

# Memorandum

(to the Last Will and Testament of Jane E. Preston)

## Re: Terms and Conditions of Realty Devise to the Citizens of Butler Township

I, **JANE E. PRESTON** of 415 South Eberhart Road, Butler, Pennsylvania 16001, do hereby make the following Memorandum to my Last Will and Testament dated August 3, 2005, stating the terms and conditions of the realty devise to the Citizens of Butler Township. The testamentary devise of my real property, designated as 415 South Eberhart Road, Butler Township and known as Preston Laboratories (hereinafter referred to as Premises), shall be subject to the following terms and conditions:

A. The Premises shall be used only for municipal, active recreational and passive recreational purposes. It is my intent through this devise that said Premises be kept intact, that no part of it be sold; that its use and development be consistent, if possible, with the adjacent Saw Mill Run Park. As a Testamentary Trust Fund will be established through my Will for the continued support of the Premises, I direct that all persons be permitted on the Premises without charge or admission.

B. Butler Township shall honor any written lease I have entered into with my friend, Russell Yockey. In the event Russell Yockey ceases the use of the leased premises for a continuous period of six (6) months or shall die or shall be physically disabled to such a degree as to render him incapable of operating his business, then the lease shall be declared null and void. The lease shall be non-assignable and Russell Yockey shall not have the right to sublet or assign the lease to any heir, successor, administrator or assign;

C. I direct that two (2) areas (hereinafter referred to as Conservation Area "A" and Conservation Area "B") shall be maintained in the condition they are in at the time of my death. I further direct that NO development of the conservation areas be permitted and that Butler Township shall maintain both conservation areas, including the burning of the Prairie, as directed by the Advisory

Board, as hereinafter established. The two (2) Conservation Areas are hereby defined by a map, which is attached hereto, marked as MAP "A" and made a part hereof;

D. The remainder of the property shall be known as a Recreational Area. Within the Recreational Area, Butler Township, on the advise of the Board of Advisors, shall be authorized to enlarge, replace and repair any existing structure and/or build any new structure.

E. No motorized vehicles shall be permitted on the Premises beyond areas designated for vehicular traffic and parking, except emergency and maintenance vehicles, and temporary concession vehicles or trailers used in conjunction with events sanctioned by Butler Township,

F. I hereby direct that a "Board of Advisors" be established as soon as practicable after by death, consisting of five (5) people including: the Executor of my estate; a Butler Township Commissioner; a representative from the Butler County Community College, who shall be appointed from time to time by the president of the college; and two (2) residents of Butler Township who reside within Ward Four (4) known as the Meridian area. The township residents shall serve for a term of five (5) years or until a successor is chosen, whichever occurs first. The initial township resident members and all successors shall be chosen by the remaining members of the Board of Advisors after each candidate submits a petition containing not less than fifty (50) signatures of registered electors residing within the Meridian area, as previously defined. If the Board of Advisors fail to agree on the selection of a member, then the member shall be randomly chosen, by lottery, among those finalists selected by the remaining members of the Board of Advisors. In the event petitions are filed by fewer people than there are openings, the other members of the Board of Advisors shall appoint persons residing within the *previously described* area to fill the openings. The members of the Board of Advisors shall elect their own chairman and secretary and select all other necessary officers, to serve for a period of one year.

On the death or resignation of my Executor, I direct that his vacancy be filled by a resident of Butler Township residing anywhere within the limits of Butler Township. This open position shall be advertised to all residents of Butler Township through the Butler Eagle, or similar publication and after submitting a petition containing not less than fifty (50) signatures, the successor to my Executor shall be selected by the four remaining advisors. If no agreement is reached, then the successor shall be chosen by lottery among the finalists selected by the Board. The term of this person shall be limited to five (5) years or until a successor is chosen, whichever occurs first.

The Board of Advisors shall have final authority over the maintenance and use of Conservation Area A and Conservation Area B, and shall advise the Board of Commissioners of Butler Township in the maintenance, use and development of the remainder of the Recreational Area.

G. All terms and conditions set forth herein are hereby deemed to be covenants running with the land and shall be binding upon the Citizens of Butler Township, its Commissioners and its officers.

H. Provided the Citizens of Butler Township accept this devise of land together with the conditions thereon, I hereby give to my Executor, AS TRUSTEE, that portion of my estate designated in my Will as the Preston Property Support Fund, for the following uses:

1. The Trustee, at his sole discretion, is authorized to accumulate the income or to pay or apply so much of said income for one or more of the following purposes. No portion of the principal may be distributed at any time. Any accumulated income shall be added to the principal at least annually.

2. All funds distributed by the Trustee are to be used exclusively for the maintenance and upkeep of Conservation Area A, Conservation Area B and the maintenance, upkeep and development of the Recreational Area, exclusive of those portions used for municipal purposes, including all structures thereon, provided the Trustee, after consultation with the Board of Advisors, deems it advisable to maintain said structures. Funds may be distributed for the removal of any structure.

3. In the event that Butler Township, its officers or administration shall use any current structure, enlarged structure, or any future structure for municipal purposes including, but not limited to, its offices, storage facilities, garage or the like, where such structure benefits the municipal administration of Butler Township, the Trustee is instructed NOT to distribute funds for the maintenance, upkeep or development of said structures.

4. Funds may be distributed for the development of the Recreational Area such as, but not limited to, fences, ball fields, tennis courts, walking trails, running

trails, exercise areas, parking lots, picnic shelters, signs, lighting, prairies, the removal of any dangerous condition on the premises, and any building used primarily for support and maintenance of the Conservation and/or Recreational areas.

5. All funds distributed will be at the sole discretion of my Executor/Trustee. In the event that my Executor/Trustee and Butler Township are unable to agree as to the distribution of any income, the decision of the Trustee will prevail. In the event that my Successor Trustee and Butler Township are unable to agree as to the distribution of any income, the problem is to be submitted to a Board of Arbitrators consisting of one Branch Manager or the like of: Citizens Bank, First Western Bank, and Pittsburgh Home Savings, or their successors. The Board of Arbitrators shall consist of three (3) individuals as named above and if any of these financial institutions shall no longer be in existence, another financial institution of similar size and having an office within Butler County may be substituted with the consent of all parties. As it is my desire to avoid costly litigation within the judicial system, I direct that the decision of the Board of Arbitration prevail and be binding upon all parties.

6. The Trustee is directed to carefully invest and preserve the trust funds; make such rules and bylaws for the proper function of the Board of Advisors as established herein, not inconsistent with the terms annexed to any conveyance, bequest or devise in any deed or last will and testament of any decedent; appoint and employ as many agents and employees as, in his judgment, shall be necessary for the proper discharge of the said trust or trusts; and, in the name and in accordance with the conditions of said trusts, do any and all things requisite for the proper administration and management of the property under his control.

7. On the death or resignation of my Executor as Trustee, I direct that the member of the Board of Advisors appointed by the President of Butler County Community College along with his or her successors, be the Successor Trustee of the Trust that is established herein, to administer the trust fund consistent with the terms of the Trust.

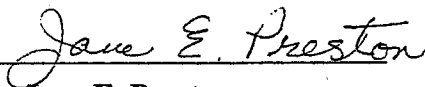
I. Acceptance of this devise shall be determined by a simple majority of the Butler Township Commissioners.

J. In the event that the devise to the Citizens of Butler Township shall initially fail, without regard to reason, then I devise said property, known as Preston Laboratories, to Western Pennsylvania Conservancy, Inc. subject to the same terms and conditions established herein.

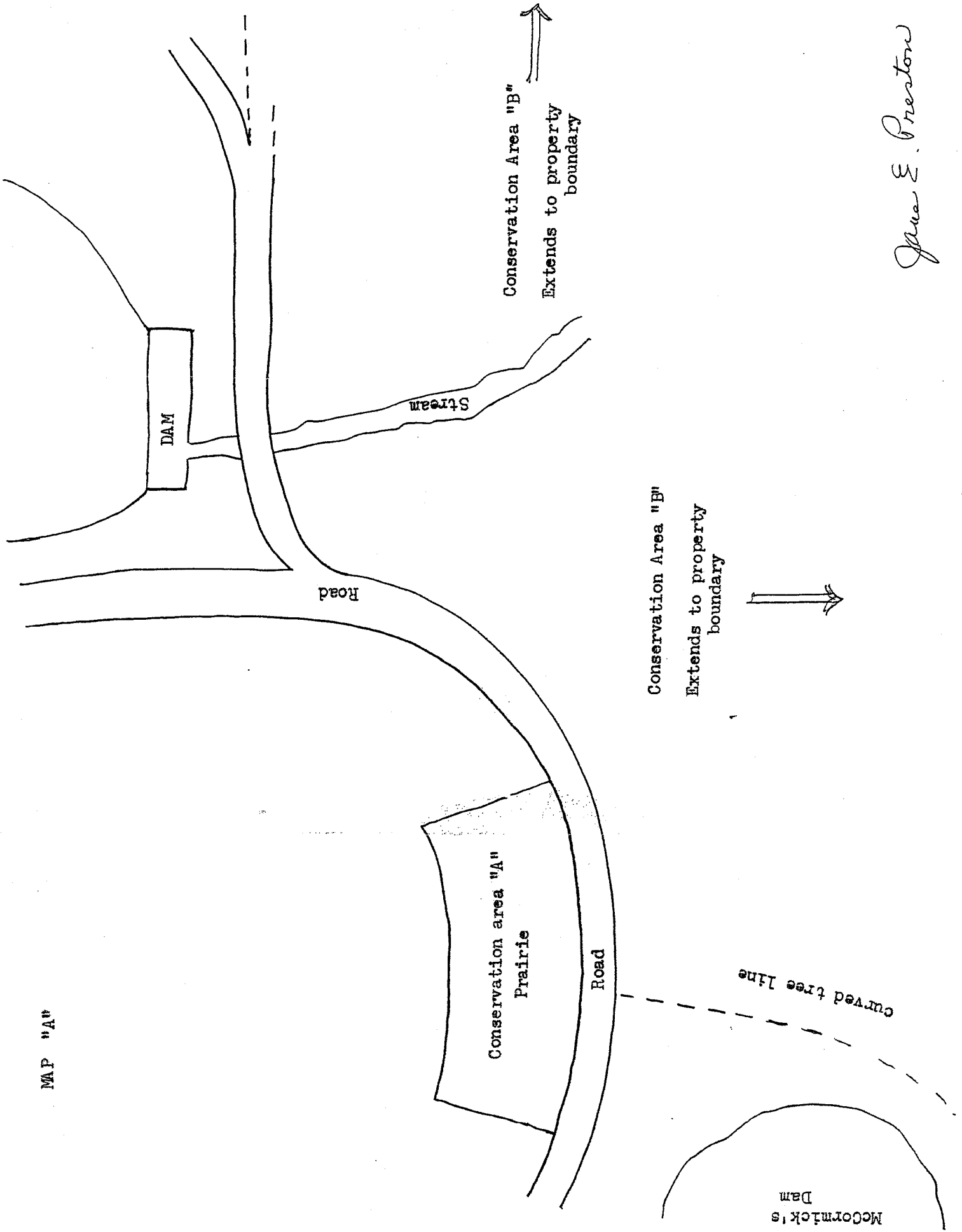
K. In the event that the devise to the Citizens of Butler Township shall fail, without regard to reason, then that portion of my estate designated as the Preston Property Support Fund shall be added to the Frank and Jane E. Preston Memorial Trust established by me through the Pittsburgh Foundation.

L. If after the devise of the Premises to the Citizens of Butler Township has occurred and the trust fund has been established, the Successor Trustee and the Board of Advisors together determine that it is no longer feasible to administer the Trust, I then direct that the Trust be terminated and that the corpus, interest and any other accumulated funds, be added to the Frank and Jane E. Preston Memorial Trust established by me and administered by the Pittsburgh foundation.

**In Witness Whereof**, I have hereunto set my hand and seal to this MEMORANDUM this 15 th day of December, 1994.

  
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**Jane E. Preston**

MAP "A"



Jane E. Preston