exceed the remainder of his or their said term of years, or a term of twenty-five years, whichever shall be the lesser. The owner or owners of the freehold estate or estates in such property may, subject to the right provided for in the preceding sentence, exercise such right or rights of election as remain to them under paragraphs (1) and (2) of this subsection.

(5) No right of election accorded by paragraphs (1), (2), or (4) of this subsection shall be exercised to impair substantially the interests

of holders of encumbrances, liens, assessments or other charges upon or against the property.

(6) Any right or rights of use and occupancy retained pursuant to paragraphs (1), (2), and (4) of this subsection shall be held to run with the land, and may be freely transferred and assigned.

(7) In any case where a right of use and occupancy for life or for a fixed term of years is retained as provided in paragraph (1), (2), or (4) of this subsection, the compensation paid by the Secretary for the property shall not exceed the fair market value of the property on the date of its acquisition by the Secretary, less the fair market value on such date of the said right retained.

(8) The Secretary shall have authority to terminate any right of use and occupancy of property, retained as provided in paragraph (1), (2), or (4) of this subsection, at any time after the date when any use occurs with respect to such property which fails to conform or is in any manner opposed to or inconsistent with any applicable standard contained in regulations issued pursuant to section 459b-4 of this title and in effect on said date: *Provided*, That no use which is in conformity with the provisions of a zoning bylaw approved in accordance with said section 459b-4 which is in force and applicable to such property shall be held to fail to conform or be opposed to or inconsistent with any such standard. In the event that the Secretary exercises the authority conferred by this paragraph, he shall pay to the owner of the right so terminated an amount equal to the fair market value of the portion of said right which remained on the date of termination.

(b) Suspension of authority for one year and during existence of zoning regulations

(1) The Secretary's authority to acquire property by condemnation shall be suspended with respect to all improved property located within such area in all of the towns referred to in section 459b of this title for one year following August 7, 1961.

(2) Thereafter such authority shall be suspended with respect to all improved property located within such area in any one of such towns during all times when such town shall have in force and applicable to such property a duly adopted, valid zoning bylaw approved by the Secretary in accordance with the provisions of section 459b-4 of this title.

(c) Suspension of authority respecting property used for commercial or industrial purposes

The Secretary's authority to acquire property by condemnation shall be suspended with respect to any particular property which is used for commercial or industrial purposes during any periods when such use is permitted by the Secretary and during the pendency of the first application for such permission made to the Secretary after August 7, 1961 provided such application is made not later than the date of establishment of the seashore.

(d) "Improved property" defined

The term "improved property," wherever used in sections 459b to 459b-8 of this title,

shall mean a detached, one-family dwelling the construction of which was begun before September 1, 1959 (hereinafter referred to as "dwelling"), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated. The amount of the land so designated shall in every case be at least three acres in area, or all of such lesser amount as may be held in the same ownership as the dwelling, and in making such designation the Secretary shall take into account the manner of noncommercial residential use in which the dwelling and land have customarily been enjoyed: *Provided, however*, That the Secretary may exclude from the land so designated any beach or waters, together with so much of the land adjoining such beach or waters as the Secretary may deem necessary for public access thereto.

(c) Acquisition of clear, marketable and encumbrance-free title

Nothing in this section or elsewhere in sections 459b to 459b-8 of this title shall be construed to prohibit the use of condemnation as a means of acquiring a clear and marketable title, free of any and all encumbrances.

(Pub. L. 87-126, § 4, Aug. 7, 1961, 75 Stat. 288.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459b-1, 459b-2, 459b-4 to 459b-8 of this title.

§ 459b-4. Zoning regulations

(a) Standards for approval; submission to Congress and municipalities; publication in Federal Register; approval of local bylaws; revocation of approval

As soon after August 7, 1961, as may be practicable, the Secretary shall issue regulations specifying standards for approval by him of zoning bylaws for purposes of section 459b-3 of this title. The Secretary may issue amended regulations specifying standards for approval by him of zoning bylaws whenever he shall consider such amended regulations to be desirable due to changed or unforeseen conditions.

All regulations and amended regulations proposed to be issued under authority of the two preceding sentences of this subsection shall be submitted to the Congress and to the towns named in section 459b of this title at least ninety calendar days (which ninety days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) before they become effective and the Secretary shall, before promulgating any such proposed regulations or amended regulations in final form, take due account of any suggestions for their modification which he may receive during said ninety-day period. All such regulations and amended regulations shall, both in their proposed form and in their final form, be published in the Federal Register.

The Secretary shall approve any zoning bylaw and any amendment to any approved zoning bylaws submitted to him which conforms to the standards contained in the regulations in effect at the time of the adoption by the town of such bylaw or such amendment unless before the time of adoption he has submitted to the Congress and the towns and published in the Federal Register as aforesaid proposed amended regulations with which the bylaw or amendment would not be in conformity, in which case he may withhold his approval pending completion of the review and final publication provided for in this subsection and shall thereafter approve the bylaw or amendment only if it is in conformity with the amended regulations in their final form. Such approval shall not be withdrawn or revoked, nor shall its effect be altered for purposes of section 459b-3 of this title by issuance of any such amended regulations after the date of such approval, so long as such bylaw or such amendment remains in effect as approved.

(b) Commercial and industrial use prohibition; acreage, frontage, setback and miscellaneous requirements

The standards specified in such regulations and amended regulations for approval of any zoning bylaw or zoning bylaw amendment shall contribute to the effect of (1) prohibiting the commercial and industrial use, other than any commercial or industrial use which is permitted by the Secretary, of all property within the boundaries of the seashore which is situated within the town adopting such bylaw; and (2) promoting the preservation and development, in accordance with the purposes of sections 459b to 459b-8 of this title, of the area comprising the seashore, by means of acreage, frontage, and setback requirements and other provisions which may be required by such regulations to be included in a zoning bylaw consistent with the laws of Massachusetts.

(c) Adverse provisions and absence of notice for variance as requiring disapproval of local bylaws

No zoning bylaw or amendment of a zoning bylaw shall be approved by the Secretary which (1) contains any provision which he may consider adverse to the preservation and development, in accordance with the purposes of sections 459b to 459b-8 of this title, of the area comprising the seashore, or (2) fails to have the effect of providing that the Secretary shall receive notice of any variance granted under and any exception made to the application of such bylaw or amendment.

(d) Termination of suspension of authority for acquisition by condemnation because of nonconforming variances and uses; agreements concerning exercise of authority

If any improved property with respect to which the Secretary's authority to acquire by condemnation has been suspended by reason of the adoption and approval, in accordance with the foregoing provisions of this section, of a zoning bylaw applicable to such property (hereinafter referred to as "such bylaw")—

(1) is made the subject of a variance under or an exception to such bylaw, which variance or exception fails to conform or is in any manner opposed to or inconsistent with any applicable standard contained in the regulations issued pursuant to this section and in effect at the time of the passage of such bylaw, or

(2) is property upon or with respect to which there occurs any use, commencing after the date of the publication by the Secretary of such regulations, which fails to conform or is in any manner opposed to or inconsistent with any applicable standard contained in such regulations (but no use which is in conformity with the provisions of such bylaw shall be held to fail to conform or be opposed to or inconsistent with any such standard),

the Secretary may, at any time and in his discretion, terminate the suspension of his authority to acquire such improved property by condemnation: *Provided, however,* That the Secretary may agree with the owner or owners of such property to refrain from the exercise of the said authority during such time and upon such terms and conditions as the Secretary may deem to be in the best interests of the development and preservation of the seashore.

(Pub. L. 87-126, § 5, Aug. 7, 1961, 75 Stat. 290.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459b-1 to 459b-3, 459b-5 to 459b-8 of this title.

§ 459b-5. Certificate of suspension of authority for acquisition by condemnation

The Secretary shall furnish to any party in interest requesting the same, a certificate indicating, with respect to any property located within the seashore as to which the Secretary's authority to acquire such property by condemnation has been suspended in accordance with the provisions of sections 459b to 459b-8 of this title, that such authority has been so suspended and the reasons therefor.

(Pub. L. 87-126, § 6, Aug. 7, 1961, 75 Stat. 291.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459b-1 to 459b-4, 459b-6 to 459b-8 of this title.

§ 459b-6. Administration of acquired property

(a) Utilization of authority for conservation and management of natural resources

Except as otherwise provided in sections 459b to 459b-8 of this title, the property acquired by the Secretary under such sections shall be administered by the Secretary subject to the provisions of sections 1 and 2 to 4 of this title, as amended and supplemented, and in accordance with laws of general application relating to the national park system as defined by sections 1b to 1d of this title; except that authority otherwise available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of sections 459b to 459b-8 of this title.

(b) Preservation of seashore; incompatible visitor conveniences restricted; provisions for public enjoyment and understanding; developments for recreational activities; public use areas

(1) In order that the seashore shall be permanently preserved in its present state, no development or plan for the convenience of visitors shall be undertaken therein which would be incompatible with the preservation of the unique flora and fauna or the physiographic conditions now prevailing or with the preservation of such historic sites and structures as the Secretary may designate: *Provided,* That the Secretary may provide for the public enjoyment and understanding of the unique natural, historic, and scientific features of Cape Cod within the seashore by establishing such trails, observation points, and exhibits and providing such services as he may deem desirable for such public enjoyment and understanding: *Provided further,* That the Secretary may develop for appropriate public uses such portions of the seashore as he deems especially adaptable for camping, swimming, boating, sailing, hunting, fishing, the appreciation of historic sites and structures and natural features of Cape Cod, and other activities of similar nature.

(2) In developing the seashore the Secretary shall provide public use areas in such places and manner as he determines will not diminish for its owners or occupants the value or enjoyment of any improved property located within the seashore.

(c) Hunting and fishing regulations; navigation

The Secretary may permit hunting and fishing, including shellfishing, on lands and waters under his jurisdiction within the seashore in such areas and under such regulations as he may prescribe during open seasons prescribed by applicable local, State and Federal law. The Secretary shall consult with officials of the Commonwealth of Massachusetts and any political subdivision thereof who have jurisdiction of hunting and fishing, including shellfishing, prior to the issuance of any such regulations, and the Secretary is authorized to enter into cooperative arrangements with such officials regarding such hunting and fishing, including shellfishing, as he may deem desirable, except that the Secretary shall leave all aspects of the propagation and taking of shellfish to the towns referred to in section 459b of this title.

The Secretary shall not interfere with navigation of waters within the boundaries of the Cape Cod National Seashore by such means and in such areas as is now customary.

(Pub. L. 87-126, § 7, Aug. 7, 1961, 75 Stat. 291.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459b-1 to 459b-5, 459b-7, 459b-8 of this title.

§ 459b-7. Cape Cod National Seashore Advisory Commission

(a) Establishment; termination

There is established a Cape Cod National Seashore Advisory Commission (hereinafter referred to as the "Commission"). Said Commis-

tion shall terminate 30 years after the date the seashore is established under section 459b-2 of this title.

(b) Membership; term

The Commission shall be composed of ten members each appointed for a term of two years by the Secretary as follows:

(1) Six members to be appointed from recommendations made by each of the boards of selectmen of the towns referred to in section 459b of this title, one member from the recommendations made by each such board;

(2) One member to be appointed from recommendations of the county commissioners of Barnstable County, Commonwealth of Massachusetts;

(3) Two members to be appointed from recommendations of the Governor of the Commonwealth of Massachusetts; and

(4) One member to be designated by the Secretary.

(c) Chairman; vacancies

The Secretary shall designate one member to be Chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(d) Compensation and expenses

A member of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under sections 459b to 459b-8 of this title upon vouchers signed by the Chairman.

(e) Majority vote

The Commission established by this section shall act and advise by affirmative vote of a majority of the members thereof.

(f) Consultation of Secretary with Commission

The Secretary or his designee shall, from time to time, consult with the members of the Commission with respect to matters relating to the development of Cape Cod National Seashore and shall consult with the members with respect to carrying out the provisions of sections 459b-3 and 459b-4 of this title.

(g) Advice of Commission for commercial or industrial use permits and establishment of public use areas for recreational activities

No permit for the commercial or industrial use of property located within the seashore shall be issued by the Secretary, nor shall any public use area for recreational activity be established by the Secretary within the seashore, without the advice of the Commission, if such advice is submitted within a reasonable time after it is sought.

(h) Exemption from other provisions of law

(1) Any member of the Advisory Commission appointed under sections 459b to 459b-8 of this title shall be exempted, with respect to such appointment, from the operation of sections 281, 283, 284, and 1914 of title 18 and section 190 of the Revised Statutes (5 U.S.C. 99)¹ except as

¹ See References in Text note below.

otherwise specified in paragraph (2) of this subsection.

(2) The exemption granted by paragraph (1) of this subsection shall not extend—

(i) to the receipt or payment of salary in connection with the appointee's Government service from any sources other than the private employer of the appointee at the time of his appointment; or

(ii) during the period of such appointment, and the further period of two years after the termination thereof, to the prosecution or participation in the prosecution, by any person so appointed, of any claim against the Government involving any matter concerning which the appointee had any responsibility arising out of his appointment during the period of such appointment.

(Pub. L. 87-126, § 8, Aug. 7, 1961, 75 Stat. 292; Pub. L. 99-420, title II, § 201, Sept. 25, 1986, 100 Stat. 960.)

REFERENCES IN TEXT

Sections 281, 283, 284, and 1914 of title 18, referred to in subsec. (h)(1), were repealed by Pub. L. 87-849, § 2, Oct. 23, 1962, 76 Stat. 1126, "except as they [sections 281 and 283] may apply to retired officers of the armed forces of the United States", and were supplanted by sections 203, 205, 207, and 209, respectively, of Title 18, Crimes and Criminal Procedure. For further details, see Exemptions note set out under section 281 of Title 18.

Section 190 of the Revised Statutes (5 U.S.C. 99), referred to in subsec. (h)(1), was repealed by Pub. L. 87-849, § 3, Oct. 23, 1962, 76 Stat. 1126. See section 207 of Title 18.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99-420 substituted "30 years" for "ten years".

REESTABLISHMENT AND EXTENSION OF COMMISSION

Pub. L. 99-349, title I, July 2, 1986, 100 Stat. 731, provided: "That the Cape Cod National Seashore Advisory Commission established under section 8(a) of the Act of August 7, 1961 (Public Law 87-126; 75 Stat. 292) [16 U.S.C. 459b-7(a)] is reestablished and extended through February 28, 1996".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459b-1 to 459b-6, 459b-8 of this title.

§ 459b-8. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 459b to 459b-8 of this title; except that no more than \$42,917,575 shall be appropriated for the acquisition of land and waters and improvements thereon, and interests therein, and incidental costs relating thereto, in accordance with the provisions of such sections.

(Pub. L. 87-126, § 9, Aug. 7, 1961, 75 Stat. 293; Pub. L. 91-252, May 14, 1970, 84 Stat. 216; Pub. L. 98-141, § 3, Oct. 31, 1983, 97 Stat. 909.)

AMENDMENTS

1983—Pub. L. 98-141 substituted "\$42,917,575" for "\$33,500,000".

1970—Pub. L. 91-252 substituted "\$33,500,000" for "\$16,000,000".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459b-1 to 459b-7 of this title.

AUTHORIZATION OF CONVEYANCE OF COMMONWEALTH LANDS

Chapter 777 THE COMMONWEALTH OF MASSACHUSETTS

IN THE YEAR ONE THOUSAND NINE HUNDRED AND SIXTY-TWO, AN ACT authorizing and directing conveyance of certain lands to the United States of America.

WHEREAS, the deferred operation of this Act would tend to defeat its purposes, which is to convey forthwith for the Commonwealth to convey to the United States of America certain lands to effect the establishment of the Cape Cod National Seashore, therefore it is hereby declared to be an emergency law necessary for the immediate preservation of the public health and convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the people of the same as follows:

SECTION 1. The Commissioner of Public Works, acting in the name and on behalf of the Commonwealth, is hereby authorized and directed to convey, without consideration, to the United States of America, all the right, title and interest of the Commonwealth in and to so much of the Province Lands in the Town of Provincetown, except that part thereof which is described in Chapter Seven Hundred and One of the Acts of Nineteen Hundred and Sixty-two, and to so much of any other lands under the jurisdiction or control of the Department of Public Works in the Town of Truro, including, in each instance, buildings thereon and lands covered by water, as is situated within the boundaries of the Cape Cod National Seashore, as described in Section One of Public Law 87-126.

SECTION 2. The Commissioner of Natural Resources, acting in the name and on behalf of the Commonwealth, is hereby authorized and directed to convey without consideration to the United States of America, all the right, title and interest of the Commonwealth and to so much of the Pilgrim Spring State Park in the town of Truro, including in each instance buildings thereon and lands covered by water, as is situated within the boundaries of the Cape Cod National Seashore as described in Section One of Public Law 87-126.

SECTION 3. The Deed of Conveyance under Section One shall provide

(1) That a portion of the lands so conveyed is subject to a lease between the Commonwealth and the Town of Provincetown, dated January second, Nineteen Hundred and Sixty-one, for public airport and access purposes;

(2) That such additional area as shall be agreed upon between the Secretary of the Interior, or his designee, and the Town of Provincetown, acting through its Airport Commission, shall be made available to said Town for lease or otherwise to said Town for public airport and access purposes;

(3) That such area as may be agreed upon between the Secretary of the Interior, or his designee, and said Town acting through its duly authorized representative, shall be made available to said Town for public airport and access purposes;

(4) That in the case of disagreement under sub-paragraphs (2) or (3) of this section, the matter shall be submitted to arbitration, each party to select one arbitrator, and said arbitrators so chosen, to select one arbitrator, and that the decisions of such arbitrators shall be binding on both parties.

