

MEMORANDUM OF AGREEMENT
between the
UNITED STATES OF AMERICA - DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE
and
CONNECTICUT STATE UNIVERSITY SYSTEM

This Memorandum of Agreement (MOA) is between the United States of America, Department of the Interior, Fish and Wildlife Service (Service), and the Connecticut State University System (CSU) regarding the use of land known as Outer Island of the Stewart B. McKinney National Wildlife Refuge (the refuge).

WHEREAS, the Service is authorized pursuant to 16 U. S. C. 661 to provide assistance to, and cooperate with the public or private organizations in the development, protection, rearing and stocking of wildlife, resources thereof, and their habitat; and

WHEREAS, the authorizing legislation for the Stewart B. McKinney NWR provides for, in part, "...to provide opportunities for scientific research, environmental education, and fish and wildlife oriented recreation..."98 Stat. 2774, allowing for the establishment of environmental educational opportunities, and outreach programs to be developed; and

WHEREAS, Elizabeth Hird donating Outer Island to the Service, desires through her benevolent act of donation, to encourage and support a cooperative working relationship between the Service and the CSU for the proposes herein stated; and

WHEREAS, a strategy of the refuge is to increase wildlife programs and associated public use and educational opportunities, to assist people in the development of environmental awareness, appreciation, knowledge, commitment, and skills to provide low impact, nature based recreation opportunities, and to protect an ecology diverse and unique; and

WHEREAS, it is a Service strategy to cooperate with other federal, state, and local entities; and

WHEREAS, Outer Island contains established improvements conducive to educational and research endeavors; and

WHEREAS, CSU desires to create a substantive plan to foster the vision of Outer Island as a place to encourage, support and offer educational, research and certain other activities for the people of Connecticut; and

WHEREAS, CSU agrees that all activities conducted on Outer Island would be compatible with preserving Outer Island's ecosystem; and

WHEREAS, CSU proposes to establish an education and research center under the management of a center director appointed by CSU to plan manage, and present instructional, research, and environmental appreciation programs focused on Outer Island and to do so in coordination with the refuge manager in such way as to be fully compatible with the wildlife management activities of the refuge.

WHEREAS, the Service and the CSU agree to work cooperatively towards achieving the goals of wildlife protection and management concurrently with educational and research opportunities for the general public.

NOW THEREFORE, in consideration of mutual benefits accruing to both parties, it is mutually agreed as follows;

1. That Outer Island be referred to as the Outer Island Unit of the Stewart B. McKinney National Wildlife Refuge.
2. That subject to the conditions hereinafter set forth, the Service agrees to permit CSU and organizations and institutions working under the supervision of CSU to use certain portions of Outer Island as a facility to conduct environmental education, research, and environmental appreciation activities in furtherance of an effort to use and protect in the public interest, the unique attributes of Outer Island. The Service agrees to allow CSU to have the first right of refusal to enter into a Memorandum of Agreement to conduct educational, research and environmental appreciation programming on Outer Island. During the period this MOA is in effect, the Service recognizes CSU as the sole source of educational, research, and the environmental appreciation programming, excepting the Service, to be conducted on Outer Island.
3. It is mutually agreed for the purposes of this MOA that the refuge manager of the Stewart B. McKinney NWR and the designated representative of CSU shall be the agents for implementing this agreement.
4. CSU agrees to develop an Operational Plan describing intended programs and activities. The Operational Plan will cover a period of five (5) years and is subject to the review and approval of the Refuge Manager each year. The Purpose of the Operational Plan is to identify any activities that could threaten wildlife habitat or the overall protection of wildlife or constitute a threat to human safety. The Refuge Manager may provide input and suggestions, and may participate in activities that are mutually agreed upon. The first Operational Plan is to be submitted to the Refuge Manager by January 1st and will be reviewed annually, and with each annual review, the five (5) year Operational Plan will be extended by one year. It is agreed that CSU may alter the 5-year Operational Plan with the approval of the Refuge Manager, if unforeseen activities or events occur that justify, or cause reason for, an amendment.
5. Unless sooner terminated on the grounds and by procedures designated herein, this agreement shall remain in effect for a period of twenty (20) years from the date of the execution hereof and may be renewed at the end of said period unless either party file notice of termination as specified herein. The Service may suspend this agreement in whole or in part without obligation to CSU at any time for the following causes: (1) default by CSU based on lack of programming activity of the sort called for in the Operational Plan, (2) environmental damage or threat to wildlife by act of negligence or intention by CSU, (3) when necessary to protect the health or safety of visitors or employees, (4) or for protection of area resources. It will be the responsibility of the Refuge Manager to explain the cause and nature of the suspension and to recommend remedies to correct such cause(s) and allow adequate time for CSU to respond and correct such cause(s). Such suspension and explanation of the cause(s) therefor, suggested remedies, and allowable time for the correction shall be transmitted to CSU in written form. In the event of suspension due to default, the Service shall give CSU no less than one full summer season to correct the default. In the event of suspension of this MOA for other causes, the Service shall give CSU reasonable notice in relation to the seriousness of the cause(s) and reasonable opportunity to take corrective action. If CSU is unable to correct the cause(s) of suspension, the Service may terminate the MOA. CSU agrees to provide the Service, through the Refuge Manager, with 180 days written notice of

