



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA GAME COMMISSION

AGENDA

HARRISBURG, PENNSYLVANIA
October 6, 2009

Carl G. Roe
Executive Director

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Commonwealth of Pennsylvania
Pennsylvania Game Commission

Agenda

The Commission Meeting of the Pennsylvania Game Commission will be held on Tuesday, October 6, 2009 at the Holiday Inn Philadelphia Stadium, 900 Packer Avenue, Philadelphia, Pennsylvania beginning at 8:30 a.m.

Call to Order

Pledge of Allegiance

Roll Call of Commissioners

Gregory J. Isabella, President
James J. Delaney, Jr., Vice President
Ronald A. Weaner, Secretary
Thomas E. Boop
David W. Schreffler
David J. Putnam
Robert W. Schlemmer
Ralph A. Martone

Approval of Minutes of Meeting held July 9 and September 3, 2009.

BUREAU OF INFORMATION AND EDUCATION

A. Prize Money – Working Together for Wildlife and Waterfowl Management Stamp Art Contests.

Commentary: In addition to their high visibility and the attention and goodwill they create, sales from the *Working Together for Wildlife* and *Waterfowl Management Stamp* programs now generate annual revenues – monies the agency uses to help fund important land acquisition and habitat management programs.

Continued success of both fine-art print programs is very much dependent on the availability of top quality wildlife paintings from Pennsylvania's finest wildlife artists. In the past, only those artists whose paintings were selected as first place winners, and whose paintings became the property of the Commission, received compensation. More than 10 years ago, fees were added for second through fifth places. The fees have not been adjusted since then.

If we are to continue receiving saleable, quality entries in the *Working Together for Wildlife* and *Waterfowl Management Stamp* fine art programs, then we need to continue to provide reasonable financial incentives.

Recommendation: After careful study on the wildlife fine-art market, and in consultation with recognized artists and gallery operators, the staff recommends, that on an annual basis, for one-time publication rights only, the following cash awards be made to other placing entries in both contests, specifically: Second Place Award, \$750; Third Place Award, \$500; Fourth Place Award, \$400; and Fifth Place Award, \$250.

Action:

BUREAU OF WILDLIFE PROTECTION

ADOPTED RULE MAKING

A. Adoption of proposed amendments to Chapter 143, by adding §143.203a.

Commentary: To effectively manage the wildlife resources of this Commonwealth, the Game Commission, at its July 9, 2009 meeting, proposed the following change:

Amend Chapter 143, by adding §143.203a (relating to special elk conservation license auction) to establish the special elk conservation license auction and license issuance process.

Recommendation: The Executive Director and staff recommend FINAL ADOPTION of this amendment to 58 Pa. Code as shown on EXHIBIT "A."

Action:

EXHIBIT "A"

CHAPTER 143. HUNTING AND FURTKER LICENSES

Subchapter K. ELK LICENSES

§143.203a. Special elk conservation license auction.

(a) Each year the Commission may contract with an eligible wildlife conservation organization to conduct an auction sale of one special elk conservation license in accordance with the mandates under section 2706.2 of the act (relating to elk hunting licenses).

(b) Upon conclusion of the auction, the wildlife conservation organization shall issue the winning bidder a license voucher which may be redeemed for a special elk conservation license under section 2712 of the act (relating to vouchers for licenses and permits).

- B. Adoption of proposed amendments to Chapter 141, §141.20, and Chapter 147, §§147.101-147.112a.

Commentary: To effectively manage the wildlife resources of this Commonwealth, the Game Commission, at its July 9, 2009 meeting, proposed the following changes:

Amend §141.20 (relating to protective material required for falconry) and §§147.101-147.112a (relating to falconry) to meet the new Federal standards as well as simplify, reorganize and enhance current state regulations pertaining to falconry.

Recommendation: The Executive Director and staff recommend FINAL ADOPTION of these amendments to 58 Pa. Code as shown on EXHIBIT "B."

Action:

EXHIBIT "B"

CHAPTER 141. HUNTING AND TRAPPING

Subchapter A. GENERAL

§141.20. Protective material required.

* * * * *

(b) Permitted acts. It is lawful to:

(1) Hunt without wearing daylight fluorescent orange-colored material
for:

* * * * *

(iv) Any wildlife that can be lawfully harvested under the
authority of a valid falconry permit.

* * * * *

CHAPTER 147. SPECIAL PERMITS

Subchapter F. FALCONRY

§147.101. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Bate – Attempt to fly.

Eyas – A young bird not yet capable of flight.

* * * * *

Falconry –The wild capture, husbandry and training of raptors for the pursuit of wildlife, and the hunting of wildlife with raptors.

Hacking – The controlled release of a raptor to the wild.

Hybrid – The offspring of birds listed as two or more distinct species in 50 CFR 10.13 (relating to list of migratory birds), offspring of birds recognized by ornithological authorities as two or more distinct species listed in 50 CFR 10.13 and the offspring of any hybrid birds.

Imprint – For the purposes of falconry, a bird that is hand-raised in isolation from the sight of other raptors until it has fledged. An imprinted bird is considered to be so for its entire lifetime.

* * * * *

Passage birds –

(i) Raptors in their first year of life, postfledging and possessing no more than two adult feathers.

(ii) A Golden Eagle taken as a juvenile must possess at least one subadult feather.

Raptors – Live migratory birds of the order *Falconiformes* or the order *Strigiformes* including the Bald Eagle – *Haliaeetus leucocephalus* – and the Golden Eagle – *Aquila chrysaetos*, wherever its place of origin, whether or not raised in captivity or a hybrid of those species.

* * * * *

§147.102. Application, examination and fees.

(a) *Application.* Applications for falconry permits issued under this subchapter shall be made through the regional office on the appropriate form provided by the Commission.

(1) Applications will only be accepted from persons who possess a valid hunting license or qualify for license and fee exemptions under section 2706 of the act (relating to license and fee exemptions).

(2) Applications must include the name, address, and telephone number of the applicant, a photocopy of the applicant's valid Pennsylvania hunting license and a nonrefundable examination fee of \$25.

(3) An applicant who is 17 years of age or younger is additionally required to have a parent or legal guardian co-sign the application and assume legal responsibility for the applicant's falconry activities.

(b) *Examination.*

- (1) New applicants shall pass a supervised examination with a minimum grade of 80%.
- (2) Examinations must cover the following subjects:
 - (i) Laws and regulations.
 - (ii) Raptor biology and raptor identification.
 - (iii) Trapping methods.
 - (iv) Facilities requirements.
 - (v) Care of raptors held for falconry.
 - (vi) Disease and health problems of raptors.
 - (vii) Training methods.
- (3) Examinations are administered by the Commission at each regional office between January 1 and June 30 each year.

(c) *Validation.* A new applicant's falconry permit is validated at the apprentice class only upon passage of the supervised examination, passage of facility inspection, and payment of the falconry permit fee set forth in section 2904 of the act (relating to permit fees).

(d) *Lapsed permit.* A falconer whose permit lapses for 2 or more years shall apply as a new applicant.

§147.103. Classes.

(a) *Apprentice.* Permittees of the apprentice class shall be subject to the following requirements and limitations:

- (1) Permittees shall be 12 years of age or older.
- (2) Permittees shall be sponsored, at all times, by a Pennsylvania general or master class falconry permit holder. If a permittee's sponsorship is withdrawn or lost for any reason, the permittee shall provide written notification of the loss to the Commission within 5 days and shall be required to replace the sponsorship within 15 days.
- (3) A first year permittee of this class may take and possess only one raptor with no replacement during the first permit year. Other permittees of this class may take and possess only one raptor with only one replacement during each permit year.

(4) Permittees are limited to taking and possessing only wild passage (no eyases) raptors of the following species:

- (i) American Kestrel (*Falco sparverius*).
- (ii) Red-tailed Hawk (*Buteo jamaicensis*).

(5) Permittees are required to trap their first passage raptor under the direct supervision of a Pennsylvania general or master class falconry permit holder.

(b) *General.* Permittees of the general class shall be subject to the following requirements and limitations:

(1) Permittees shall be 18 years of age or older.

(2) General class permit applicants shall have maintained their apprentice class permit status in good standing for a minimum of 2 years and during that period shall have maintained a raptor for a minimum of 12 months. An application to advance to the general class shall be accompanied by a written letter of recommendation from the permittee's sponsor representing that the permittee possesses the competency and skills necessary to become a member of the general class.

(3) A first year permittee of this class may take only one additional raptor and possess up to a total of two raptors with only one replacement during the first permit year. Other permittees of this class may possess up to a total of three raptors with two replacements during each permit year. Captive-bred raptors shall be included in these quota limits.

(4) Except as further limited under §147.109a (relating to restrictions on taking raptors), permittees are authorized to take and possess any wild passage or eyas raptors except the following species:

- (i) Golden Eagle (*Aquila chrysaetos*).
- (ii) Bald Eagle (*Haliaeetus leucocephalus*).
- (iii) White-tailed Eagle (*Haliaeetus albicilla*).
- (iv) Steller's Sea-eagle (*Haliaeetus pelagicus*).

(v) Other raptor species listed or classified as threatened or endangered by the United States Department of Interior or the Commission.

(c) *Master.* Permittees of the master class shall be subject to the following requirements and limitations:

(1) Permittees shall be 23 years of age or older.

(2) Master class permit applicants shall have maintained their general class permit in good standing for a minimum of 5 years and during that period shall have maintained a raptor for a minimum of 3 years.

(3) A first year permittee of this class may take only one additional raptor and possess up to a total of four raptors with only one replacement during the first permit year. Other permittees of this class may each possess a total of five raptors with two replacements during each permit year. Captive-bred raptors will not be included in these quota limits.

(4) Except as otherwise provided under §147.109a and paragraph (5), permittees are authorized to take and possess any wild passage or eyas raptors except the following species:

- (i) Golden Eagle (*Aquila chrysaetos*).
- (ii) Bald Eagle (*Haliaeetus leucocephalus*).
- (iii) White-tailed Eagle (*Haliaeetus albicilla*).
- (iv) Steller's Sea-eagle (*Haliaeetus pelagicus*).

(v) Other raptor species listed or classified as threatened or endangered by the United States Department of Interior or the Commission, unless authorized in writing by the United States Department of Interior or the Commission, or both, to possess up to a maximum of one threatened or endangered raptor as part of their total possession allowance.

(5) Upon additional written authorization provided by the Commission, permittees may possess up to a maximum of three eagles, regardless of captive-bred or wild caught, limited to golden eagles, white-tailed eagles and Steller's sea-eagles, as part of their total possession allowance. An application to possess eligible eagles shall be accompanied by two written letters of recommendation from persons with experience handling or flying large raptors, such as eagles, ferruginous hawks (*Buteo regalis*), goshawks (*Accipiter gentilis*) or great horned owls (*Bubo virginianus*). Each letter of reference must contain a concise history of the author's experience with large raptors and an explicit representation that the permittee possesses the competency and skills necessary to possess eagles.

§147.104. Shelter, care and protection.

(a) *Housing.* Any raptor possessed under a falconry permit shall be housed in a permanent indoor or outdoor facility that provides humane and healthful living conditions, including suitable protection from the environment, predators and disturbance.

(1) *Size.* Housing facilities shall be large enough to afford the permittee easy access to provide for the care and feeding of raptors housed within. Each raptor must have an area large enough to allow it to fly if it is untethered or, if tethered, to fully extend its wings and bate without damaging its feathers or contacting other raptors.

(2) *Containment.* Housing facilities must be totally enclosed and of a design, strength, quality and condition to provide for the adequate containment of any raptor housed within and exclusion of any predators from without. If two or more raptors are housed in the same housing facilities, each raptor shall be separated from other raptors by partitioning walls or suitable tethering. Compatible raptors may be housed together.

(3) *Protection.* Housing facilities must provide areas of refuge that provide adequate protection from excessive sun, wind, inclement weather and disturbance to any raptor housed within.

(4) *Perches.* Housing facilities must provide a suitable perch for each raptor housed within.

(5) *Sunlight.* Housing facilities must provide at least one opening or window to permit the admission of sunlight. The opening or window must be protected on the inside with visible bars spaced narrower than the width of the raptor's body to deter in flight impacts.

