

**COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA GAME COMMISSION**



**AGENDA
HARRISBURG, PENNSYLVANIA
September 29, 2015**

R. Matthew Hough

R. Matthew Hough
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, September 29, 2015 at Homewood Suites by Hilton in DuBois, PA beginning at 8:30 a.m.

Call to Order

Pledge of Allegiance

Roll Call of Commissioners

David J. Putnam, President
Brian H. Hoover, Vice President
Timothy S. Layton, Secretary
Ronald A. Weaner
Robert W. Schlemmer
Charles E. Fox
James R. Daley

Approval of Minutes of Commission Meeting held June 30, 2015.

BUREAU OF WILDLIFE MANAGEMENT

ADOPTED RULE MAKING

A. Adoption of proposed amendments to § 135.104.

Commentary: To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its June 30, 2015 meeting to amend § 135.104. The controlled goose hunting program on the Middle Creek Wildlife Management Area provides opportunities for hunters to harvest Canada geese during the regular goose hunting season. Each year a number of hunters are selected to hunt from blinds through a public drawing. Hunters may subsequently enter into a drawing on later days for unclaimed blinds where they may take additional geese, but hunters must remain within the 1 goose per day daily bag limit.

Hunter success rates have been declining on the controlled goose hunting area due in part to declining resident goose populations, fewer migrant geese and increasing harvest rates on geese in areas surrounding Middle Creek. The September season daily limits and regular season daily bag limits have been reduced to increase resident goose populations. The September hunting season is closed on State Game Land No. 46.

This amendment will help increase Canada goose populations on the Middle Creek Wildlife Management Area by limiting the take on the controlled goose hunting area to 1 Canada goose per person per season.

Action:

CHAPTER 135. LANDS AND BUILDINGS

Subchapter F. SPECIAL WILDLIFE MANAGEMENT AREAS

§ 135.104. Restrictions on controlled goose hunting areas.

It is unlawful to:

* * * * *

(9) Take more than one Canada goose per person per day at a controlled goose hunting area. Season and daily limits on other waterfowl shall conform with Chapter 139 (relating to seasons and bag limits) and 50 CFR Part 20 (relating to migratory bird hunting).

(10) Take more than one Canada goose per person per season at the Middle Creek Wildlife Management Area controlled goose hunting area.

DRAFT

ADOPTED RULE MAKING

B. Adoption of proposed amendments to § 133.21.

Commentary:

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its June 30, 2015 meeting to amend § 133.41 (relating to classification of mammals) to reflect the current status of populations of mammals in this Commonwealth and to update scientific nomenclature. The first amendment pertains to the Delmarva fox squirrel (*Scuirus niger niger*). This is one of three subspecies of fox squirrel listed in Pennsylvania. The species was historically present in only a very limited portion of southeastern Pennsylvania. A reintroduction attempt in 1989 resulted in no documented survival past one year. Suitable habitat for this species within its historic range no longer exists. No documented sighting of this species has been recorded in the 25 years subsequent to the reintroduction attempt. The mammal technical committee, a scientific advisory committee of the Pennsylvania Biological Survey, has recommended that the status of the fox squirrel be changed to state extirpated and be removed from the list of state endangered mammals. The Delmarva fox squirrel population across the species core range in coastal portions of Delaware, Maryland and Virginia is considered stable. It is currently being proposed to remove the Delmarva fox squirrel from the federal list of endangered species.

The second amendment updates the common name of the eastern woodrat in Pennsylvania to the Allegheny woodrat. Based upon genetic and morphological evidence, the eastern woodrat has been split into two species, the eastern and Allegheny woodrat. The Allegheny woodrat (*Neotoma magister*) inhabits Pennsylvania and is currently listed as threatened. The eastern woodrat is not found in Pennsylvania.

Action:

CHAPTER 133. WILDLIFE CLASSIFICATION

Subchapter C. MAMMALS

§ 133.41. Classification of mammals.

The following mammals are classified:

- (1) *Endangered.*
 - (i) Indiana Bat (*Myotis sodalis*)
 - (ii) Least Shrew (*Cryptotis Parva*)
 - (iii) Northern flying squirrel (*Glaucomys sabrinus macrotis*)
- (2) *Threatened.*
 - (i) Small-footed Myotis (*Myotis leibii*)
 - (ii) Allegheny woodrat (*Neotoma magister*)
 - (iii) West Virginia Water Shrew (*Sorex palustris punctulatus*)

ADOPTED RULE MAKING

C. Adoption of proposed amendments to § 147.673.

Commentary:

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its June 30, 2015 meeting to amend §147.673 (relating to eligibility and application for DMAP) to allow the Commission to assess DMAP applications for political subdivision or government agency applicants based upon current conditions relative to goals and objectives outlined in an approved management plan and to limit individual and distinct DMAP units to less than 15,000 acres each. The Commission is statutorily tasked with managing the Commonwealth's white-tailed deer herds on behalf of all of its citizens. To accomplish this task, the Commission allocates antlerless deer licenses across the state in twenty-three wildlife management units to use hunter harvest as the primary management tool for white-tailed deer. These allocations are adjusted each year to allow the deer herd to grow, stabilize or decrease. Allocations are based on the best available science and in consideration of the broad and disparate interests of the Commonwealth's various stakeholders. This system is primarily focused on addressing deer management at the landscape level.