any intention to abandon the Operational Plan and/or terminate its activities on Outer Island, thus terminating its participation in this MOA.

6. The signing of this MOA does not supersede the rights and use of the island and designated improvements of Elizabeth Hird, Grantor of Outer Island, under the Use and Occupancy Agreement. Any on-site activity undertaken by either the Service or CSU must consider the premises as "private property" for as long as the grantor chooses to exercise her rights under the Use and Occupancy Agreement. Exception to this would be access permitted to ensure human safety, or if permission is granted by Elizabeth Hird during the term of her occupancy. In the event that Outer Island is no longer used by Elizabeth Hird, CSU is granted permission to use the buildings and other improvements to conduct the activities to be outlined in an amended Operational Plan.

7. At such time when the rights of the grantor cease to be exercised, the Service may choose to maintain and keep safe, all improvements as funds and resources permit. The Service cannot commit to expenditure of future funds; however, if such funds are available, the improvements could be maintained at the discretion of the Service. The Service and CSU agree that improvements will require future maintenance needs; therefore, the Service and CSU hereby agree to work cooperatively to establish a fund for the purpose of, in part, to provide future maintenance of the improvements. The Service agrees to request funds through the North American Wetlands Conservation Act or other sources which may become available, but Service cannot guarantee that such requests will be honored.

8. CSU agrees to remove or properly dispose of trash or waste generated as a result of its programs on the island. The Service shall be responsible for disposition of all other trash and waste as time and funding allow. In the event of substantial destruction of Outer Island from natural or human error disasters such as an oil spill, the Services acknowledges it has the responsibility to notify the appropriate Federal or State agency to remedy such disaster.

9. CSU may undertake construction of shelters or new buildings or other facilities subject to the prior written approval of the refuge manager and Elizabeth Hird. CSU shall be responsible for all maintenance of said facilities as mutually agreed. Permanent structures will become the property of the United States of America upon construction and without compensation to CSU. Removable structures or equipment placed on Outer Island by CSU shall remain the property of CSU and may be removed by CSU anytime before the termination of this agreement, or within six (6) months, or other mutually agreeable time frame, after the termination of this agreement, providing that the premises are restored as reasonably as possible by CSU to the conditions that exist at the time the facility was constructed.

10. The Service shall have the right at any time to enter upon the lands and improvements utilized by CSU hereunder for any purpose it may deem necessary for the administration of refuge activities and any other governmental service. CSU shall not interfere with any persons entering Outer Island under the authority of the United States Government.

11. All activities conducted pursuant to this agreement shall be subject to the laws governing the Service and the rules, regulations and policies promulgated thereunder whether now in force or hereafter adopted.

12. The Service agrees that CSU may establish and collect in a non-discriminatory way, fees, and/or other charges for participation in educational, research, and environmental appreciation activities conducted on the Island provided that the proceeds of such fees and charges shall be used exclusively to support programming associated with the Island and/or facilities maintenance on the Island. With the approval of the Grantor during the period of her use and when included in an Operational Plan (or, when not included

in the Operational Plan with the approval of the Service) CSU may conduct activities on Outer Island not immediately associated with educational or research programs which have as their primary function the raising of funds to sustain educational, research and environmental appreciation programming and/or facilities maintenance on the Island, and may in a non-discriminatory manner, impose and collect fees and charges for such activities, the proceeds from which to be used exclusively to support approved programming and/or facilities maintenance on the Island.

13. CSU agrees not to use or knowingly permit the use of the above described lands and improvements for any purpose which is inconsistent or incompatible with its status as a part of the National Wildlife Refuge System or the conditions herein specified, and agrees to take reasonable precautions to discourage unauthorized use or occupancy.

14. This agreement is made upon the express condition that the United States, its agents and employees and Elizabeth Hird, shall be free from all liabilities and claims for damages and or suits for or by reason of any injury to any person or property of any kind whatsoever, whether to the person or property of the CSU or third parties in connection with CSU programs, from any cause whatsoever arising from any activities conducted pursuant to the terms of this agreement, and CSU hereby covenants and agrees to indemnify, defend, save and hold harmless the United States, its agents and employees and Elizabeth Hird, from all such liabilities, expenses and costs on account of or by reason of any injuries, deaths, liabilities, claims, suits or losses however occurring or damages arising out of the same.

15. CSU shall prior to the effective date of this agreement, provide the Refuge Manager with a Certificate of Insurance evidencing that it has obtained and will maintain during the term of this agreement Comprehensive General Liability Insurance against claims occasioned by the actions or omissions of the CSU its agents and employees in carrying out the activities and operations authorized hereunder. Such insurance shall be in an amount commensurate with the degree of risk and scope and size of such activities authorized hereunder, but in any event, the limits of liability shall not be less than \$1,000,000 per occurrence. If claims reduce available insurance below the required limits, the CSU shall obtain additional insurance to restore the required limits. An umbrella or excess liability policy, in addition to a Comprehensive General Liability Policy, may be used to achieve the required limits.

16. All liability policies shall either name the United States of America as a named insured or shall specify that insurance company shall have no right of subrogation against the United States and shall have no recourse against the Government for payment of any premium or assessment.

17. CSU shall not remove from Outer Island any timber, minerals, or other products having commercial value. CSU shall not collect or remove wildlife, wildlife parts, minerals, or plants from the Island except in minimum quantities as scientific specimens as permitted under the terms of the Operational Plan. There is one piece of granite measuring 4' by 4' by 20' at the northerly end of Outer Island which the Grantor has offered to the Peabody Museum at Yale University. The parties agree that Peabody shall have the opportunity to decide whether they will accept this gift, and to remove it if so, within five years from the date of this agreement. No other natural item may be removed without the prior written consent of the Refuge Manager.

18. Any press releases or other written materials produced by or for the CSU discussing this agreement or its purposes must have prior written approval of the Regional Public Affairs Office of the Service currently located at 300 Westgate Center Drive, Hadley, Massachusetts 01035.

19. Advertizing - CSU may refer to the U.S. Fish and Wildlife Service to advertize the joint partnership efforts as intended by this MOA and the activities in the approved Operational Plan, and for

efforts in connection with fund raising for the support of the approved activities within the Operational Plan and maintenance of improvements.

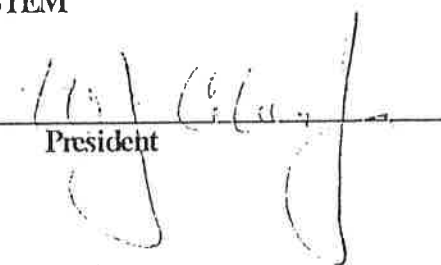
20. The Service agrees to the placement of a sign on Outer Island indicating the generosity of the grantor and the ongoing partnership between the Service and the CSU, and may also recognize other significant funding agencies, groups, or individuals.
21. Endorsement - Neither this agreement nor its existence may be used in any way by the CSU to imply endorsement by the Service of the CSU or its purposes.
22. No transfer or assignment of this agreement or any part thereof, or interest therein, shall be made unless such transfer of assignment is first approved in writing by the Service.
23. No member or delegate to Congress, or resident Commissioner, shall be admitted to any share or part of this agreement, or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.
24. During the performance of this agreement, the participants agree to abide by the terms of Executive Order 11246 on 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 applicants are employed without regard to their race, color, religion, sex, or national origin.
25. CSU and its affiliates agree to abide by the terms and conditions as specified in the Use and Occupancy Agreement attached hereto as Exhibit A which will remain in effect during the active use of the premises by the Grantor, or until abandoned in writing by the Grantor, or a designated individual having legal authority or Power of Attorney does so.
26. This agreement shall become effective as of the last date given below and may be amended at any time by mutual consent of the parties.

In Witness Whereof, the parties hereto have caused this instrument to be executed by their respective duly authorized representatives this 27th day of September, 1995.

U.S. FISH AND WILDLIFE SERVICE

CONNECTICUT STATE UNIVERSITY
SYSTEM

By: _____
Regional Director

By: 
President



ELIZABETH HIRD

Amendment of September 29, 1995
to
MEMORANDUM OF AGREEMENT
between the
UNITED STATES OF AMERICA -- DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE,
CONNECTICUT STATE UNIVERSITY SYSTEM
and
ELIZABETH HIRD

This Amendment to the September 29, 1995 Memorandum of Agreement (MOA) is between Elizabeth Hird, the United States of America, Department of the Interior, Fish and Wildlife Service (Service), and the Connecticut State University System (CSU) regarding the use of land known as Outer Island of the Stewart B. McKinney National Wildlife Refuge (the refuge).

There shall be inserted a new Paragraph 16a which shall provide as follows:

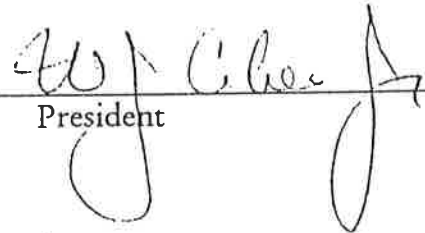
Elizabeth Hird and CSU mutually agree that CSU's compliance with Paragraph 15 of the September 29, 1995 Memorandum of Agreement will constitute satisfaction of its obligation to Elizabeth Hird under Paragraph 14 of said Memorandum of Agreement, except that CSU agrees that it will name and maintain for Elizabeth as an additional insured an aggregate amount of insurance of not less than two million dollars (\$2,000,000.00). CSU does not waive its sovereign immunity as to Elizabeth Hird, and consistent with this Paragraph, she and CSU agree that any additional claims hereunder will be brought to the Claims Commissioner in accordance with Chapter 53 of the Connecticut General Statutes.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their respective duly authorized representatives this 27th day of September, 1995.

U.S. FISH AND WILDLIFE SERVICE

CONNECTICUT STATE UNIVERSITY
SYSTEM

By: _____
Regional Director

By: 
President



ELIZABETH HIRD

EXHIBIT A

USE AND OCCUPANCY AGREEMENT

between
Elizabeth Hird
and the
United States of America - Department of the Interior
Fish and Wildlife Service
and the
Connecticut State University System

These conditions of use pertain to the premises described as Outer Island, donated to the United States Fish and Wildlife Service by Grantor, Elizabeth Hird, in deed dated September 29, 1995, and recorded on September 19, 1995. The following terms and conditions are in addition to the Memorandum of Agreement (MOA) between the United States Fish and Wildlife Service (Service) and the Connecticut State University System (CSU).

The Service as Donee will allow the Grantor, Elizabeth Hird, to occupy, possess and enjoy said premises for the consideration of \$1.00, receipt whereof is hereby acknowledged, for as long as she actively uses the premises, or abandons said occupancy and use in writing either by her or by a designated individual having legal authority or Power of Attorney to do so.

Any notices required or permitted under the MOA shall be sufficient if in writing and if sent by registered or certified mail, postage prepaid, to the Grantor, at 140 Roast Meat Hill Road, Killingworth, Connecticut 06417, or such other address as the Grantor may designate in writing, and to CSU at Post Office Box 2008, New Britain, Connecticut 06050, or other such address as CSU may hereafter designate in writing.

These terms and conditions shall be governed by and construed in accordance with the laws of the State of Connecticut and the United States of America, Fish and Wildlife Service.

CSU or its affiliates and the Service shall indemnify the Grantor against, and hold the Grantor harmless from, and the Grantor shall not be liable for any and all claims or demands for loss of or damage to property, or injury or death to any person from any cause whatsoever, including accidents, while in, upon, or about said premises while conducting CSU sponsored related activities or Service related activities respectively.

Any damage to the premises or any building caused by CSU or its affiliates shall be promptly repaired by CSU from joint funds raised for maintenance and repairs. If such funds do not exist, damage to the premises or buildings caused by CSU or its affiliates will be repaired at CSU's sole cost. Any personal property brought onto the premises by CSU is placed on the premises at its own risk and the Grantor shall not be liable for any damage thereto.

The Grantor supports and encourages the use of the donated premises for the purposes stated in the MOA. The following terms and conditions are construed to ensure the privacy and respectful use of Outer Island and to minimize interference with the Grantor's continued residential use and enjoyment of the premises. The following items are in effect and agreed upon unless permission is

otherwise received from the Grantor in advance of performing or conducting any activity inconsistent with the conditions below.

No more than twenty-five (25) persons, other than the Grantor and her guests, shall occupy the premises at any one time without having permission from the Grantor and the Service;

CSU or its affiliates shall be able to use the premises during daylight hours, Monday through Friday, and may use the premises during the evening and weekends with advance permission;

CSU or its affiliates shall not enter the private residence or the immediate area surrounding the house, and the walled garden area to the east of the residence either on or off season. Further, CSU and its affiliates may use the guest cottage only with the approval in advance of the Grantor, although it may use the cottage's toilet facilities when there are programs scheduled. Interior changes to the guest cottage are not to be made without prior approval of the Grantor;

It is understood that no drinking water will be provided;

No stones, shells, artifacts, or other items naturally occurring on the island shall be removed except as allowed under the MOA and Operational Plan;

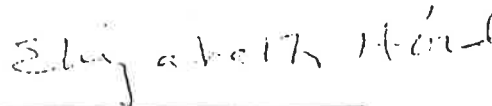
The bathroom facility attached to the guest cottage may be used by CSU and its affiliates and shall be flushed by means of saltwater from Long Island Sound;

Boats are not allowed to dock along the Northwest face of the dock except for loading and off-loading of passengers or equipment. Boats longer than twenty five (25) feet shall be tied to the stone steps. Boats less than twenty five (25) feet may dock along the shorter sides and back side of the float. It is the intent of the Grantor to leave the long side of the dock free and clear for ferry boat access;

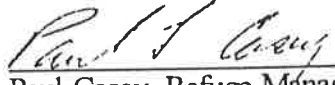
No outdoor fires shall be permitted on the premises. No permanent tents or other structures shall be erected on the premises. No domestic or non-indigenous animals shall be brought onto the premises.

It is agreed and understood by the parties hereto that upon the permanent cessation of use of the premises at Outer Island by the Grantor, she or her representatives may remove those pieces of furniture and furnishings which are not fixtures, including works of art, books, silver, jewelry, pottery, porcelain, kitchen equipment, clothing and personal effects.

U.S. FISH and WILDLIFE SERVICE

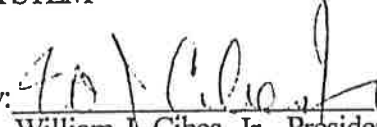


Elizabeth Hird



Paul Casey, Refuge Manager

CONNECTICUT STATE UNIVERSITY
SYSTEM

by: 

William J. Cibes, Jr., President