SECTION 4. The Deeds of Conveyance under Sections One and Two shall provide

(1) That the jurisdiction of the United States of America over and within the lands so conveyed shall be proprietary only; that the Commonwealth shall continue to exercise all of the jurisdiction, power and authority possessed by it on or before the effective date of this Act over and within the land so conveyed, including the right to serve criminal or civil process, and the right to tax persons and corporations, their franchises and property; and that persons residing on such lands shall have the right to vote at all primaries and elections within the town and county in which said lands are located.

(2) That the Secretary of the Interior may permit hunting and fishing, including shellfishing, on lands and waters under his jurisdiction within the Cape Cod National Seashore in such areas and under such regulations as he may prescribe during open seasons prescribed by applicable local, state and federal law; that said Secretary shall consult with officials of the Commonwealth and any political subdivision thereof who have jurisdiction of hunting and fishing, including shellfishing, prior to the issuance of any such regulations; that said Secretary is authorized to enter into cooperative arrangements with such officials regarding such hunting and fishing, including shellfishing, as he may deem desirable, except that he shall leave all aspects of the propagation and taking of shellfish to the towns referred to in Section One of Public Law 87-126; and that the fishing rights of the public shall be the same in the coastal waters within the Cape Cod National Seashore as prior to such conveyances.

(3) That the Commonwealth, through the State Reclamation Board and the Cape Cod Mosquito Control Project, or its successor, shall continue to provide for the control of mosquitoes and greenhead flies in the lands so conveyed, and shall have the right to construct and maintain such ditches, culverts, dams and any other installations on the lands so conveyed as may be necessary for the proper control of mosquitoes and greenhead flies.

(4) That if at any time the United States of America fails to use the lands so conveyed for the purposes in said Public Law 87-126, the title to such lands shall revert to and revest in the Commonwealth.

APPROVED July 26, 1962

**TOWN OF EASTHAM
TO
UNITED STATES OF AMERICA
QUITCLAIM DEED
COAST GUARD BEACH AREA**

TOWN OF EASTHAM, a municipal corporation duly organized and existing by law in the County of Barnstable and Commonwealth of Massachusetts, acting by and through its Board of Selectmen, in consideration of these premises, grants to the UNITED STATES OF AMERICA and its assigns with quitclaim covenants the parcel of land and beach known as "Coast Guard Beach" located in Eastham, Barnstable County, Commonwealth of Massachusetts shown as Parcels No. 25, No. 26, No. 27 and No. 31, Block 17, Sheet 4A on the Eastham Assessor's Map bounded and described as follows:

[descriptions of parcels not included]

All of said boundaries, except the water lines, are determined by the Court to be located as shown on subdivision plan 8939-D dated March 5, 1929. . . .

Said land is conveyed subject to the express condition that the Taxpayers of the Town of Eastham and their families shall have the right to use the above described beach and other beaches developed by the National Park Service within the Town of Eastham together with the adjacent parking areas without charge, and reserving to the property owners the right to pass and repass over the same by existing or future ways between the Town of Eastham and the property lying Southerly of the above described premises, and to use said ways as ways are commonly used in the Town of Eastham; and whenever the Cape Cod National Seashore Park Service does not use the beach for the purposes as stated, said beach and land are to revert to the Inhabitants of the Town of Eastham.

After transferring all rights of way and easements in the Town ways, described below, reserving full rights of way to the taxpayers of the Town of Eastham, and their families and/or tenants, the right to use the same now located and as they may hereafter be relocated by the National Park Service, as ways are commonly used in the Town of Eastham viz: Nauset Road from its intersection with Route 6 running thence Easterly and Northwesterly a distance of about eight-tenths (.8) mile to the intersection of Doane Road; and Doane Road from its intersection of Nauset Road running thence Easterly and Southerly a distance of about one and one-tenth mile to Coast Guard Beach, so called, said roads to be maintained, policed, and kept in good repair by the National Park Service; and whenever the Cape Cod National Seashore Park Service does not use for the purposes as stated, the said Town ways are to revert to the Inhabitants of the Town of Eastham.

The Vote of the Inhabitants of the Town of Eastham in meeting assembled February 18, 1963 authorizing this conveyance is attached hereto.

Intending hereby to convey with quitclaim covenants to the United States of America and its assigns all right, title or interest which the grantors may have in the banks, beds and waters of any streams or ponds adjoining or fronting upon said land in any alleys, roads, streets, ways, strips, gores, or railroad rights of way abutting or adjoining said land, and in any means of ingress or egress appurtenant thereto.

This conveyance is subject to existing easements for public roads and highways, for public utilities, railroads and pipelines.

Excepting, however, to the Town all aspects of the propagation and taking of shellfish in connection with the above described land and beach. The consideration being nominal, no revenue stamps are required.

In witness whereof the Town of Eastham has caused its seal to be affixed hereto and these presents to be executed for and in its behalf by the undersigned the Board of Selectmen hereunto duly authorized this 3rd day of June 1963.

TOWN OF EASTHAM

BY:

/s/ Maurice W. Wiley

/s/ Luther P. Smith

/s/ Maurice A. Moore

TOWN OF EASTHAM
TO
UNITED STATES OF AMERICA
QUITCLAIM DEED
NAUSET LIGHT BEACH AREA

TOWN OF EASTHAM, a municipal corporation duly organized and existing by law in the County of Barnstable and Commonwealth of Massachusetts, acting by and through its Board of Selectmen, for consideration paid, grants to the UNITED STATES OF AMERICA and its assigns all its right, title and interest in and to certain parcels of land situate in Eastham, Barnstable County, Commonwealth of Massachusetts more particularly described as follows:

* * * * *

PARCEL THREE

That parcel of land and beach known as "Nauset Light Beach" comprised of the following Lots:

[lot description not included]

All of said boundaries are determined by the Court to be located as shown on subdivision plan 17649-B dated Sept. 15, 1943. . . .

Containing one acre of land more or less.

Reserving to the taxpayers of Eastham, and their families, the right to use the above described beach and adjacent waters for swimming, the adjacent parking area, and without charge. Provided however, that whenever the Cape Cod National Seashore Park Service does not use the same for purposes as above stated, the said beach and land are to revert to the Inhabitants of the Town of Eastham.

* * * * *

PARCEL FOUR

Rights of way and easements in the below described Town way: viz: Cable Road from its' [sic] intersection with Nauset Road and running East to its' [sic] termination at the Atlantic Ocean.

Reserving full rights of way to those persons legally entitled thereto and to the taxpayers of the Town of Eastham and their families and/or tenants the right to use the same as ways are commonly used in the Town of Eastham both now and hereafter over the same.

Provided, however, that said road be maintained, policed and kept in good repair by the National Park Service as a free point of access for the taxpayers of the Town of Eastham and their families and/or tenants to the bathing beaches; and provided further that whenever the Cape Cod National Seashore Park Service does not use the same for the purposes as stated, the Town ways are to revert to the Inhabitants of the Town of Eastham.

* * * * *

In witness whereof the Town of Eastham has caused its seal to be affixed hereto and these presents to be executed for and in its behalf by the undersigned the Board of Selectmen hereunto duly authorized this 25th day of January 1965.

TOWN OF EASTHAM
BY:
/s/ Fred G. LaPiana, Jr.
/s/ Luther P. Smith
/s/ Maurice A. Moore

Chapter 360

THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Eighty-four

AN ACT CEDING TO THE UNITED STATES OF AMERICA CONCURRENT JURISDICTION OVER
UNITS OF THE NATIONAL PARK SERVICE IN THE COMMONWEALTH.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the people of the Commonwealth, as follows:

SECTION 1. The commonwealth hereby cedes concurrent jurisdiction over those lands and buildings hereinafter provided and administered by the National Park Service of the United State Department of Interior.

The lands and buildings so included are as follows:

* * * * *

(d) Cape Cod National Seashore, in the towns of Chatham, Orleans, Eastham, Truro, Provincetown, Wellfleet, as described in a plan of land titled "Boundary Map, Cape Cod National Seashore", dated February 1978.

* * * * *

SECTION 2. Said concurrent jurisdiction shall be vested upon acceptance by the United States of America when the Director of the National Park Service files a notice of such acceptance with the governor and the secretary.

SECTION 3. Exclusive jurisdiction in and over such tracts shall revert to and revest in the commonwealth whenever such tracts shall cease to be used for the purpose set forth in section one.

House of Representatives, December 11, 1984

Passed to be enacted,

/s/ Thomas W. McGee,

Speaker

In Senate, December 12, 1984

Passed to be enacted

/s/ William M. Bulger,

President

December 18, 1984

Approved,

/s/ Michael J. Dukakis, Governor