The Deer Management Assistance Program (DMAP) was first established in 2003 to provide both public and private landowners with an additional tool for the management of local white-tailed deer herds on lands where excessive deer numbers have compromised the landowners' land uses and other interests. DMAP was specifically designed as a strategic tool to deal with localized land issues rather than larger landscape scale deer management problems. A growing voice of hunters has recently raised concerns that DMAP might be excessively impacting local white-tailed deer herds especially on state-owned lands as evidenced by perceived reduction in deer sightings.

These regulatory changes allow the Commission to closely monitor and make necessary changes when alignment of local deer management goals using DMAP are not in alignment with the agency's mandate to effectively manage the deer in a responsible and appropriate manner.

By limiting the extent of DMAP units on public lands to less than 15,000 acres each, political subdivision or government agency landowner applicants will be asked to focus DMAP programs to areas where there exists a greater need for this management tool. This would focus the program where permits are needed. In addition, political subdivision or government agency landowner applicants will be issued DMAP coupons in such numbers that are consistent with current conditions relative to goals and objectives outlined in an approved management plan with no guaranteed minimum number of coupons allocated. These amendments

allow the Commission to better manage the white-tailed deer herd to meet landowner needs, hunter desires and citizen's interests.

Action:

DRAFT

CHAPTER 147. SPECIAL PERMITS

Subchapter R. DEER CONTROL

DEER MANAGEMENT ASSISTANCE PROGRAM PERMITS

§ 147.673. Eligibility and application for DMAP.

(a) *Eligibility.* Owners or lessees of private land, hunting clubs or authorized officers or employees of political subdivisions or government agencies are eligible to make application for a DMAP.

(1) Applications shall be submitted on a form provided by the Commission to a regional office by May 1 immediately preceding the first fall deer season and include the name of the owner, lessee, political subdivision or government agency that is applying for the DMAP and the name and address of the contact person for the DMAP as well as other information required on the application.

(2) Applications will not be accepted for the following areas without an approved management plan:

(i) Areas within 1 air mile of another DMAP area that is owned, leased or controlled by the same person, political subdivision or governmental agency.

(ii) Areas owned or leased by a Federal agency, State agency or municipal political subdivision.

(iii) Areas with less than 5 acres of cultivated crops, fruit trees or vegetables, or less than 50 acres of other lands.

(b) *Management plan criteria.* Management plans must include at least the following information:

(1) A map showing the location and boundaries of the area and the county, township and Commission wildlife management unit the site is located in.

(2) A description of the management area delineated on the map in paragraph (1) including the size in acres, cover types (forested or nonforested), principle land uses, huntable areas and safety zones.

(3) An explanation of the deer management goals and objectives for the area.

(4) An explanation to substantiate why the person in control of the land wants to increase the harvest of antlerless deer by allowing the use of DMAP in the area. Area specific information shall be provided that supports the deer management goals and objectives.

(c) *Allocation of harvest permits.*

(1) *Private land and hunting clubs.* Owners or lessees of private land and hunting clubs will be allocated one DMAP coupon for every 50 acres of land enrolled in DMAP. This allocation may be increased to one DMAP coupon for every 5 acres of land enrolled in the DMAP if an applicant can document sufficient proof of material destruction of cultivated crops, fruit trees or vegetables by deer. The Commission may issue additional DMAP coupons to applicants at its discretion if current conditions relative to goals and objectives outlined in an approved management plan supporting escalation.

(2) *Public land.* The Commission may issue DMAP coupons to political subdivision or government agency landowner applicants at its discretion based upon current conditions relative to goals and objectives outlined in an approved management plan. Allocations for political subdivision or government agency applicants will be assessed for individual and distinct DMAP units no greater than 15,000 acres each.

(d) *Designation of location and boundaries.* Upon approval of the application, the location and boundaries of the area shall be designated in a manner approved by the Commission.

(e) *Availability of harvest permits through authorized issuing agents.* In DMAP areas designated by the Director, DMAP harvest permits may be made available directly through authorized issuing agents without coupons being issued.

BUREAU OF WILDLIFE PROTECTION

ADOPTED RULE MAKING

A. Adoption of proposed amendments to 58 Pa. Code § 131.8.

Commentary:

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its June 30, 2015 meeting to amend § 131.8 to increase replacement costs for bald and golden eagles from \$200 to \$2,500. In accordance with goals established in the Pennsylvania Bald Eagle Management Plan, 2010–2019, the Commission determined that the bald eagle (*Haliaeetus leucocephalus*) achieved a population level and geographical distribution that no longer met the definition of a threatened species. As a result, on March 15, 2014 the bald eagle was officially removed from the Commonwealth's threatened species list.

Notwithstanding the delisting, the bald eagle's population of and the population of the golden eagle (*Aquila chrysaetos*), necessitate further protection from unlawful takings in the form of increased replacement costs.

Action:

EXHIBIT “A”

CHAPTER 131. PRELIMINARY PROVISIONS

§ 131.8. Replacement costs for wildlife killed.

Under section 925(i) of the act (relating to jurisdiction and penalties), in addition to any fines and costs imposed for violations of the act and this title, any person who unlawfully kills or possesses wildlife may be assessed replacement costs according to the following minimum cost scale:

(1) *General class.*

- (i) Each threatened or endangered bird or mammal, \$5,000.
- (ii) Each bald eagle or golden eagle, \$2,500.
- (iii) Each elk or black bear, \$1,500.
- (iv) Each white-tailed deer, \$800.
- (v) Each bobcat or otter, \$500.
- (vi) Each wild turkey or beaver, \$300.
- (vii) Any other wildlife, \$200.

(2) *Trophy class.*

- (i) Each elk with a Boone and Crockett green score of 200 points or more, \$5,000.
- (ii) Each white-tailed deer with a Boone and Crockett green score of 115 points or more, \$5,000.
- (iii) Each black bear with a field dressed weight of 350 pounds or more, \$5,000.

ADOPTED RULE MAKING

B. Adoption of proposed amendments to 58 Pa. Code §§ 143.182, 143.185 and 147.804.

Commentary:

To effectively manage the wildlife resources of this Commonwealth, the Game commission (Commission) proposed at its June 30, 2015, meeting to amend §§ 143.182, 143.185 and 147.804 to add cottontail rabbit and mourning dove to the list of species that mentored youth are eligible to hunt and also require that mentored youth obtain a Migratory Game Bird License prior to hunting mourning dove. Since the successful implementation of the Mentored Youth Hunting Program in the fall of 2006, the Commission has been striving to improve upon the successes of this mentor-based program. Sporting organizations and other interested groups have continued to encourage the Commission to expand mentored youth hunting opportunities within this Commonwealth to additional species, including the cottontail rabbit and mourning dove. Importantly, the mourning dove is defined as a migratory bird species and therefore requires the acquisition of a Migratory Game Bird License to facilitate the Harvest Information Program (HIP). HIP is a cooperative state and federal program designed to improve the information collected regarding the harvest of migratory game birds.

Action:

EXHIBIT “B”

CHAPTER 143. HUNTING AND FURTKER LICENSES

Subchapter J. MIGRATORY GAME BIRD LICENSE

§ 143.182. Definitions.

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

HIP survey – The Migratory Game Bird Harvest Information Program (HIP) survey that will be completed at the time the license is issued.

Migratory Game Bird License – The license authorizing the holder thereof to hunt for migratory game birds. The license is not valid unless used in conjunction with a regular resident hunting license, nonresident hunting license or mentored hunting permit.

§ 143.185. The license.

A Migratory Game Bird License is required for a person engaged in the hunting or taking of migratory game birds, unless the person otherwise qualifies for license and fee exemptions under section 2706 of the act (relating to resident license and fee exemptions). The Migratory Game Bird License shall be signed by the holder in the space provided and shall be carried at all times while hunting for migratory game birds. The holder shall produce the license upon demand of an officer authorized to enforce the act and this title.

CHAPTER 147. SPECIAL PERMITS

Subchapter X. MENTORED HUNTING PROGRAM PERMIT

§ 147.804. General.

* * * * *

(c) *Species limitation.*

(1) A mentored youth’s hunting eligibility is restricted to the following species: cottontail rabbit, mourning dove, squirrel, woodchuck, coyote, deer and wild turkey. Except as provided in this paragraph, mentored youth hunting permits will be issued with an antlered deer harvest tag and a spring turkey harvest tag. Harvest tags will not be issued to mentored youth applicants who are under 7 years of age at the time of application.

* * * * *

BUREAU OF WILDLIFE HABITAT MANAGEMENT

REAL ESTATE

A. Donation

Contract No. L-3685, State Game Land No. 168, Northampton County

Commentary: Wildlands Conservancy, Inc. is offering a donation of 11 +/- acres of land in Moore Township, Northampton County that adjoins and will connect a detached tract of State Game Land No. 168 to a larger parcel of State Game Land No. 168 (Exhibit RED 1). The property is forested with mixed hardwoods and has a small rock outcrop. Public access is from Smith Gap Road which bisects the property.

Action:

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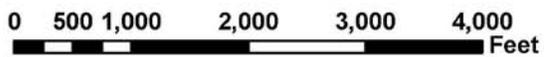
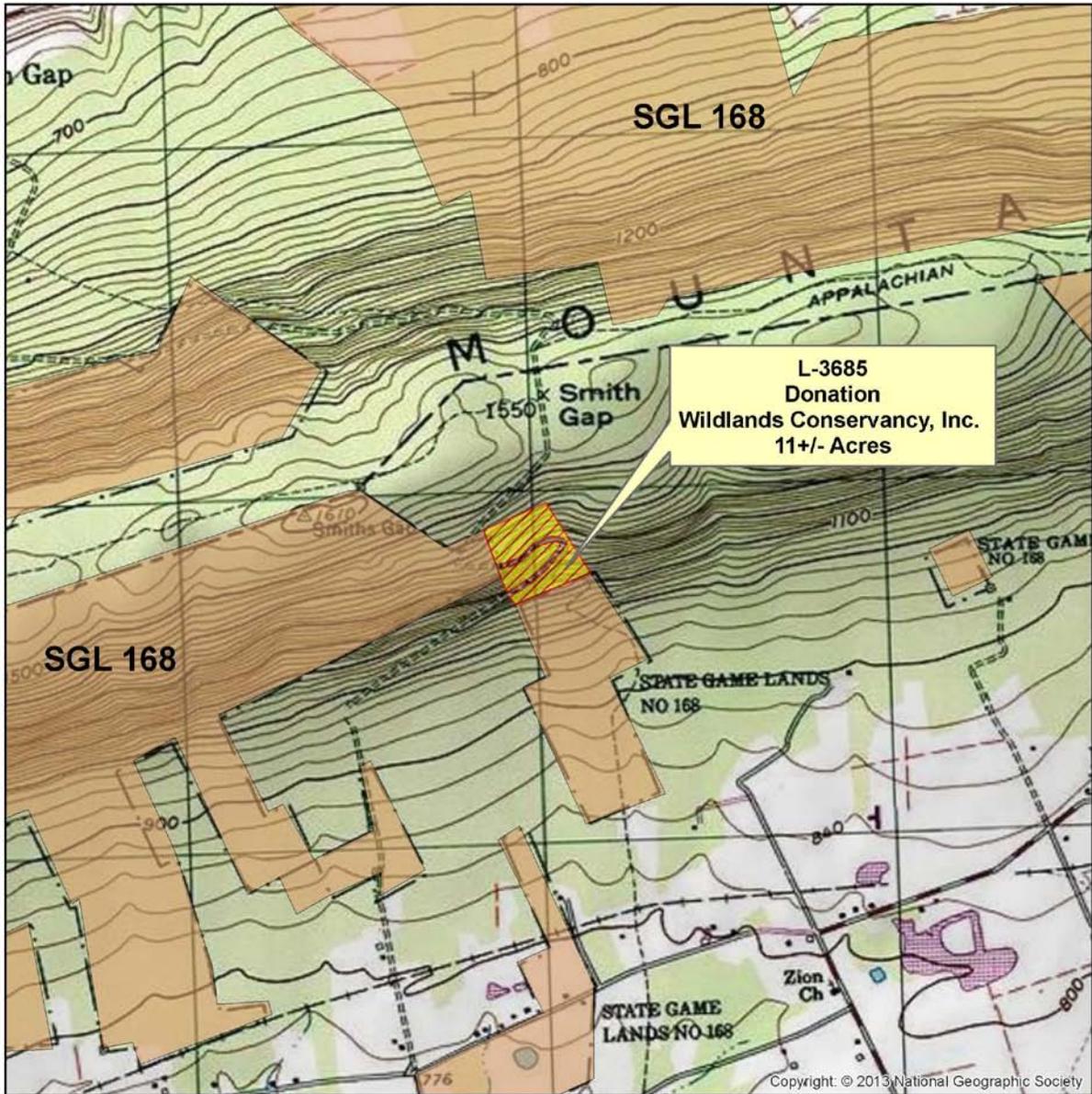


Exhibit RED 1

State Game Land No. 168

L-3685
 Donation
 Wildlands Conservancy, Inc.
 11+/- Acres

Moore Township
 Northampton County
 Southeast Region

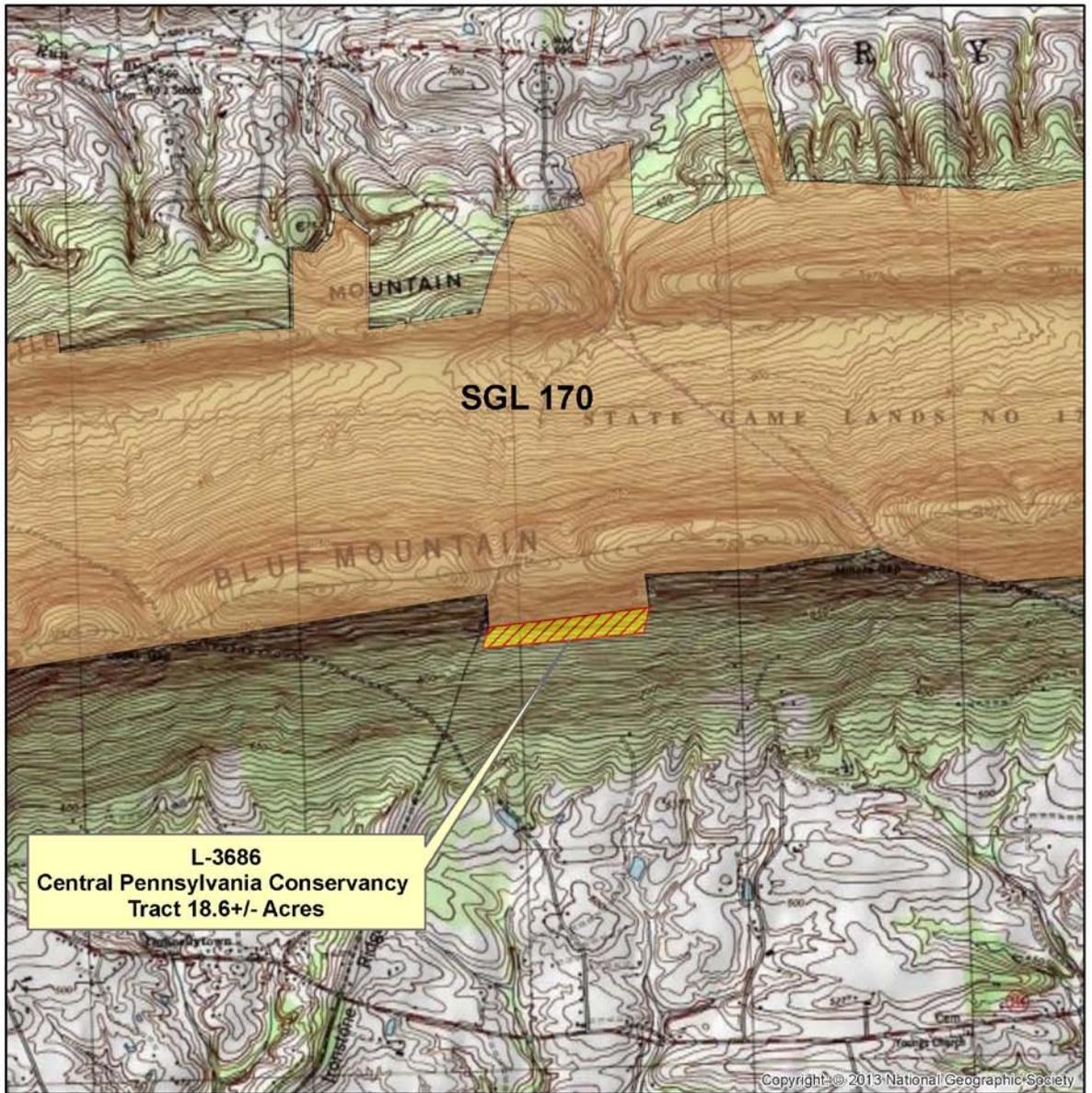
B. Acquisition

Contract No. L-3686, State Game Land No. 170, Cumberland County

Commentary: Central Pennsylvania Conservancy is offering for sale 18.6 +/- acres of land in Silver Spring Township, Cumberland County adjoining State Game Land No. 170 (Exhibit RED 2). The option price is \$400 per acre to be paid with funds from the Game Fund. The property is forested with red maple, tulip poplar, and red and white oaks with sassafras and witch-hazel in the understory. Public access is from existing State Game Land No. 170.

Action:

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L-3686
Central Pennsylvania Conservancy
Tract 18.6+/- Acres

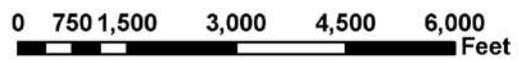


Exhibit RED 2

State Game Land No. 170
L-3686
Central Pennsylvania Conservancy
Tract 18.6+/- Acres

Silver Spring Township
 Cumberland County
 Southcentral Region

Contract No. L-3687, State Game Land No. 217, Lehigh County

Commentary:

Wildlands Conservancy, Inc. is offering for sale 22+/- acres of land in Washington Township, Lehigh County adjoining State Game Land No. 217 (Exhibit RED 3). The option price is \$400 per acre to be paid with funds from the Game Fund. The property is forested with mixed oaks, beech, hickory, and maple. Public access is from existing State Game Land No. 217.

Action:

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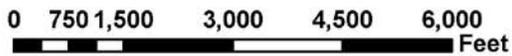
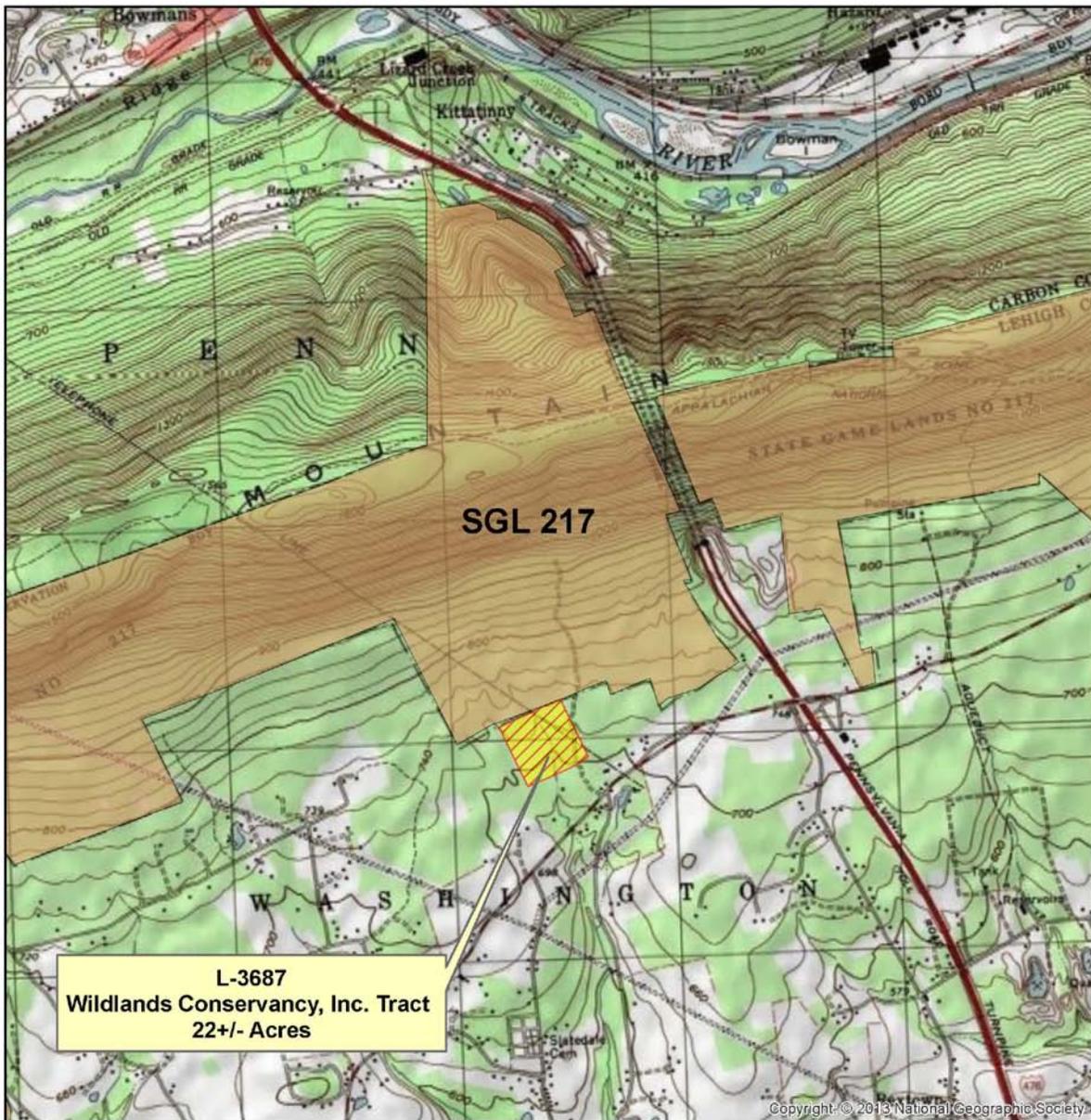


Exhibit RED 3
State Game Land No. 217

L-3687
Wildlands Conservancy, Inc. Tract
22+- Acres

Washington Township
Lehigh County
Southeast Region

C. Exchange

Contract No. L-3688, State Game Land No. 232, Washington County

Commentary: MarkWest Liberty Midstream & Resources, LLC (MarkWest) is offering 23.7 +/- acres of land currently owned by Mule Tracts, LLC in Donegal Township, Washington County, an interior within State Game Land No. 232 (Exhibit RED 4), in lieu of habitat and surface damages associated with nine (9) previously executed right-of-way licenses and one (1) pending right-of-way license for natural gas pipelines on State Game Land Nos. 117, 232 and 245. MarkWest will continue to pay the Commission's standard, annual license fees for all licenses so long as those licenses remain active. The property being offered is primarily mixed hardwood forest, with some interspersed shrub land in the lower elevations. Dog Run and two unnamed tributaries thereto, all designated High-Quality Warm Water Fisheries flow through the property. Acquisition of this property will secure a critical interior, eliminate safety zone concerns associated with future development and reduce future boundary line maintenance. Public access is from Dog Run Road (T-325) which traverses along a portion of the western boundary.

Action:

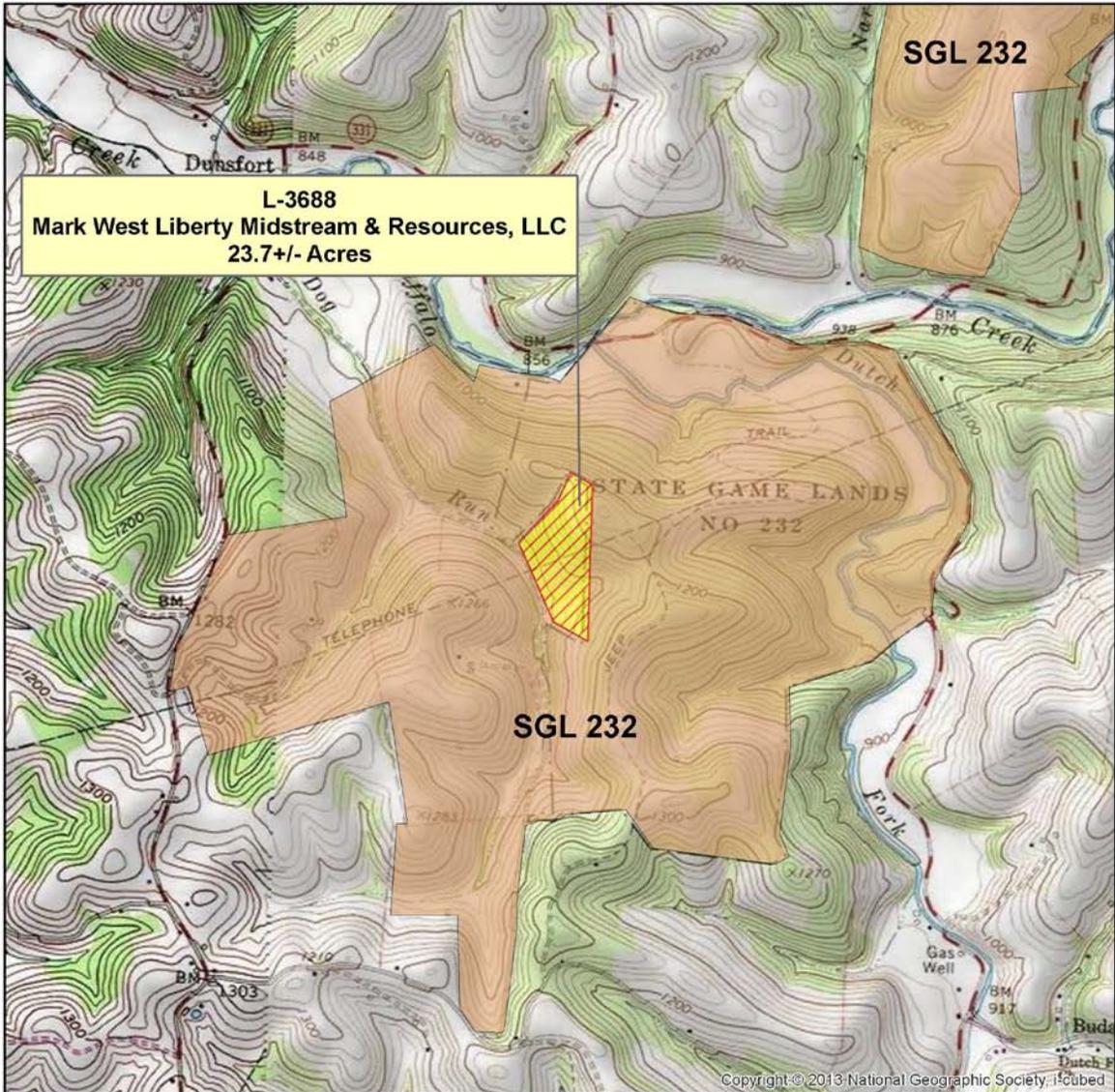
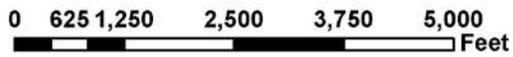


Exhibit RED 4

State Game Land No. 232

L-3688

**Mark West Liberty Midstream & Resources, LLC
23.7+/- Acres**



**Donegal Township
Washington County
Southwest Region**

OIL/GAS & MINERALS

D. Non-Surface Use Oil and Gas Cooperative Agreement

Tract 223A-15, State Game Land No. 223, Greene County

Commentary:

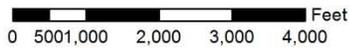
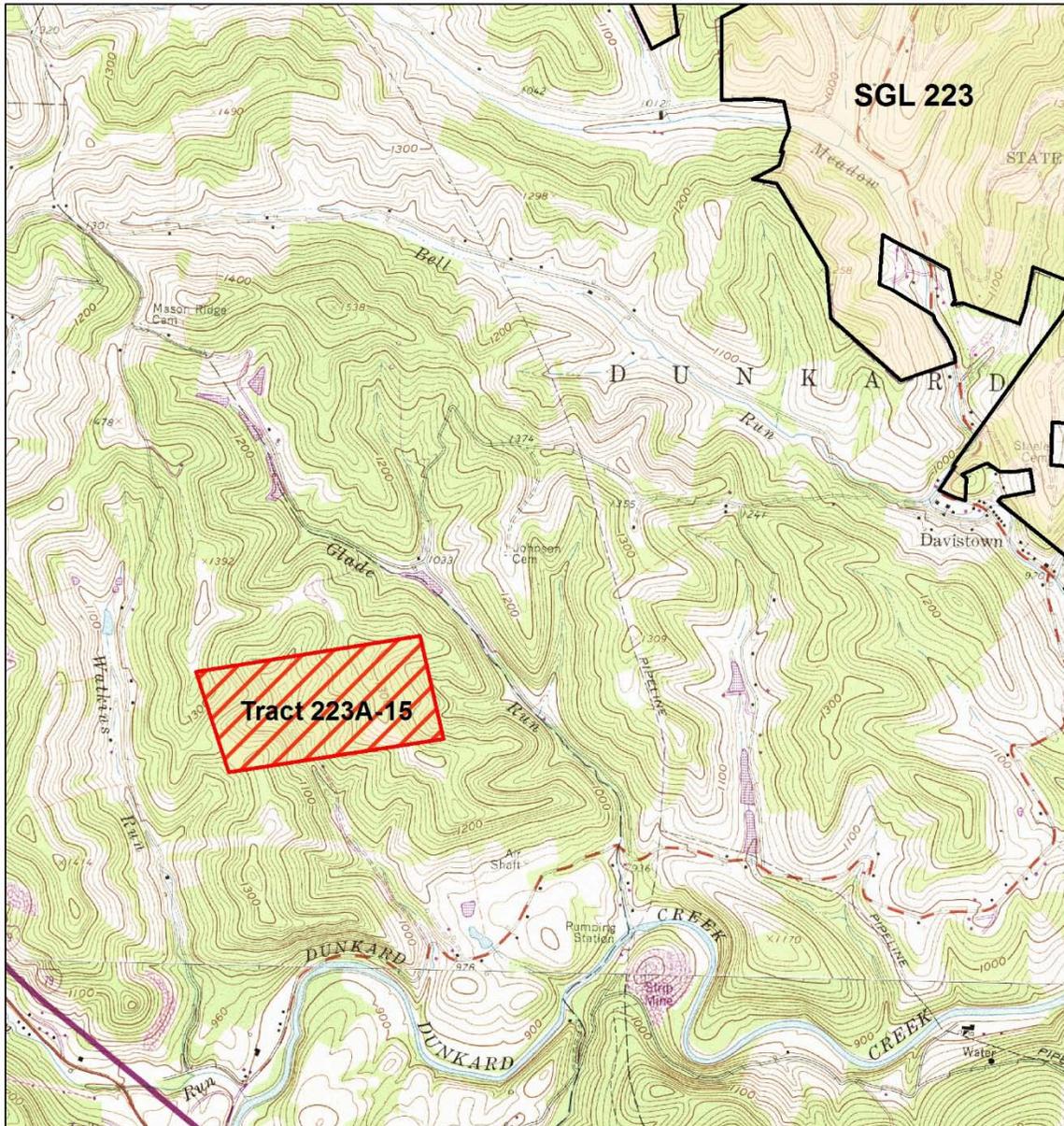
Vantage Energy Appalachia II LLC (Vantage) of Englewood, Colorado requested the Commission offer its oil and gas rights under a portion of State Game Land No. 223 for non-surface use development. The proposed tract, containing approximately 114.1 acres is located in Perry Township, Greene County (Exhibit OGM 1).

Vantage has a strong privately owned oil/gas lease position surrounding State Game Land No. 223, and has initiated unconventional well drilling and development activity in the vicinity of the proposed tract. Vantage also has the ability to unitize and develop the Commission's oil and gas reserves under the proposed tract by horizontal drilling with no surface use or disturbance to the game land. Commission staff has negotiated the proposed terms of the agreement with Vantage in an effort to prudently develop the Commission's oil/gas reserve, as well as simultaneously protect the wildlife resources and recreational use of State Game Land No. 223.

The terms of the Agreement are a three year paid up non-surface use oil and gas agreement, a \$3,000 per net oil/gas acre bonus payment and 18% royalty for all oil/gas and other liquids or condensates produced and sold from the proposed tract. The bonus payment of approximately \$342,300 may be deposited either into the Game Fund or into an interest bearing escrow account to be used for the future purchase of wildlife habitats, lands or other uses incidental to hunting, furtaking and wildlife resource management. Future rentals and royalties owed the Commission shall be directly deposited into the Game Fund.

Oil and gas development will be regulated by the Commonwealth's Oil and Gas Regulations and the Commission's Standard Non-Surface Use Oil and Gas Cooperative Agreement.

Action:



 Tract 223A-15 (114.1 +/- Acres)

 State Game Land No. 223

EXHIBIT OGM 1
State Game Land No. 223
Non Surface Use
Oil & Gas Agreement
Vantage Energy Appalachia II LLC
Tract 223A-15
114.1 +/- Acres
 Perry Twp., Greene County

E. Non Surface Use Oil and Gas Cooperative Agreement

Tract 223B-15, State Game Land No. 223, Greene County

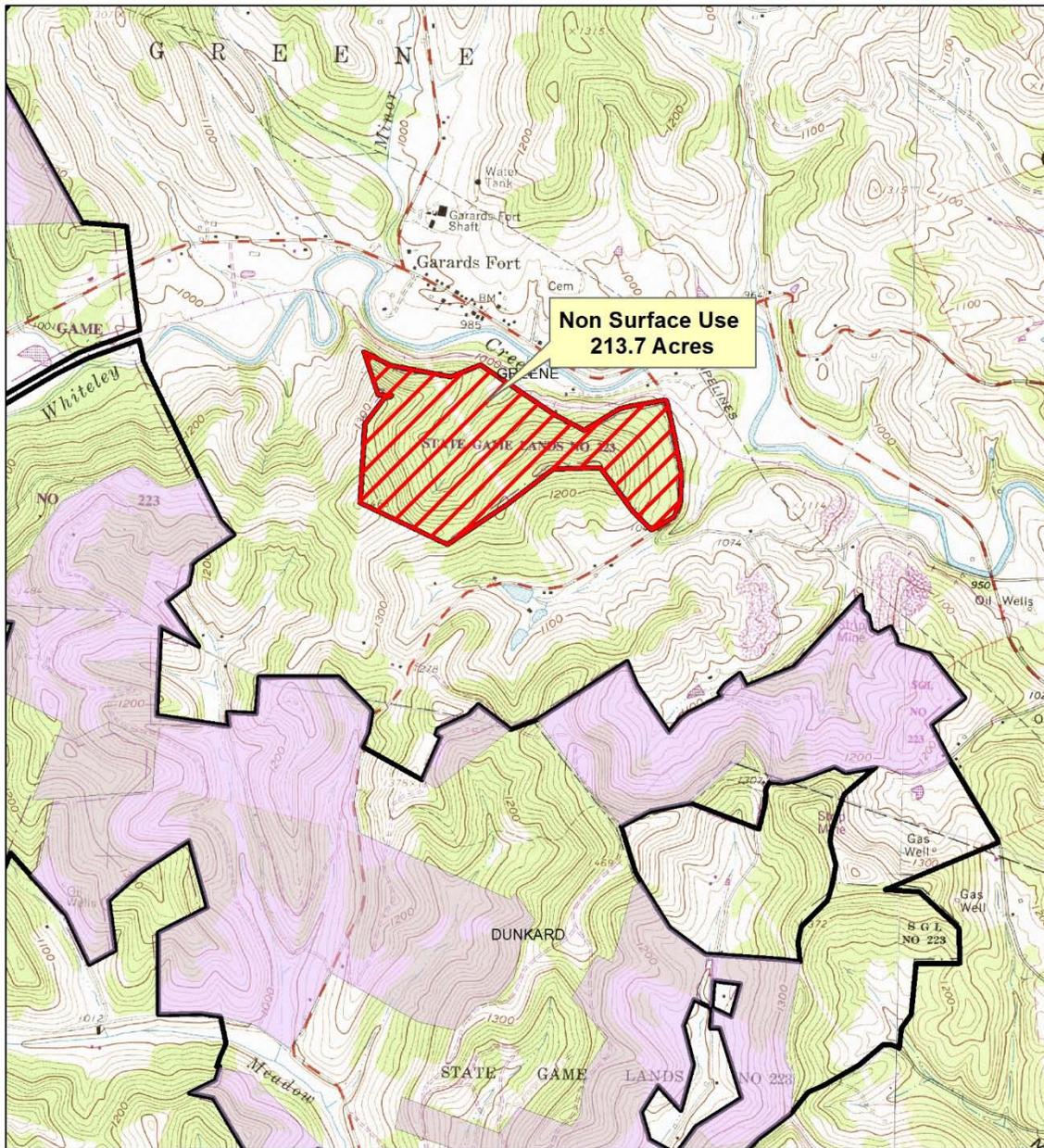
Commentary: Chevron Appalachia LLC (Chevron) of Coraopolis, