

Name(s) shown on income tax return
Robert T. Landowner
Susan B. Landowner

Identifying Number
021-34-1234
083-23-5555

IRS FORM 8283
SUPPLEMENTAL STATEMENT
DONATION OF CONSERVATION EASEMENT

On November 12, 2007, the taxpayers/donors completed the donation of a conservation easement (in Massachusetts, a “conservation restriction”) under the provisions of Section 170(h) of the Internal Revenue Code of 1986, as amended, and the regulations thereunder (the “Code”). The conservation restriction encumbers 55 acres, more or less (the “Property”), of a larger parcel of 65 acres, more or less, owned by the taxpayers in the Town of Pinehills, Pinehills County, Massachusetts.

Pursuant to the Treasury Regulations, the value of the conservation restriction was determined by appraising all of the contiguous property owned by the donors before and after the conservation restriction.

There are currently no residences or other habitable dwellings on the encumbered Property. The conservation restriction prohibits any commercial or industrial activities, or the construction of any new residence or habitable dwelling, on the Property. The donation was made to the Pinehills Land Trust (the “donee”), a “qualified organization” as defined at Section 170(h) of the Code.

The Property is within (i) the Pinehills Harbor/Scraggy Neck Area of Critical Environmental Concern; (ii) a Massachusetts Natural Heritage and Endangered Species Program Priority Habitat for rare and endangered species; and (iii) a Massachusetts Department of Fisheries, Wildlife and Environmental Law Enforcement BioMap Core Habitat area and a BioMap Supporting Natural Landscape area, all as further described below. Further, the Property is within areas declared by the Town of Pinehills and the Cape Cod Regional Policy Plan as important and deserving of protection and preservation, as further described below.

The donation will protect a number of important conservation values, including the following:

according to the Baseline Documentation Report, certified by the donors and the donee as accurate as of the effective date of the conservation restriction, the Property encompasses salt marsh, tidal creek, coastal bank, cultural field, pine-oak woodland and maple/blueberry swamp habitats; and

the Commonwealth of Massachusetts, through the authority of the Secretary of Energy and Environmental Affairs under General Law Chapter 21A, Section 2(7) may designate Areas of Critical Environmental Concern (“ACEC”), which are places in Massachusetts that receive special recognition because of the quality, uniqueness and significance of their natural and cultural resources; and,

the 1997 Massachusetts Coastal Zone Management Plan promotes a Protected Areas Policy #1 to preserve, restore, and enhance complexes of coastal resources of regional or statewide significance through the Areas of Critical Environmental Concern program; and,

in 1978, the Pinehills Harbor/Scraggy Neck ecosystem in the Towns of Pinehills and Copley was designated as an Area of Critical Environmental Concern (ACEC); and,

the Property is located within the Pinehills Harbor/Scraggy Neck ACEC, and a copy of the Massachusetts Geographic Information System (MassGIS) map of such ACEC, showing the location of the Property, is included in the Baseline Documentation; and,

the Massachusetts Endangered Species Act, M.G.L. c. 131A, protects rare species and their habitats, and the Massachusetts Natural Heritage and Endangered Species Program (“MNHESP”) has designated as Priority Habitats the known geographical extent of habitat for state-listed rare plant and animal species; and,

the Property is located within an MNHESP Priority Habitat for rare and endangered species, and a copy of the MassGIS map of such Priority Habitats, showing the location of the Property, is included in the Baseline Documentation; and,

in 2001 the Massachusetts Department of Fisheries, Wildlife and Environmental Law Enforcement published a report entitled *BioMap: Guiding Land Conservation for Biodiversity in Massachusetts*, which identified critical habitat “areas, that if protected, would provide suitable habitat over the long term for the maximum number of Massachusetts’ terrestrial and wetland plant, animal species, and natural communities;” and developed a BioMap to identify the areas most in need of protection in order to protect the native biodiversity of the Commonwealth; and,

the BioMap contains Core Habitat areas, which depict the most viable habitats for rare species and natural communities in Massachusetts, and Supporting Natural Landscape areas, which buffer and connect Core Habitat areas and which identify large, naturally vegetated blocks that are relatively free from the impact of roads and other development; and,

the Property is located within a BioMap Core Habitat area and a BioMap Supporting Natural Landscape area, and a copy of the MassGIS map of such BioMap areas, showing the location of the Property, is included in the Baseline Documentation; and,

in 1998, MNHESP published a report entitled *Our Irreplaceable Heritage: Protecting Biodiversity in Massachusetts*, which stated, “We believe that [there are] eight ecosystem types or natural community assemblages [that are] the most important targets for biodiversity conservation. They represent the most threatened or ecologically essential areas for rare plants and animals in Massachusetts,” (p. 29) and specifically identified coastal natural communities as standing out “as some of the most biologically diverse lands in the Commonwealth” and singled out salt marsh in particular as important

to conserve and restore (p. 30), and the Property contains approximately 4.49 acres of salt marsh habitat; and,

in 2003, a Statewide Land Conservation Plan was drafted, which identifies the most significant available, undeveloped and unprotected open space lands needed to protect, among other things, biodiversity habitats; and,

the Property is included in the Statewide Land Conservation Plan, and a copy of the MassGIS map of such Statewide Land Conservation Plan, showing the location of the Property, is included in the Baseline Documentation; and,

the 1997 Massachusetts Coastal Zone Management Plan promotes a Coastal Hazards Policy#1 to preserve, protect, restore, and enhance the beneficial functions of storm damage prevention and flood control provided by natural coastal landforms, such as dunes, beaches, barrier beaches, coastal banks, land subject to coastal storm flowage, salt marshes, and land under the ocean; and,

the Property consists of coastal banks, land subject to coastal storm flowage, salt marshes and land under the ocean and lies partially within FEMA Zone A and Zone V coastal floodplain, a high hazard area, and a copy of the official FEMA flood insurance rate map, showing the location of the Property, is included in the Baseline Documentation; and,

in August 2001, the Association for the Preservation of Cape Cod (APCC) produced a map depicting, among other things, residential land of 2.5 acres or more on which a potential conservation restriction could be placed, and the Property is identified on APCC's map as falling within this category; and,

in 2003, The Compact of Cape Cod Conservation Trusts, Inc. completed its *Cape Cod Wildlife Conservation Project* ("Wildlife Project"), a wildlife habitat analysis and parcel ranking for all vacant or underdeveloped parcels on Cape Cod, Massachusetts; and,

the Property was included in the Wildlife Project, and was ranked "High" in terms of its habitat protection priority, and "Maximum," the highest possible ranking, in terms of its wildlife habitat value; and,

the Town of Pinehills developed a *Local Comprehensive Plan*, approved by the Cape Cod Commission in 1998, which plan's stated objectives included, among other things:

- To "preserve and improve the ecological integrity of fresh surface water bodies and marine waters" (Goal 2.1.1; p. 2-13);
- To "minimize contamination of water resources with nitrogen, in order to maintain...the ecological integrity of streams, ponds and coastal embayments" (Goal 2.1.3; p. 2-23);
- To "preserve and restore the area, quality and functions of Pinehills' coastal and

inland wetlands” (Goal 2.3.1; p. 2-86);

- To “prevent loss or degradation of critical wildlife and plant habitat, to minimize the impact of new development on wildlife and plant habitat, to maintain existing populations and species diversity, and to maintain areas which will support wildlife’s natural breeding, feeding and migration patterns” (Goal 2.4.1; p.2-93);
- To “protect and increase the wildlife population and habitats of Pinehills” (Goal 6.5; p.6-22) and “preserve those wildlife corridors that foster diversity of habitat and link known wildlife resource areas” (Policy 6.5.1; p. 6-22);
- To “encourage the preservation of open space...through creative means of conservation restrictions” (Goal 6.1.2; p. 6-13); and
- To “identify, protect and preserve Pinehills’s historic...landscapes and archaeological resources” (Goal 7.5; p. 7-24); and,

the Local Comprehensive Plan included a Greenbelt and Fingerlinks Corridors Map identifying potential parcels of vacant and underdeveloped land for its creation, and a map identifying Archaeological Sensitivity Areas; and,

the Property is identified on the Greenbelt and Fingerlinks Corridors Map as one of the potential parcels for the creation of such corridor within the Town of Pinehills; and,

the Property is located within a Town of Pinehills primary area of archaeological sensitivity, defined as an area within 1000 feet of a marine or marine related ecosystem and which has a high probability of containing prehistoric archaeological sites; and,

the Town of Pinehills developed an *Open Space Plan* (1984, amended 1987, 1998, and 2005) with a goal of preserving “quality open spaces throughout the Town which protect and enhance its visual heritage...” and which identified, among other things, the following community objectives:

- To acquire, retain, preserve and protect a maximum amount of open space for the community and its natural and wildlife habitats (Goal 1, 2005), with priorities focused on, among things, lands adjacent to designated protected or potential open space, lands adjacent to wetlands, and lands providing wildlife corridors, including areas within and abutting Core Habitats identified by the Massachusetts Natural Heritage and Endangered Species Program, and encourage the use of creative regulatory and non-regulatory land protection tools such as conservation restrictions;
- To protect the environmental health of Pinehills’ surface water resources (Goal 2, 2005);
- To protect and enhance Pinehills’ unique and fragile natural and cultural resources including scenic beauty, historic areas and unique habitats (Goal 6, 2005);
- To protect and increase wildlife population and habitats (Goal 10, 2005); and,

in 1981 the Town of Pinehills adopted a Conservation Restriction Program consisting of policies and guidelines, in particular an *Open Space Policy*, approved by the Board of Selectmen, Assessors and Conservation Commission, which encourages the use of conservation restrictions in perpetuity to protect natural resources in accordance with the purposes of the Open Space Plan, and which further specified that purposes of a conservation restriction could include the following:

- prevent disturbance of wetlands,
- preserve open space,
- preserve important natural habitats of fish, wildlife or plants,
- protect marine water quality,
- limit or prevent construction on land of natural resource value; and,

in July, 1991, the Pinehills Assembly of Delegates, pursuant to the Cape Cod Commission Act (Chapter 716 of the Acts of 1989), adopted a *Regional Policy Plan*, amended in 1996 and further amended in 2002 and 2009 , which provided, *inter alia* (references are to the 2009 Plan):

- a Wetlands Goal to “preserve and restore the quality and quantity of inland and coastal wetlands and their buffers on Cape Cod” (p.52);
- a Wildlife and Plant Habitat Goal to “prevent loss or degradation of critical wildlife and plant habitat, to minimize the adverse impact of new development on wildlife and plant habitat and to maintain existing populations and species diversity” (p. 55), stating that “renewed commitment to protect the most ecologically sensitive undeveloped lands through land acquisition and other permanent conservation measures is also warranted”;
- an Open Space and Recreation Goal to “preserve and enhance the availability of open space that provides wildlife habitat...and protects the region’s natural resources and character” (p.57), with a recommended Town Action of working with “local land conservation organizations to identify, acquire by fee simple or conservation restriction, and manage open space to meet projected community needs. Priority should be given “to the protection of significant natural and fragile areas as identified on the Cape Cod Significant Natural Resources Areas map.” (p.58); and,
- a Heritage Preservation/Community Character Goal to “protect and preserve the important historic and cultural features of Cape Cod’s landscape...that are critical components of the region’s heritage and economy” (p. 80); and,

the Regional Policy Plan includes a Significant Natural Resources Areas Map, which shows, among other things, rare species habitat, priority natural communities, wetlands, and critical upland areas; and,

the Property is located within a Regional Policy Plan Significant Natural Resource Area, and a copy of the map, showing the location of the Property, is included in the Baseline Documentation; and,

the Great and General Court of Massachusetts established the Old Dominion Highway Regional Historic District on the northern shore of Pinehills County through Chapter 740 of the Acts of 1973; and,

the Property is located on the north side of Route 123 within the Old Dominion Highway Regional Historic District; and,

the Property is visible from Pinehills Harbor, and therefore is seen by Pinehills residents and tourists on a regular basis; and,

the Property is a substantial contributing element to the overall scenic and cultural character of the area by maintaining the land predominantly in its natural condition.

Therefore, the conservation purposes under Section 170(h) of the Code furthered by the donation of the conservation restriction include the following: (i) the preservation of significant relatively natural habitat of plants and similar ecosystems, under Section 170(h)(4)(A)(ii); (ii) the preservation of open space for the scenic enjoyment of the general public, which yields a significant public benefit, under Section 170(h)(4)(A)(iii)(I); and (iii) the preservation of open space pursuant to clearly delineated local governmental policy, which yields a significant public benefit, under Section 170(h)(4)(A)(iii)(II).

The taxpayers acquired a portion of the property by purchase in 1955, and other portions of the property by gift, beginning in the 1970s. Therefore, the taxpayers are unable at this time to determine with accuracy the basis of the Property.

Applying the Direct Sales Comparison Approach combined with the Cost of Development or "Subdivision" Approach, the appraisers concluded that the market value of the conservation restriction was derived as follows:

- a. Market value of the entire contiguous 65 acres before donation of the conservation restriction: \$ _____
- b. Market value of the entire contiguous 65 acres after donation of the conservation restriction: \$ _____
- c. Market value of the conservation restriction: \$ _____

A copy of the qualified appraisal that substantiates these values and verifies the appraisal methodology is filed with this Form 8283 and the donor's tax return. A copy of the recorded conservation restriction is included in the appraisal report.

Neither the donors, related family members, nor related persons (as defined by the Treasury Regulations) own any other contiguous property or nearby property. The donation of the conservation restriction was not made to obtain a permit or other approval from a local or other governing authority, nor was the donation required by any contractual obligation. The Property was not encumbered by a mortgage at the time of the donation of the conservation restriction.

The condition of the Property was documented and established through extensive baseline documentation acknowledged by the donors and the donee as an accurate representation of the condition of the Property on the effective date of the donation. The Baseline Documentation Report is being filed with this Form 8283 and the donor's tax return, as is a copy of the letter from the donee to the taxpayers sent pursuant to the provisions of Section 170(f)(8) of the Code.

The conservation restriction was recorded on November 12, 2007, at the Pinehills County Registry of Deeds, Pinehills County, Massachusetts.