(6) *Cleaning and drainage.* Housing facilities must be of a design and condition to permit easy cleaning and adequate drainage.

(7) *Transportation.* Raptors may be transported to and from their permanent or temporary housing facilities provided they have a suitable perch and protection from extreme temperatures, wind and excessive disturbance.

(8) *Temporary housing.* Raptors may be housed outside of their permanent housing facilities, provided they have a suitable perch and protection from extreme temperatures, wind and excessive disturbance for a period not to exceed 30 days without additional authorization from the Commission. Permittees are required to notify the district wildlife conservation officer within 5 days of the commencement of use of a temporary housing facility.

(b) *Equipment.* Permittees shall possess the following equipment suitable for the maintenance of raptors:

(1) *Jesses.* At least one pair of Aylmeri jesses or jesses of similar type or design and constructed of pliable, high quality leather or suitable synthetic material for use when free flying the raptor. Traditional one piece jesses may only be used for hunting or free flight if they do not have slits.

(2) *Leashes and swivels.* At least one flexible weather resistant leash and one strong swivel.

(3) *Bath container.* At least one suitable container accessible to each raptor for drinking and bathing purposes. The container shall be 2 to 6 inches deep and wider than the length of the raptor.

(4) *Outdoor perches.* At least one suitable weathering area perch for each raptor.

(5) *Weighing device.* A reliable scale or balance suitable for weighing raptors. The device shall be graduated in increments of not more than 1/2 ounce or 15 grams.

(c) *Maintenance, care and sanitation.* Permittees shall maintain all raptors and their attendant housing facilities in a safe, sanitary and humane condition.

(1) *Food.* Permittees shall provide each raptor with adequate supplies of palatable, uncontaminated and nutritionally adequate food suitable to ensuring the normal health and maintenance of raptors.

(2) *Water.* Permittees shall provide each raptor with adequate supplies of fresh, uncontaminated water that is available at all times.

(3) *Waste.* Permittees shall remove fecal, food and other waste from housing facilities as needed.

(4) *Care.* Permittees shall provide any necessary health care or seek care through a licensed veterinarian or wildlife rehabilitator for any sick or injured raptor.

(d) *Inspection.* A permittee's raptors, housing facilities, equipment and records are subject to inspection by the Commission during normal business hours on any day of the week. All housing, equipment, maintenance, care and sanitation conditions are subject to the initial and ongoing approval of the Commission. Any required modifications shall be completed within 30 days after official oral or written notice of deficiency received from the Commission.

§147.105. (Reserved).

§147.105a. Taking restrictions for resident falconers.

Taking restrictions for resident falconers are as follows:

(1) A valid falconry permit is required prior to obtaining a raptor.

(2) *Eyases* – may only be taken by a General or Master falconer. No more than two wild eyases may be taken by a permittee per permit year. Permittee may not take the last remaining eyas from the nest.

(3) A raptor, other than an endangered or threatened species, taken under a depredation permit or rehabilitated by a licensed rehabilitator determined to be unfit for return to the wild, may, with written authorization of the Commission, be used by falconers as long as they do not exceed limits set by its classification and this subchapter.

(4) A bal-chatri type live trap, other live traps and nets may be used to take raptors if they are used in a manner that minimizes the danger of injuring the raptor.

(5) Owners of escaped raptors that are banded as required by §147.107a (relating to marking of certain raptors) may recapture the banded raptors.

(6) Permittees may take no more than two raptors from the wild during any given permit year for replacement or other purposes regardless of their permit quota allowances.

§147.106. (Reserved).

§147.106a. Nonresident falconers.

(a) *Temporary importation.* A nonresident may temporarily import raptors into this Commonwealth for the purpose of attending a falconry meeting or to hunt, provided the possession and importation of the raptors is in compliance with all applicable Federal and State laws and regulations. The temporary importation may not exceed 30 days without additional authorization from the Commission.

(b) *Permanent importation.* A nonresident who moves into this Commonwealth for the purpose of becoming a resident may permanently import raptors into this Commonwealth provided the following conditions are met:

(1) Possession and importation of the raptors is otherwise in compliance with all applicable State and Federal laws and regulations.

(2) Establishes permanent housing facilities for the raptors that meet or exceed the requirements of §147.104 (relating to shelter, care and protection) within 30 days of importation.

(3) Obtain a Pennsylvania falconry permit no later than 60 days after relocation into this Commonwealth. A relocating nonresident is eligible to receive a Pennsylvania falconry permit of the same or equivalent classification. The falconry permit issued by the former state of residence will be deemed the nonresident's temporary authority to possess and exercise imported raptors until the Pennsylvania permit is issued. This temporary authority shall not be construed to permit the taking of additional raptors from the wild in this Commonwealth.

(c) *Taking restriction.* Taking restrictions for nonresidents are as follows:

(1) A nonresident permittee possessing a current and active falconry permit in the General or Master classification in a state listed in 50 CFR 21.29(k) (relating to Federal falconry standards), may apply for a special permit to take one raptor from the wild in this Commonwealth if the home state of the applicant allows the taking of raptors by nonresidents.

(2) The fee for a permit to take a raptor is \$100 and is not refundable.

(3) Applications for this permit shall be submitted directly to the Bureau of Wildlife Protection with the applicant's name, address, telephone number, date of birth, and the species desired and whether a nestling (eyas) or passage bird is requested. Copies of the applicant's current state or Federal, or both, falconry permit along with a valid import permit or letter from the applicant's home state authorizing the import of the raptor being requested shall accompany the application. A certified check or money order in the amount of \$100 payable to "Pennsylvania Game Commission" must accompany the application.

(4) Applications may only be submitted between January 1 and December 1, annually.

(5) Periods for taking raptors as authorized under a nonresident take permit are May 8 to July 15, inclusive for nestling (eyas) birds, or September 19 to December 31, inclusive for passage birds.

(6) A permittee may not take the last remaining nestling – eyas – from a nest.

(7) The number of permits issued annually will not exceed:

<i>NUMBER</i>	<i>TYPE</i>
5	Nestling (Eyas)
15	Passage

(8) Eyas Goshawks may not be taken.

(9) Permits will be issued under a first-come-first-served basis until the annual allocation is exhausted.

(10) The acquisition of a raptor taken from the wild as authorized by the take permit shall be reported to the United States Fish and Wildlife Service by completing a Form 3-186A (Migratory Bird Acquisition and Disposition Report) and forwarding a copy to the Bureau of Wildlife Protection within 5 days.

(11) Marking of certain raptors shall be in compliance with the requirements of the home state of the falconer.

(12) Raptors taken under the authority of this permit shall be used for falconry purposes only.

§147.107. (Reserved).

§147.107a. Marking of certain raptors.

(a) *Banding.* The following raptors possessed for falconry purposes shall be immediately banded upon capture by either a seamless numbered band or a permanent, numbered, nonreusable band supplied by the United States Fish and Wildlife Service or the Commission:

- (1) Peregrine Falcons (*Falco peregrinus*).
- (2) Goshawks (*Accipiter gentilis*).
- (3) Gyrfalcons (*Falco rusticolus*).
- (4) Harris's Hawks (*Parabuteo unicinctus*).
- (5) Captive bred raptors and/or hybrid raptors.

(b) *Replacement bands.* The Commission will replace any band required by subsection (a) that has become mutilated, illegible or lost. The permittee shall report any damage or loss requiring replacement to the Bureau of Wildlife Protection within 72 hours of the damage to or loss of the band. A band which is mutilated or no longer legible shall be returned to the Commission prior to replacement.

(c) *Return of bands.*

(1) *Removal and return of used bands.* Permittees shall remove bands from any raptor that expires, is released into the wild, or no longer requires banding under subsection (a). Golden Eagles banded prior to January 1, 2010, may retain their leg bands. Permittees shall return any removed bands to the Bureau of Wildlife Protection within 5 days.

(2) *Return of unused bands.* Permittees shall return any unused bands in their possession by June 30 to the Bureau of Wildlife Protection.

(d) *Radio transmitters.* Permittees shall attach two radio transmitters on any hybrid raptor that is flown for falconry purposes or for a falconry demonstration for the purpose of relocation if lost.

(e) *Unlawful acts.* It is unlawful for any person to transfer, alter or deface a lawfully issued band or to use or possess a counterfeit band. This subsection may not be construed in any manner to prohibit a permittee from removing the rear tab or smoothing rough or imperfect surfaces if the integrity of the band and numbering is not diminished.

§147.108. (Reserved).

§147.108a. Reporting requirements.

(a) *Raptor acquisition, transfer or disposition report.* Permittees shall complete and submit a Form 3-186A (Migratory Bird Acquisition and Disposition Report) to the United States Fish and Wildlife Service and forward a copy to the Bureau of Wildlife Protection within 5 days for the following types of transactions or events:

- (1) The acquisition of a raptor taken from the wild or received by transfer from another person.
- (2) The loss of a raptor previously held through release, escape, theft or death.
- (3) The transfer of a raptor to another person.
- (4) The banding or rebanding of any raptor which requires banding.
- (5) The loss or removal of banding from any raptor that does not presently require banding.

(b) *Annual report.* Each permittee shall complete and submit an annual report to the Bureau of Wildlife Protection by July 31, on forms supplied by the Commission. The report shall include an accurate accounting of all activities conducted under the authority of the permittee's falconry permit during the preceding permit year. Permittees shall complete and submit a similar report within 30 days of the termination of their permit.

§147.109. (Reserved).

§147.109a. Hunting and training with raptors.

(a) Permittees may only hunt wildlife through the use of raptors in accordance with the requirements of the act and this part.

(b) Permittees may train raptors on propagated game birds during the period August 1 to March 31, inclusive, and are subject to the following conditions:

- (1) Quarry shall be released either by hand or by means of electronic, spring or box holding devices.
- (2) Game birds released shall be obtained from a licensed propagator.
- (3) Released game birds which escape shall be considered wild birds, and no further attempt shall be made to pursue them except during the open season for hunting small game.

(c) Permittees shall possess their hunting license and falconry permit on their person at all times while engaged in any raptor hunting or training activities.

§§147.110. and 147.110a. (Reserved).

§147.110b. Educational use of raptors.

(a) *Falconry and raptor lectures.* Permittees may engage in noncommercial educational lecture activities using live raptors subject to the following conditions:

(1) The educational lecture activities shall be focused on the natural history of raptors, the conservation of raptors, the sport of falconry and other related topics.

(2) The educational lecture activities shall be conducted by permittee's of the General or Master class only.

(3) Raptors used in educational lecture activities may not have physical contact with members of the audience or general public.

(4) Raptors used in educational lecture activities shall be maintained either tethered and on the permittee's gloved hand or in a transport carrier. No flight is permitted.

(5) The permittee may not receive any form of compensation for the lecture.

(6) The permittee is encouraged, but not required, to notify the regional office in advance of conducting any scheduled educational lecture activities.

(b) *Falconry demonstrations.* Permittees may engage in noncommercial falconry demonstrations using live raptors subject to the following conditions:

(1) Falconry demonstrations shall be conducted by permittees of the General or Master class only.

(2) Raptors used in falconry demonstrations activities shall not have any physical contact with members of the audience or general public.

(3) Outdoor raptor free-flight demonstrations may be conducted by permittees of the Master class only.

(4) Indoor raptor flight demonstrations shall be conducted with the raptor tethered in a manner that prevents physical contact with the audience or general public or with physical structures such as walls, windows or furniture. Indoor raptor free-flight demonstrations are strictly prohibited.

(5) The permittee may not receive any form of compensation for the falconry demonstration.

(6) The permittee shall notify the regional office in writing at least 5 days in advance of conducting any scheduled falconry demonstration activities.

(c) *Other education uses of raptors.* Permittees may engage in other forms of noncommercial educational activities using live raptors, such as photography or filming, subject to the following conditions:

(1) The activities shall be focused on the natural history of raptors, the conservation of raptors, the sport of falconry and other related topics.

(2) The permittee may not receive any form of compensation for the activity.

(3) The permittee may not use raptors for entertainment, advertisements, promotion or endorsements of any products, merchandise, goods, services, meetings, fairs or as a representation of any business, company, corporation or other organization.

§147.111. (Reserved).

§147.111a. Additional requirements for permittee.

(a) A permittee is prohibited from propagating raptors held under the authority of a falconry permit unless they possess a joint State/Federal raptor propagation permit.

(b) A permittee whose permit lapses or is otherwise suspended or revoked shall return any raptors possessed into the wild by hacking, transferring the raptors to another permitted falconer, or forfeiting the raptors to the Commission. Propagated, hybrid and nonindigenous raptors may not be released into the wild.

(c) A permittee may not sell, purchase, barter or offer to sell, purchase or barter a propagated raptor unless the raptor is marked on the metatarsus by a seamless, numbered band supplied by the United States Fish and Wildlife Service or the Commission.

(d) If a permittee's raptor unintentionally injures or kills any wildlife during a closed season while engaged in falconry activities, the permittee shall comply with the notification and reporting requirements in section 2306 of the act (relating to killing game or wildlife by mistake). The permittee will not be required to pay any restitution fees unless the injury or taking is determined to be the result of carelessness or negligence. The permittee is not required to put the carcass of the injured or killed wildlife in a place of safekeeping, but rather may leave the carcass in the field and allow the raptor to feed upon it. Once the raptor is finished feeding, it may not be hunted the rest of that day.

(e) A raptor possessed under authority of a falconry permit may be temporarily held by a person other than the permittee only if that person is otherwise authorized to possess raptors, and only if the raptor is accompanied at all times by a properly completed United States Fish and Wildlife Service Form 3-186A designating the permittee as the possessor of record and by a signed, dated statement from the permittee. If the period of care will exceed 30 days, written permission shall be obtained from the Commission. Illness or disability of the permittee would be cause for temporary transfer of the raptors to another authorized person for care. The Commission shall be notified of this action within 5 days following the temporary transfer. Final disposition of the raptors will be at the discretion of the Commission.

(f) Molted feathers, or feathers from birds held in captivity that die, may be retained by the permittee for imping purposes only. Molted feathers and retrices from a golden eagle shall be collected and used for imping purposes or submitted to the National Eagle Repository.

(g) Carcasses of dead raptors shall be disposed in a proper waste receptacle or buried underground unless otherwise authorized by the Commission. The entire carcass of dead golden eagles, including all feathers, talons and other parts shall be submitted to the National Eagle Repository.

(h) Propagated, hybrid and nonindigenous raptors may not be intentionally released into the wild without prior written approval of the Commission.

(i) A sponsor may not have more than three apprentices at one time.

§147.112. (Reserved).

§147.112a. Violations.

The Director may deny, revoke or suspend any permit for any violation of this subchapter upon written notice to the permittee.

§§147.113. and 147.114. (Reserved).

C. Adoption of proposed amendments to Chapter 147, by adding §147.558a.

Commentary: To effectively manage the wildlife resources of this Commonwealth, the Game Commission, at its July 9, 2009 meeting, proposed the following change:

Amend Chapter 147, by adding §147.558a (relating to political subdivisions as applicants) to authorize political subdivisions to make application for an agricultural deer control permit for the limited purpose of managing the agricultural deer control activities occurring on a conglomeration of separate, but otherwise individually eligible properties located within the jurisdictional boundaries of the political subdivision.

Recommendation: The Executive Director and staff recommend FINAL ADOPTION of this amendment to 58 Pa. Code as shown on EXHIBIT "C."

Action:

EXHIBIT "C"

CHAPTER 147. SPECIAL PERMITS

Subchapter R. DEER CONTROL

AGRICULTURE

§147.558a. Political subdivisions as applicants.

(a) *Eligibility.* Political subdivisions are authorized to apply for an agricultural deer control permit under this subchapter for the limited purpose of managing the agricultural deer control activities occurring on a conglomeration of separate, but otherwise individually eligible properties located within the jurisdictional boundaries of the political subdivision. Any lands, other than those publicly owned, which lie immediately adjacent to and are connected with otherwise individually eligible lands may be included in the conglomeration of properties with the written consent of the owner or lessee thereof.

(b) *Application.* Political subdivisions applying for an agricultural deer control permit are responsible for the collection and submission of the application records required under §147.552 (relating to application) for each of the properties included in the conglomeration.

(c) *Management.* Political subdivision permittees shall manage the distribution of agricultural deer control subpermits to qualified individuals in accordance with the eligibility criteria and quota limitations in §§147.553 and 147.554 (relating to permit; and subpermit). Political subdivision permittees shall appoint an officer or employee of the political subdivision to manage all permit activities and serve as a point of contact for affected land owners and the Commission.

(d) *Reporting.* Political subdivision permittees are responsible for the collection and submission of reporting records required under §147.557 (relating to reporting of deer taken) for each of the properties included in the conglomeration.

PROPOSED RULE MAKING

D. Amend 58 Pa. Code, §137.1.

Commentary: Currently, §137.1 prohibits the importation of certain species of exotic and native wildlife determined to be dangerous or injurious to the public, native wildlife or native wildlife habitat, such as nutria, bears and primates. This prohibition applies to all persons including those currently possessing exotic wildlife dealer permits, exotic wildlife possession permits and menagerie permits. The Commission has recently been approached by a number of menagerie permit holders who have alleged that these importation restrictions unnecessarily restrict their ability to import and possess certain "popular" wildlife and thus limit their ability to gain a livelihood. These menagerie permit holders have formally requested relief from these importation and possession restrictions. To this end, the Commission is proposing to amend §137.1 to exempt menagerie permit holders who possess a USDA Class C Exhibitor permit and who operate their menagerie facilities as their primary means of gaining a livelihood from the possession and importation prohibitions of this section.

CHAPTER 137. WILDLIFE

§137.1. Importation, possession, sale and release of certain wildlife.

* * * * *

(d) A person wishing to import lawfully acquired wildlife, or parts thereof, shall first obtain an importation permit from the Commission subject to the following:

* * * * *

(4) Menagerie permittees who also possess a USDA Class C Exhibitor permit and who operate a menagerie facility as the primary means of making a livelihood, are exempt from the possession prohibition of this section, and may import lawfully acquired wildlife pursuant to an importation permit.

* * * * *

Recommendation: The Executive Director and staff recommend the Commission approve this change to 58 Pa. Code, §137.1.

Action:

E. Amend 58 Pa. Code, §141.22.

Commentary: In recent years, the Commission has been moving towards a comprehensive restructuring of the regulations attending the Code. The goals of the restructuring of the regulations are primarily focused on simplifying and making the language more understandable to its users. In January 2009, the Commission completed its efforts to rewrite the regulatory structures relating to the big game seasons. The Commission intends to carry the theme set forth in these changes to other chapters of the regulations to establish clear correlations between related seasonal information. In an effort to promote consistency and clarity in the regulations pertaining to small game seasons as well as expand opportunity and increase participation in small game hunting within this Commonwealth, the Commission is proposing to amend §141.22.

CHAPTER 141. HUNTING AND TRAPPING

Subchapter B. SMALL GAME

§141.22. Small game.

(a) ~~[Unlawful acts. It is unlawful to:~~

~~(1) Take small game, protected mammals or protected birds using shot larger than #4 lead, #4 Bismuth/tin or #2 steel.~~

~~(2) Possess a firearm while hunting with a raptor.~~

~~(3) Use or possess single projectile ammunition or use or possess single projectile ammunition designed for use in a firearm while hunting small game during the muzzleloading firearms deer or bear season, except for a rimfire rifle or handgun .22 caliber or less. This exception does not apply to the Southeast Special Regulations Area. See §141.1(b)(2) (relating to special regulations areas).~~

~~(4) Hunt in a party of more than six persons. This does not apply to waterfowl or dove hunters when hunting from a blind or other stationary positions.~~

~~(5) Unless otherwise provided in the act or this title, hunt or take small game with anything other than a shotgun with fine shot, muzzleloading rifle or handgun .40 caliber or less, rifle or handgun less than 23 caliber, or bow and arrow with or without broadheads. The caliber restrictions do not apply to rifles or handguns while hunting woodchuck.~~

~~(6) Discharge a firearm within 150 yards of a Game Commission vehicle releasing pheasants.~~

~~(b) Definition.~~

~~For the purpose of enforcing section 2308(a)(4) of the act (relating to unlawful devices and methods), the term "plugged" means a magazine shotgun which is plugged with a one piece filler, incapable of removal without disassembling the shotgun or magazine.~~

~~(e) *Permitted acts.* Woodchucks may be trapped by properly licensed furtakers with permission of the person in charge of the land from February 1 through September 30 and during the general furbearer trapping season. For the purposes of this subsection, a person means a person as defined in section 2121(e) of the act (relating to definition). Traps and methods shall comply with section 2361 of the act (relating to unlawful acts concerning taking of furbearers) except that traps shall be set within 5 feet of any woodchuck hole or den.]~~

Permitted devices. It is lawful to hunt small game, except woodchucks with the following devices:

(1) A manually operated rimfire rifle or handgun. The firearm must be .22 caliber or less that projects single-projectile ammunition.

(2) A manually operated or semi-automatic centerfire or muzzleloading shotgun. The firearm must be 10 gauge or less that projects multiple-projectile shotgun ammunition #4 lead, #4 Bismuth/tin or #2 steel or less.

(3) A muzzleloading rifle or handgun. The firearm must be .40 caliber or less that projects single-projectile ammunition.

(4) A bow and arrow.

(5) A crossbow and bolt.

(6) A raptor. The raptor must be lawfully possessed under a falconry permit. See §§147.101—147.112a (relating to falconry).

(b) *Prohibitions.* It is unlawful to:

(1) Use or possess single-projectile centerfire ammunition, single-projectile rimfire ammunition larger than .22 caliber or multiple-projectile shotgun ammunition larger than #4 lead, #4 Bismuth/tin or #2 steel, except as authorized under section 2525 of the act (relating to possession of firearm for protection of self or others).

(2) Possess a firearm while hunting with a raptor, except as authorized under section 2525 of the act.

(3) Discharge a firearm within 150 yards of a Commission vehicle releasing pheasants.

(4) Use or possess a device not provided for in the act or in this section.

(5) Hunt in a party of more than six persons. This does not apply to waterfowl or dove hunters when hunting from a blind or other stationary position.

(c) Woodchucks (Groundhogs).

(1) Permitted devices. It is lawful to hunt woodchucks with the following devices:

(i) A manually operated centerfire or rimfire rifle or handgun.

(ii) A manually operated, centerfire or muzzleloading shotgun.

(iii) A muzzleloading rifle or handgun.

(iv) A bow and arrow.

(v) A crossbow and bolt.

(2) Prohibitions. While hunting woodchucks, it is unlawful to use or possess a device or ammunition not provided for in this section.

Recommendation: The Executive Director and staff recommend the Commission approve these changes to 58 Pa. Code, §141.22.

Action:

F. Amend 58 Pa. Code, §§147.902 and 147.904.

Commentary: In July 2009, the Commission added Subchapter Y to Chapter 147 to relocate, consolidate and more clearly define the permitting process for persons interested in guiding other hunters or trappers for certain designated species. The Commission has recently been approached by a number of houndsmen who have formally requested the expansion of this newly created subchapter to authorize commercial coyote guiding activities on State game lands. The Commission is proposing to amend §§147.902 and 147.904 to specifically authorize properly permitted individuals to engage in commercial coyote guiding activities on State game lands.

CHAPTER 147. SPECIAL PERMITS

Subchapter Y. GUIDING PERMIT

§147.902. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Commercial guiding activity—Any guiding activity provided by any person to another person for any fee, remuneration or other economic gain, including bartered goods or services.

* * * * *

Guiding activity—

* * * * *

§147.904. Permit.

(a) *General rule.* A guiding permit issued under this subchapter is required for any person to engage in any commercial or noncommercial guiding [activities] activity for the following designated species of wildlife: elk and bobcat. A guiding permit is required for any person to engage in any commercial guiding activity for coyotes on State game lands.

* * * * *

Recommendation: The Executive Director and staff recommend the Commission approve these changes to 58 Pa. Code, §§147.902 and 147.904.

Action:

HUNTING LICENSE REVOCATIONS – CONVICTIONS

- G. Proposed recommendations to revoke the hunting and furtaking privileges of the individuals convicted of violating the Game and Wildlife Code.

Commentary: The Commission, under authority of the Game and Wildlife Code, may revoke any hunting license and furtaker's license and deny any person the right to secure a license or to hunt and furtake anywhere in the Commonwealth, with or without a license, if said licensee or person has been convicted, or signed an acknowledgment of violating any provision of the Game and Wildlife Code. The Commission may revoke such licenses for a period of not to exceed three (3) years for the first offense; for a second or subsequent offense, for such period of time as the Commission shall determine.

1. Persons denied the right to hunt or furtake in the Commonwealth, through this action, are notified by Certified Mail that the revocation will commence July 1, 2010, and continue for such period of time as set forth following the individual's name. The symbol "RA" means the revocation was added to an existing revocation.
2. In accordance with the Administrative Agency Law of April 28, 1978, P.L. 202, No. 53 5, 2 PA CSA 502 et seq., the person placed on revocation has the opportunity for an Administrative Hearing concerning the hunting license revocation. If an Administrative Hearing is requested, a petition for review must be filed at the Commission Headquarters within thirty (30) days from the date of notice. Unless deemed in the best interest of the Commission by the Director or a designee, hearings shall be conducted at the central office. Hearings will be conducted in accordance with the General Rules of Administrative Practice and Procedure, 1 Pa. Code 31.1 et seq. The hearing itself will be conducted in accordance with Chapter 35 of the Rules and Chapter 145 of the Pa. Code.

Recommendation: The Executive Director and the Wildlife Protection Director recommend that the Commission revoke the hunting and furtaking license privileges of the persons named by the Bureau of Wildlife Protection. Such revocation shall become effective July 1, 2010, and shall continue for such period of time and under the conditions set forth following each individual's name.

Action:

BUREAU OF WILDLIFE HABITAT MANAGEMENT

REAL ESTATE

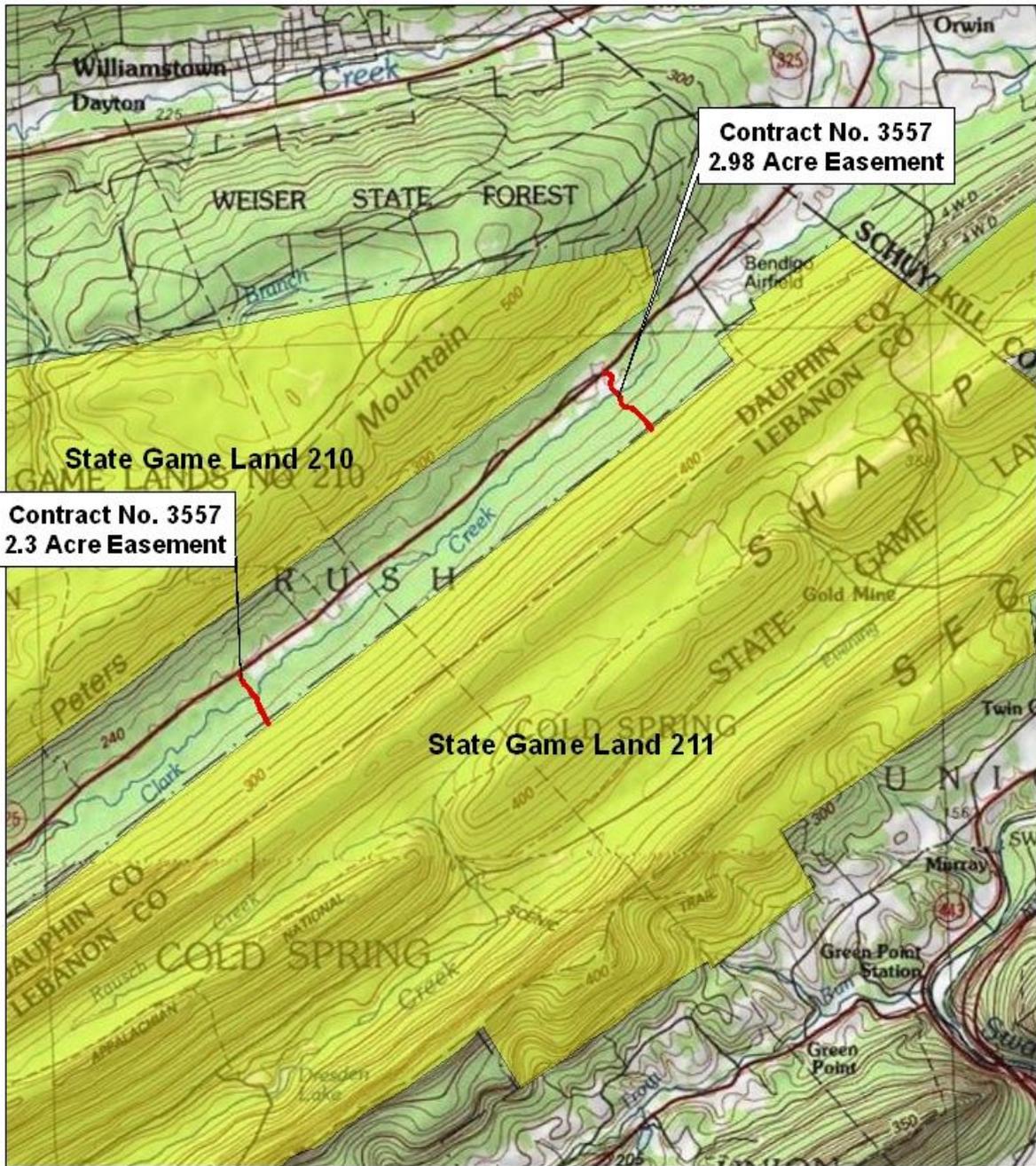
A. Acquisition

Contract No. 3557, State Game Land No. 211, Dauphin County

Commentary: The Harrisburg Authority has offered the Game Commission two easements across property owned by the Authority in Rush Township, Dauphin County to allow administrative and public access into State Game Land No. 211 (Exhibit RED 1). The price of the easements is \$13,000 Lump Sum. The easements shall begin at State Route 325 and end at State Game Land No. 211. One of the easements will be approximately 2,000 feet by 50 feet totaling 2.3 +/- acres and the second will be approximately 2,600 feet by 50 feet totaling 2.98 +/- acres. The purpose of the easements is for lawful access purposes including habitat management, timber hauling, law enforcement and lawful hunting, furtaking and recreation pursuant to the Game and Wildlife Code. The Harrisburg Authority shall retain the right of ingress, egress and regress over the easements. Each party shall be responsible for any maintenance it deems necessary. Any damage shall be the responsibility of the party causing the damage. The right-of-ways will provide vital access to portions of State Game Land No. 211 previously inaccessible due to physical terrain and lack of legal access.

Recommendation: The Executive Director and staff recommend the contract listed above be accepted and the Commission authorizes the Bureau of Wildlife Habitat Management to proceed with the acquisition of these easements.

Action:



**Contract No. 3557
2.3 Acre Easement**

**Contract No. 3557
2.98 Acre Easement**

State Game Land 210

State Game Land 211

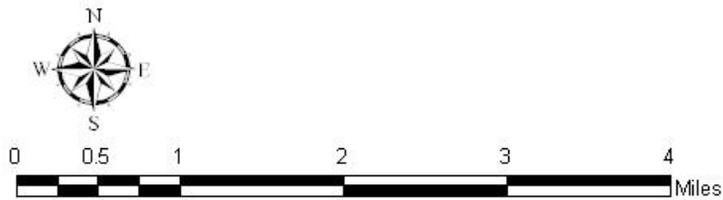


EXHIBIT RED 1
The Harrisburg Authority
Two Rights-of-way
State Game Land No. 211

Rush Township, Dauphin County
 Southeast Region

B. Land Exchange

1. Contract No. 3558, State Game Land No. 214, Crawford County
State Game Land No. 54, Jefferson County
State Game Land No. 283, Clarion County
State Game Land No. 62, McKean County
State Game Land No. 44, Elk County

Commentary:

For years, the Pennsylvania Game Commission (PGC) and the Department of Conservation and Natural Resources (DCNR) – two of the largest landowners in the Commonwealth – have acquired lands for public use, but have differing primary objectives and uses for these lands. As land has been acquired, situations have arisen over the years in which contrasting land use policies and regulations have caused confusion for the general public and a decreased ability for each agency to meet its management and public recreational goals.

As part of a decade long discussion, the two agencies have prepared the following series of exchanges aimed at easing conflicts, while enhancing the two separate agencies' abilities to meet their independent objectives. In fact, since 1987, the two agencies have been working collaboratively through a cooperative agreement on management of a large portion of the Pymatuning Wildlife Management Area, in which portions are designated as State Game Land No. 214 and Pymatuning State Park. Likewise, the two agencies recently have been working collaboratively on the management of DCNR's surface ownership of State Game Land No. 283, where the PGC has easement ownership rights.

In addition to the two major exchanges involving portions of Pymatuning State Park and State Game Land No. 283, the two agencies are taking time to address other smaller exchanges that also will enhance the ability of each agency to address recreational infrastructure needs, which also will benefit the general public's use of these lands. A breakdown of each exchange is as follows:

DCNR agrees to cause to be conveyed to PGC a tract of land which is a portion of the Pymatuning State Park, in North Shenango, Sadsbury and Pine Townships, Crawford County, adjacent to State Game Land No. 214, containing 4,248 +/- acres, (Exhibit RED 2) conditioned by DCNR and PGC to allow for a potential trail use agreement on the abandoned railroad grade located to the north of the property, and a two-acre tract of land, more or less, adjacent to State Game Land No. 54 in Heath Township, Jefferson County, (Exhibit RED 3). DCNR will retain currently owned interior infrastructure such as the septic sand mounds, the house, the garage, the DCNR Spillway, the "bowl area," the sluice gates, the water well and the picnic area (Exhibits RED 4 and RED 5). PGC and DCNR agree to a shared use of the existing water well, septic sand mound and related infrastructure with each agency retaining a protective right for

future use in the event that either agency abandons their respective future use.

DCNR will retain ownership of the lands currently leased to the University of Pittsburgh and the Pennsylvania Fish and Boat Commission (PFBC) to include the Linesville State Fish Hatchery and its affiliated infrastructure, as well as the land 100 feet perpendicular from the shore into the sanctuary water commencing at and including Linesville Creek (Exhibit RED 6).

In exchange for the lands to be transferred from DCNR, the PGC agrees to cause to be conveyed to DCNR five tracts of land or surface easement rights constituting a part of State Game Land No. 283 in Farmington, Highland and Mill Creek Townships, Clarion County, containing 4,573 +/- acres excepting a right-of-way 50 feet in width to the PGC (Exhibit RED 7); and a part of State Game Land No. 54 in Heath Township, Jefferson County, calculated at 181 acres (Exhibit RED 8), a part of State Game Land No. 62 in Hamlin Township, McKean County, containing 10 +/- acres excepting a right-of-way access to the PGC, onto State Game Land No. 62 through Kinzua Bridge State Park (Exhibit RED 9); and a part of State Game Land No. 44 in Spring Creek Township, Elk County, calculated at 52 acres (Exhibit RED 10).

The lands being transferred to DCNR will remain open to public hunting and furtaking in perpetuity to the extent allowed by law.

Recommendation: The Executive Director and staff recommend the contract listed above be accepted and the Commission authorizes the Bureau of Wildlife Habitat Management to proceed with these exchanges.

Action:

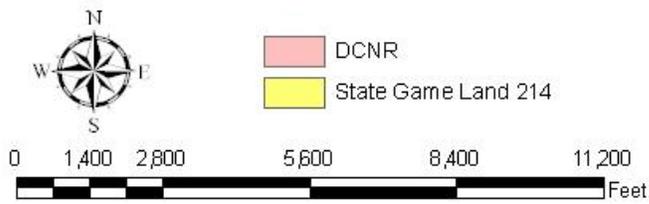
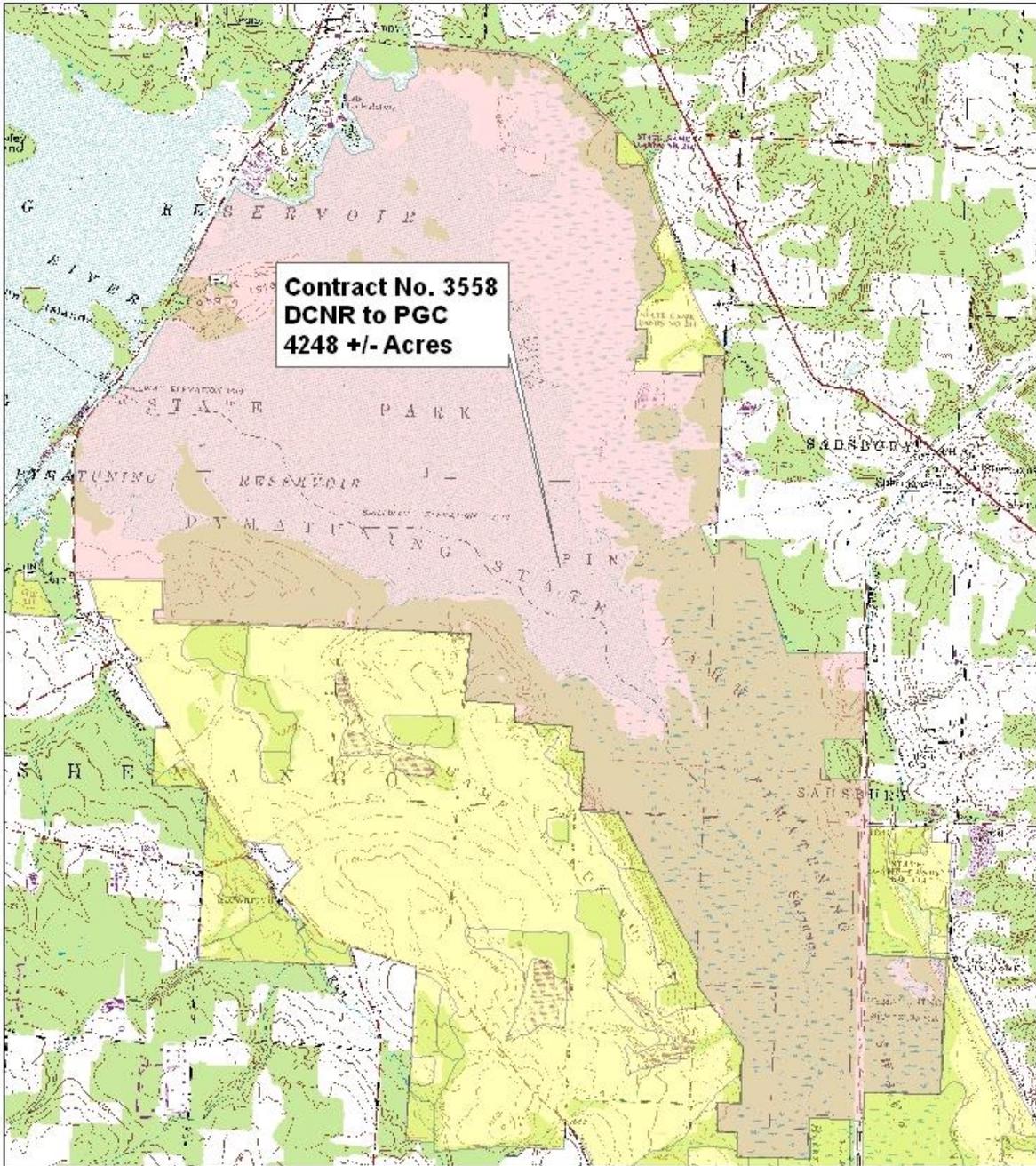
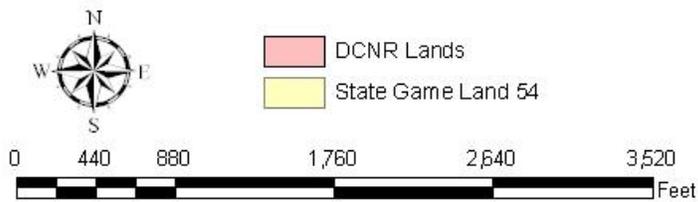
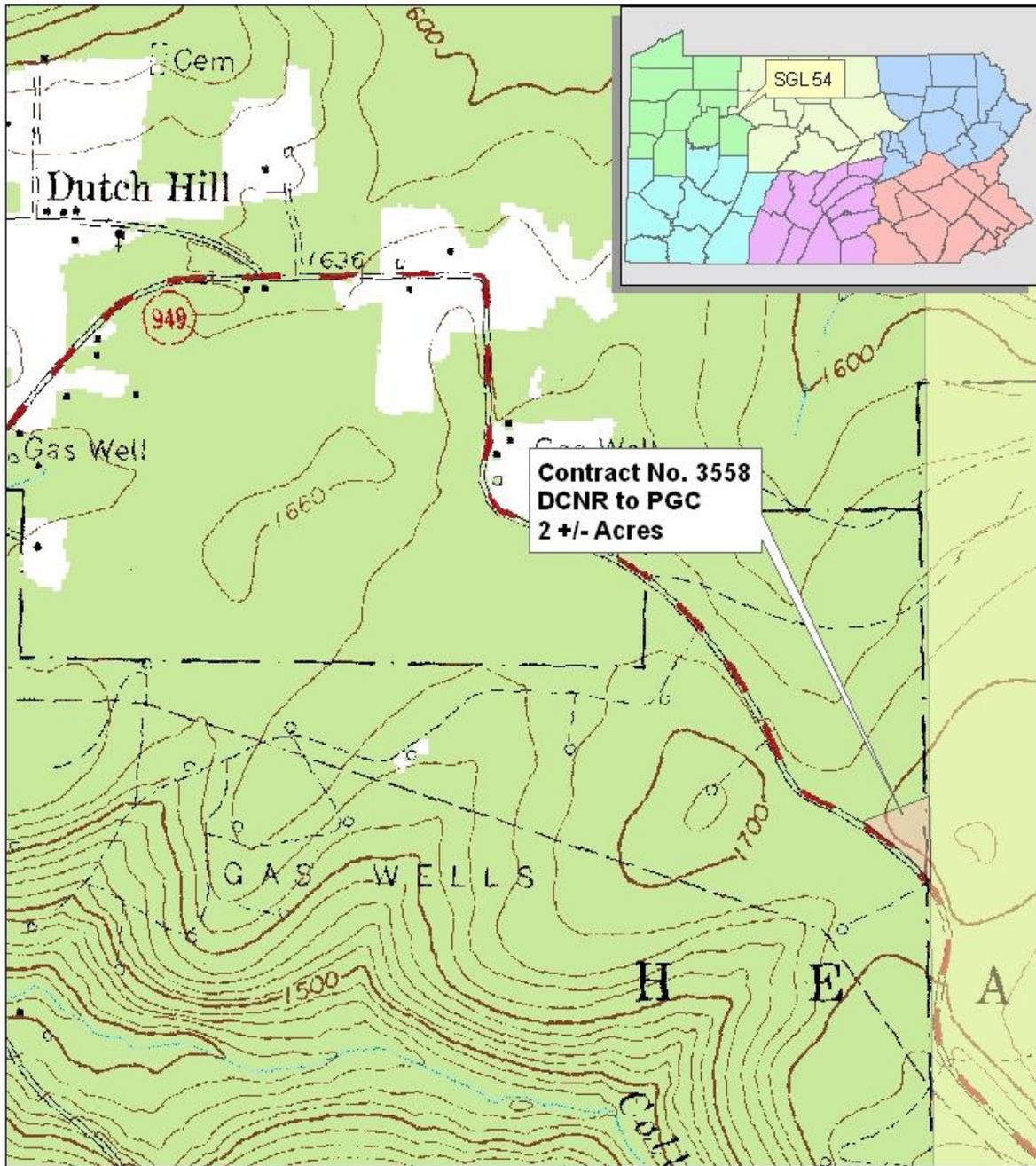


EXHIBIT RED 2
DCNR Land Exchange with PGC
State Game Land 214
4248 +/- Acres

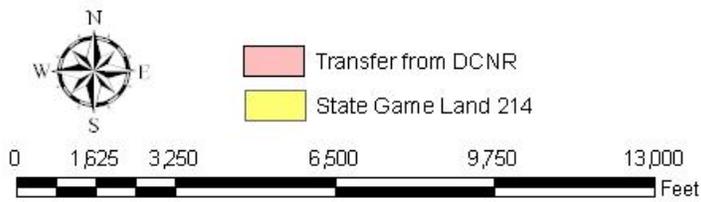
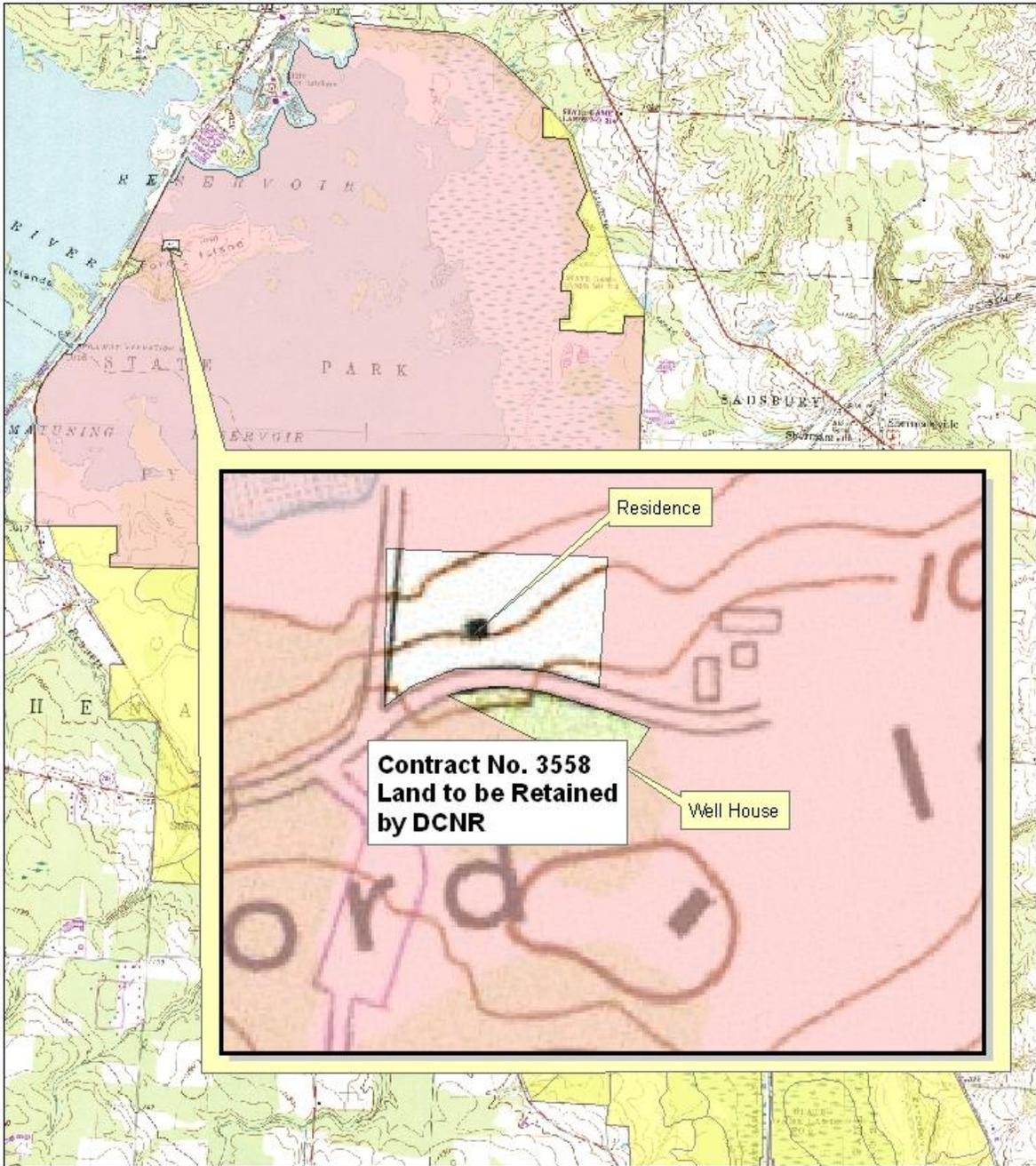
North Shenango, Sadsbury,
 and Pine Townships, Crawford County
 Northwest Region



DCNR Lands
 State Game Land 54

EXHIBIT RED 3
DCNR Land Exchange with PGC
State Game Land 54
2 +/- Acres

Heath Township, Jefferson County
 Northwest Region



- Transfer from DCNR
- State Game Land 214

EXHIBIT RED 4
DCNR Land Exchange
With PGC

Crawford County
 Northwest Region

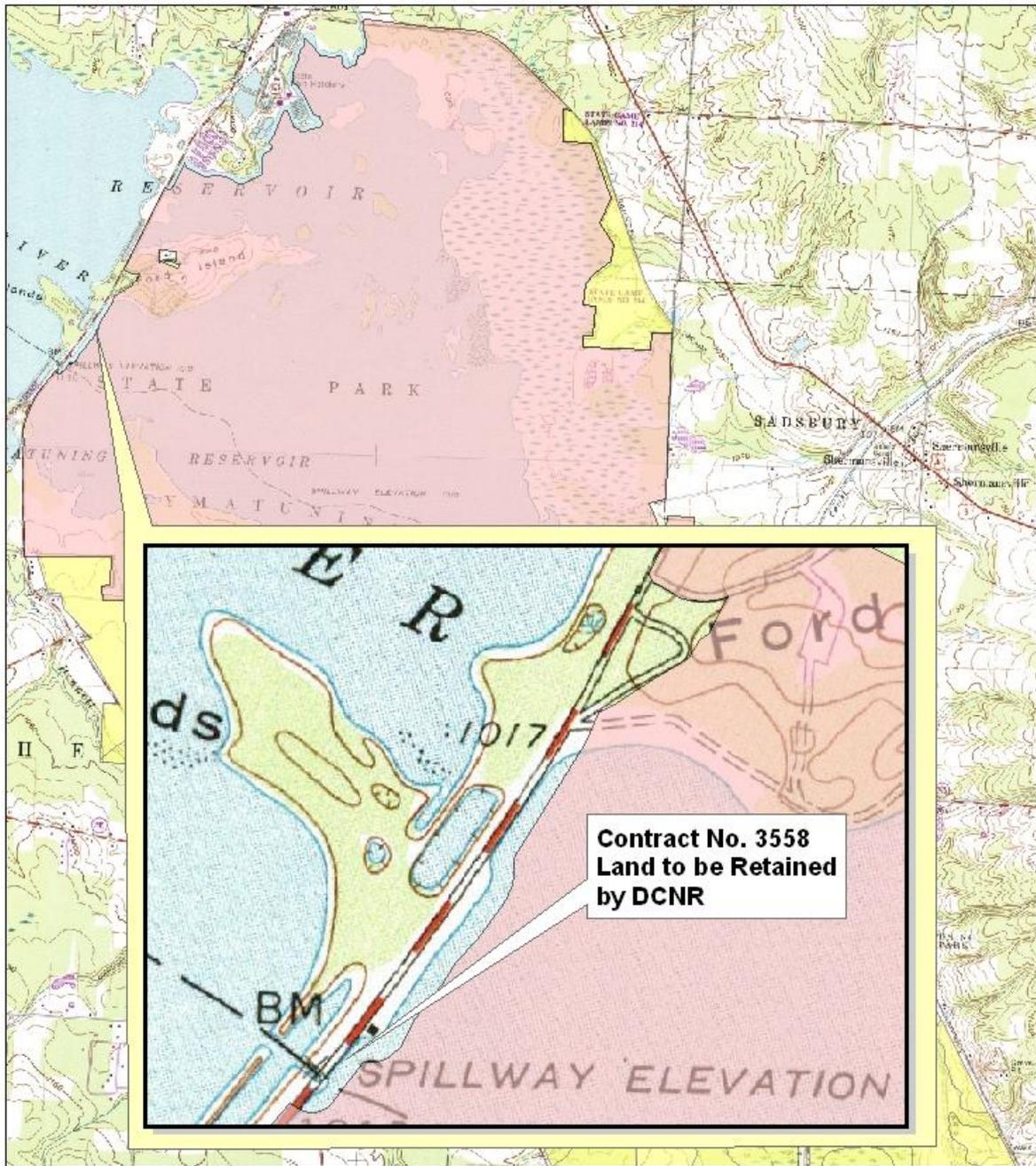
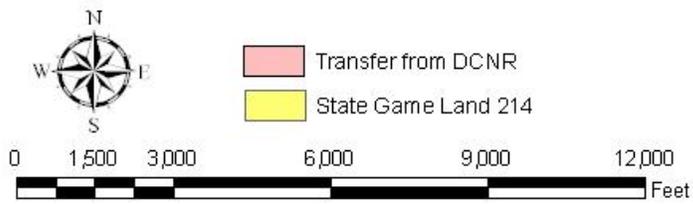
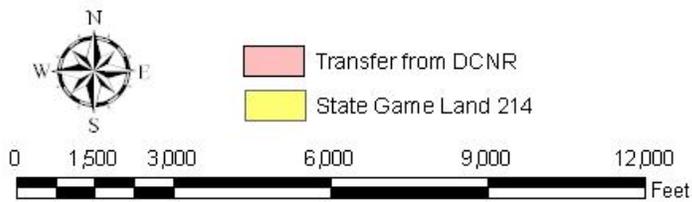
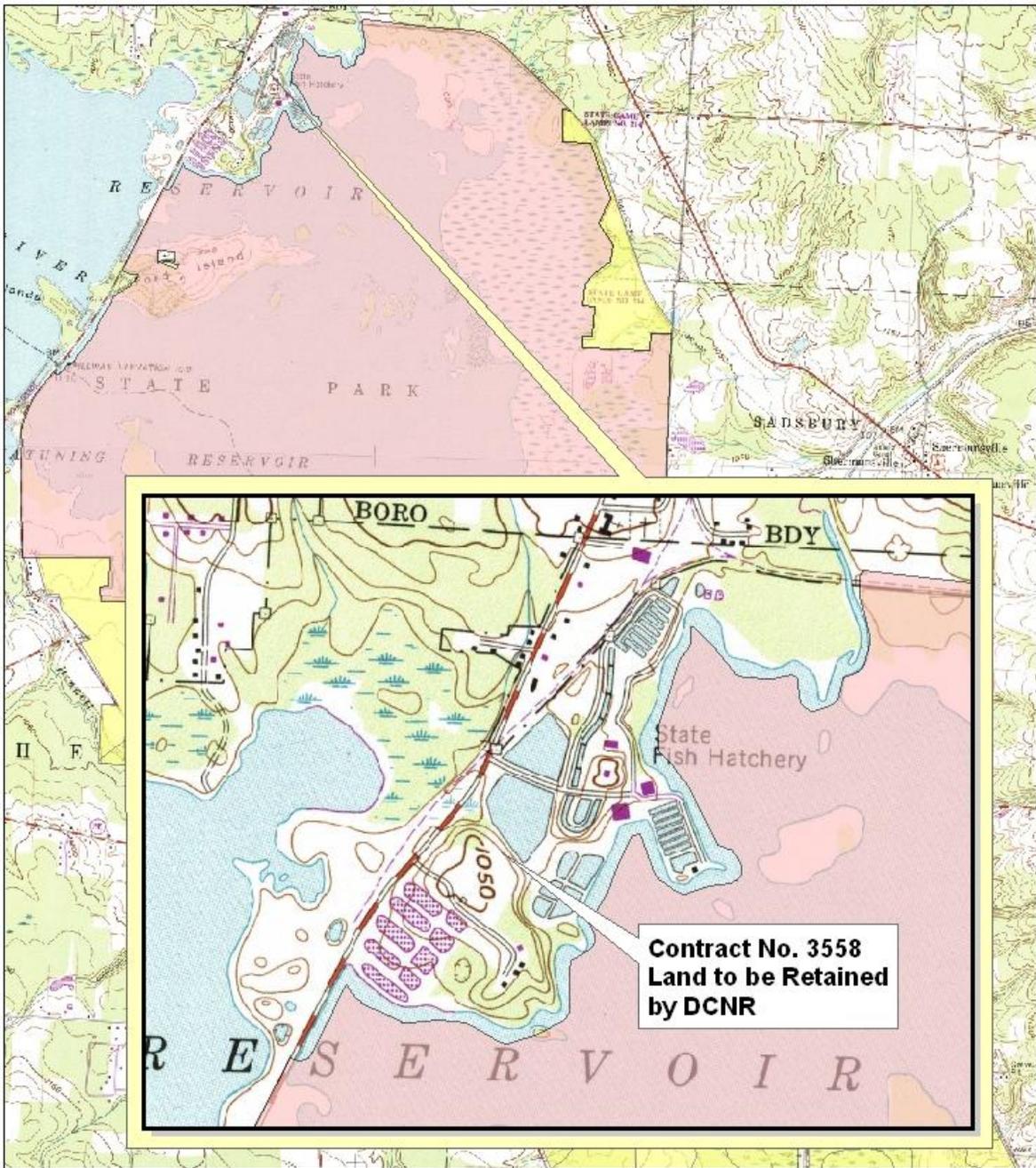


EXHIBIT RED 5
DCNR Land Exchange
With PGC



Crawford County
 Northwest Region



- Transfer from DCNR
- State Game Land 214

EXHIBIT RED 6
DCNR Land Exchange
With PGC

Crawford County
 Northwest Region

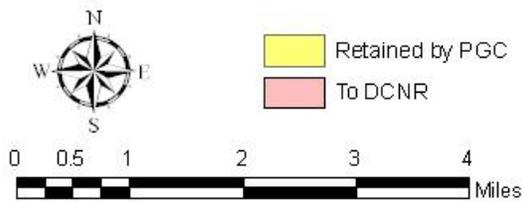
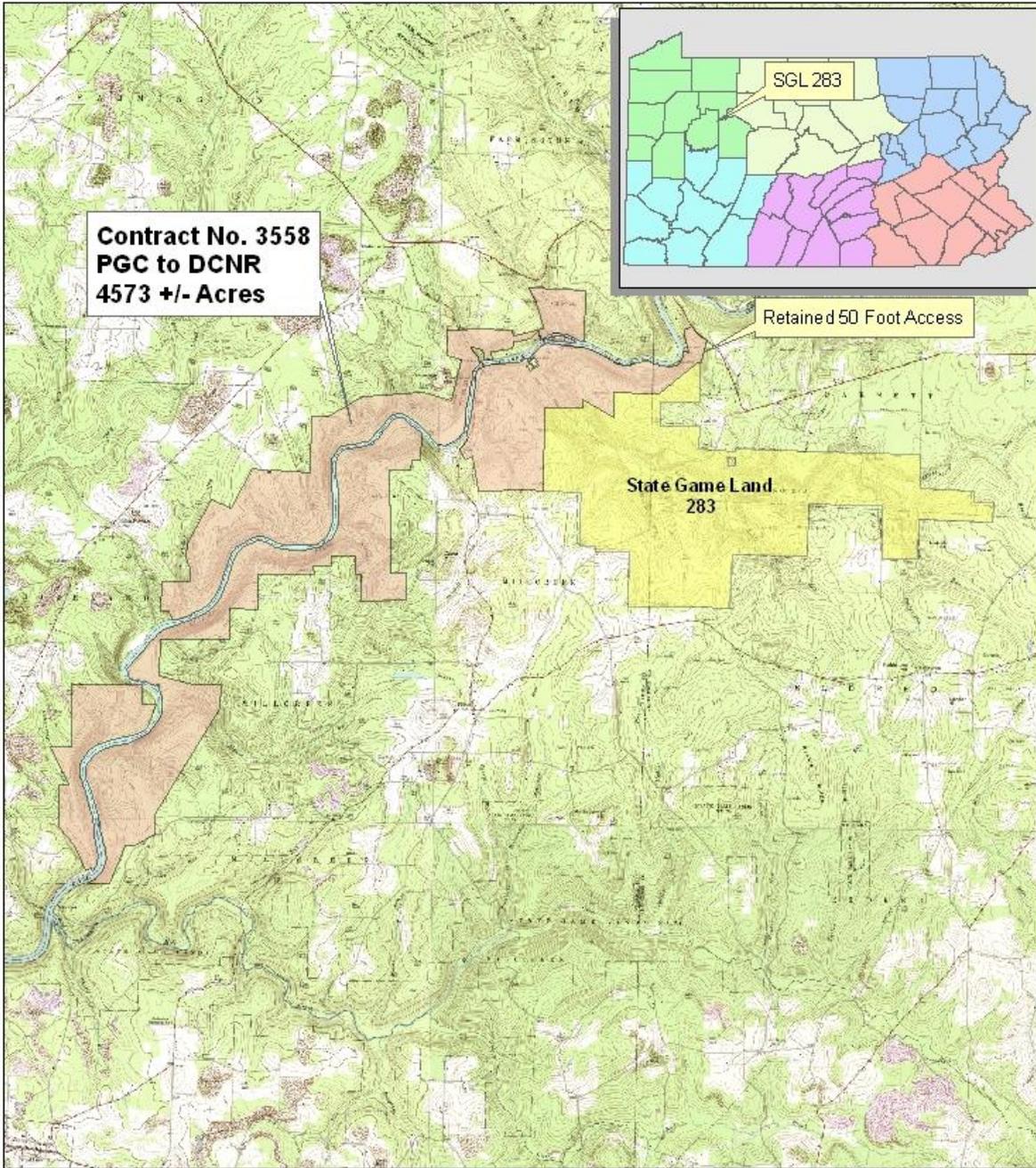
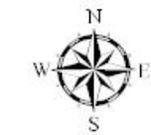
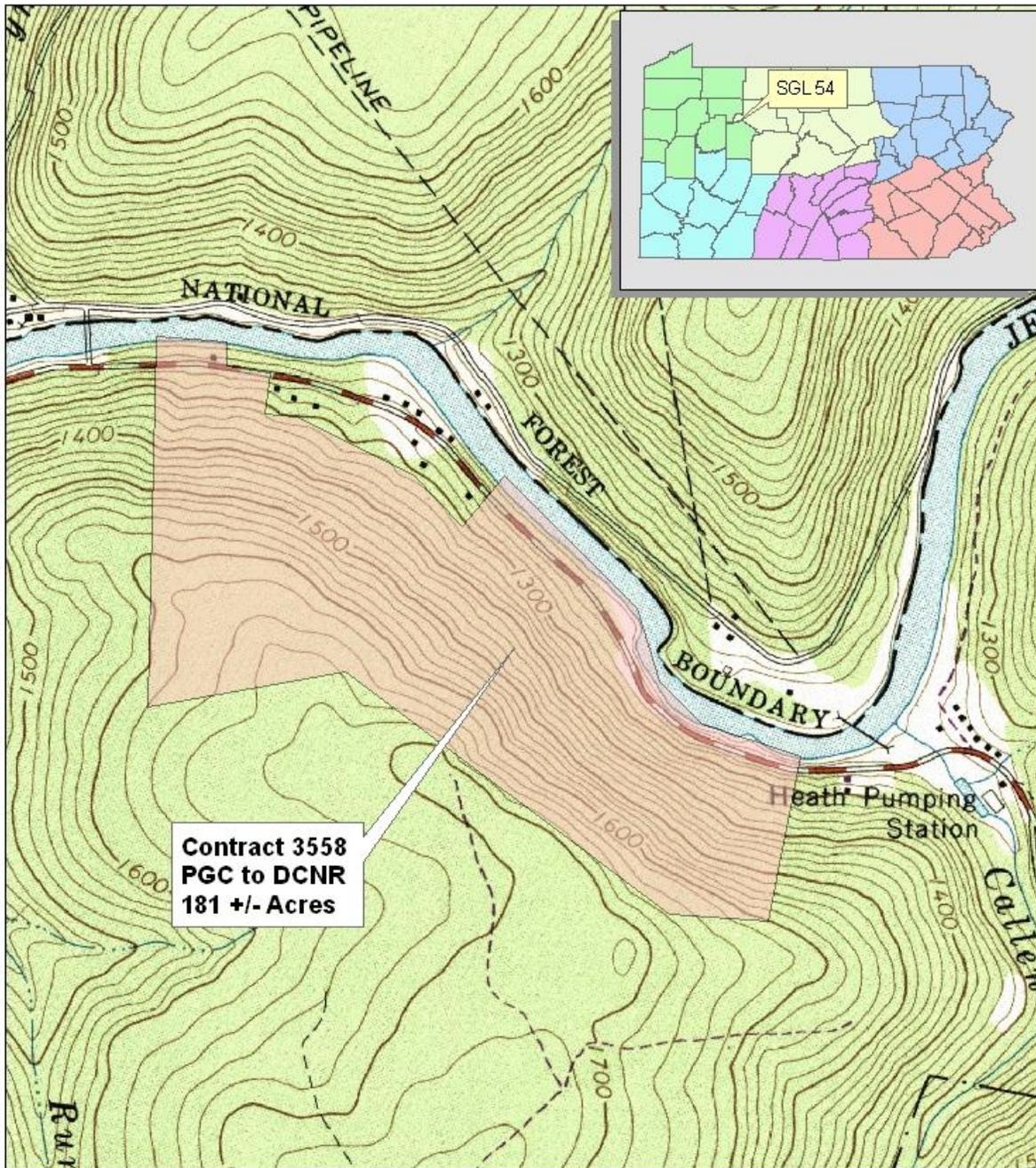


EXHIBIT RED 7
DCNR Land Exchange with PGC
State Game Land 283
4573 +/- Acres
 Farmington, Highland,
 and Mill Creek Township
 Jefferson/Clarion County
 Northwest Region



 To DCNR



EXHIBIT RED 8
DCNR Land Exchange with PGC
State Game Land 54
181 +/- Acres

Heath Township, Jefferson County
 Northwest Region

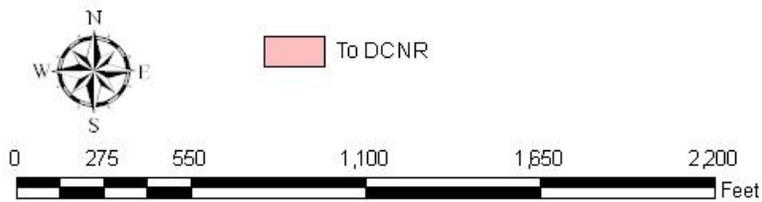
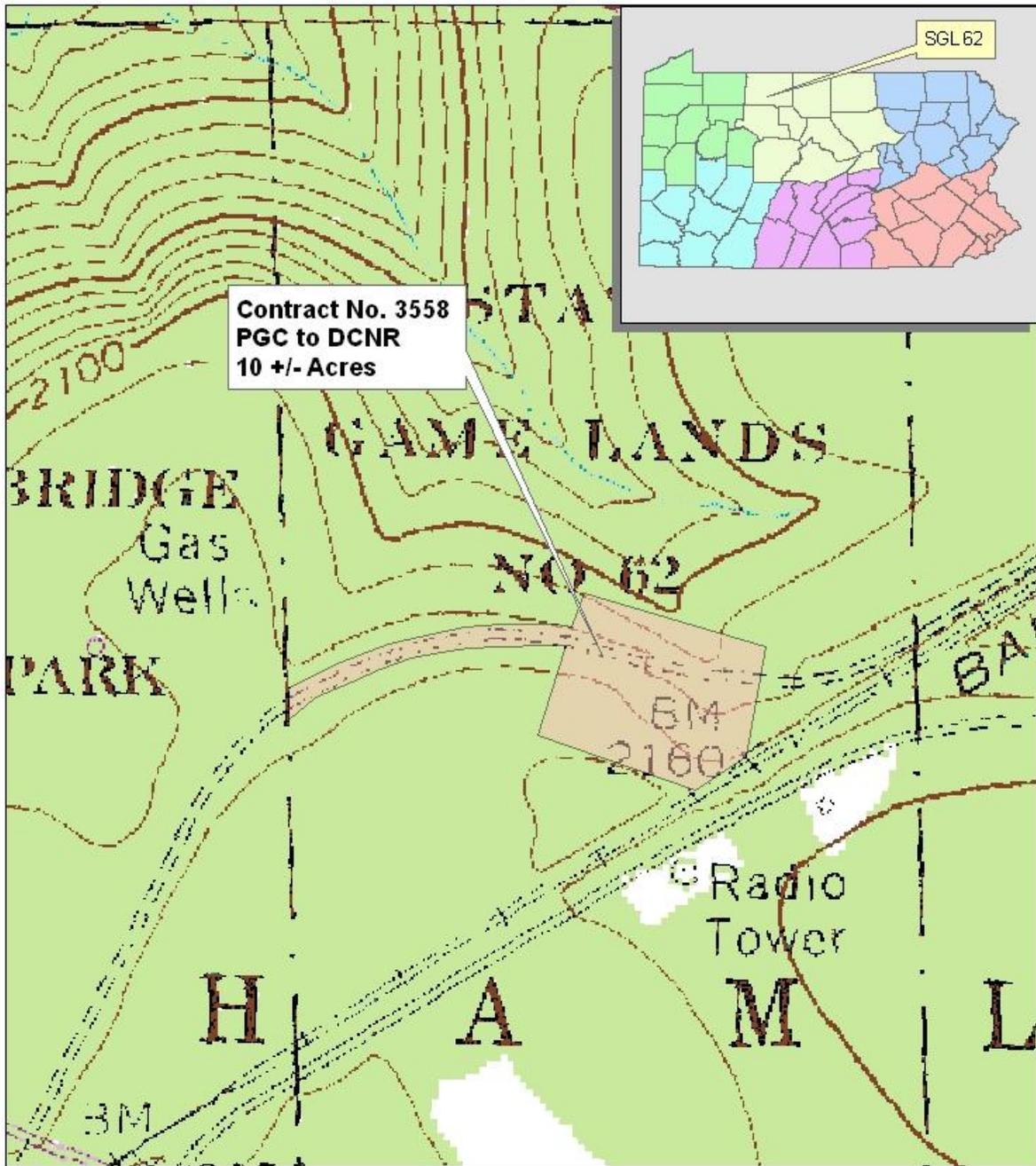
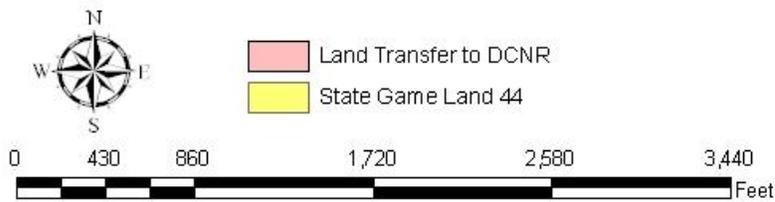
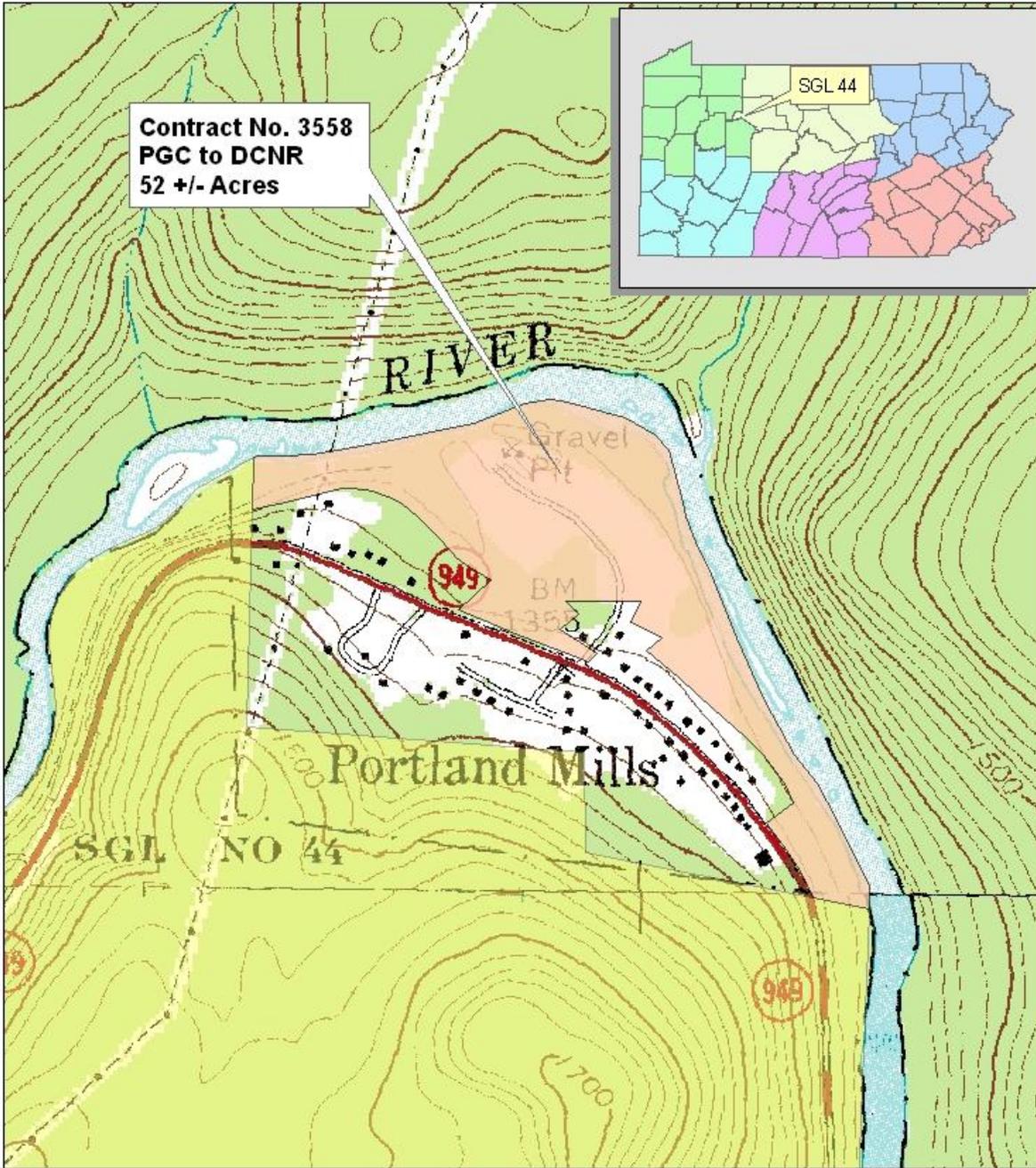


EXHIBIT RED 9
DCNR Land Exchange with PGC
State Game Land 62
10 +/- Acres

Hamlin Township, McKean County
Northcentral Region



- Land Transfer to DCNR
- State Game Land 44

EXHIBIT Red 10
DCNR Land Exchange with PGC
State Game Land 44
52 +/- Acres

Spring Creek Township, Elk County
 Northcentral Region

2. Contract No. 3559, State Game Land No. 40, Carbon County
State Game Land No. 221, Monroe County

Commentary:

MFT Real Estate, LLC has proposed a land exchange of three acres of State Game Land No. 40 in East Side Borough, Carbon County for expansion of their adjoining business (Exhibit RED 11). This particular three acres is detached from State Game Land No. 40 by PA Route 534. In exchange for the aforesaid three acres, MFT Real Estate, LLC has agreed to transfer 50 +/- acres of land located in Barrett Township, Monroe County. The property is an indenture into State Game Land No. 221 (Exhibit RED 12). The gently sloping tract is a forested with mixed oaks and low bush blueberry in the understory.

Recommendation:

The Executive Director and staff recommend the contract listed above be accepted and the Commission authorizes the Bureau of Wildlife Habitat Management to proceed with this exchange.

Action:

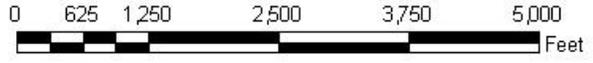
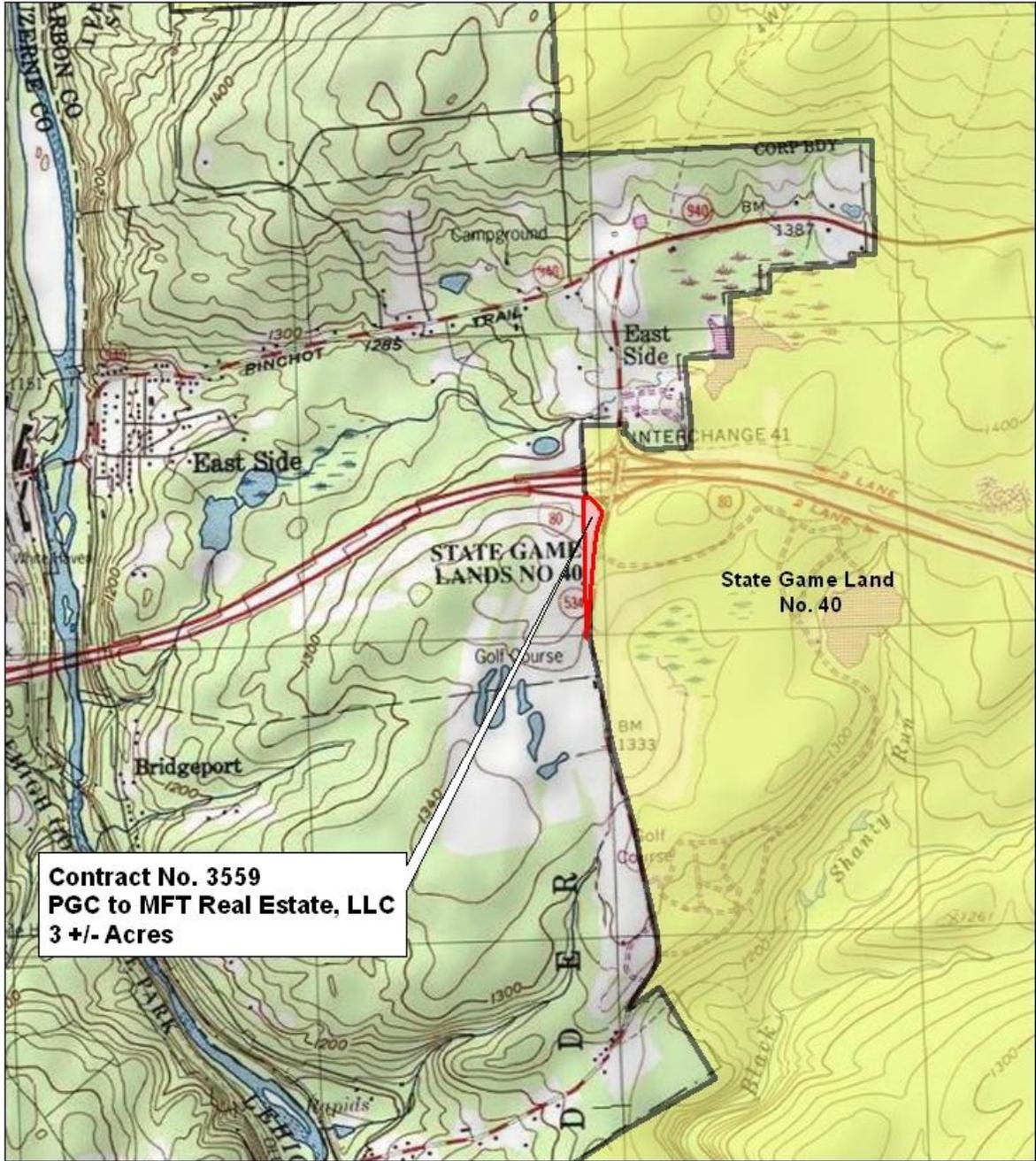


EXHIBIT RED 11
State Game Land 40
Exchange Parcel
3 +/- Acres

East Side Borough, Carbon County
 Northeast Region

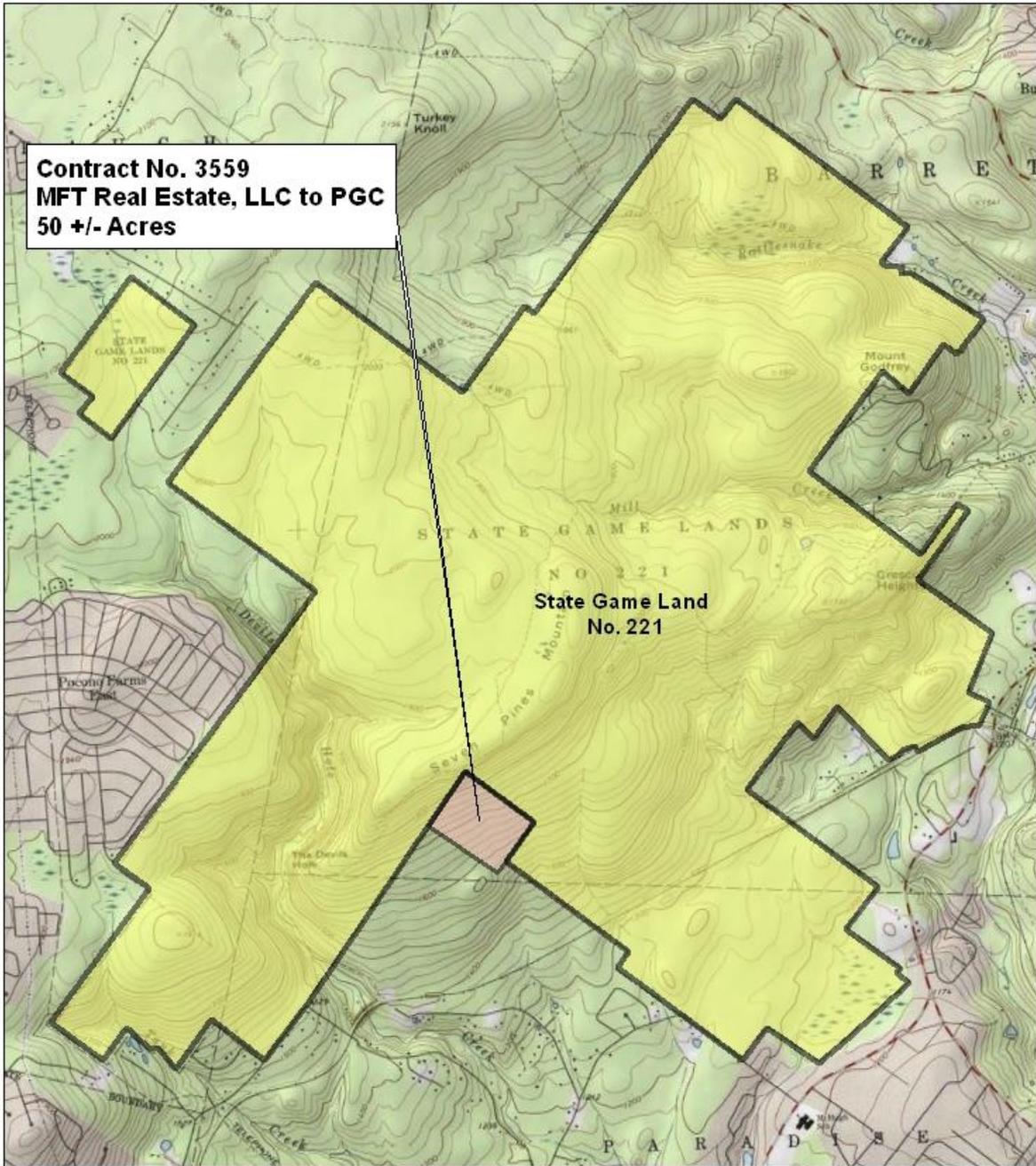


EXHIBIT RED 12
MFT Real Estate, LLC to PGC
State Game Land 221
50 +/- Acres

Barrett Township, Monroe County
 Northeast Region

Other New Business

The Commission previously established January 24, 25 and 26, 2010, in Harrisburg, PA as the dates for the next Commission Meeting. Does the Commission wish to proceed with these dates?

Executive Session, if necessary, will be held immediately following the close of the Commission meeting.

Adjournment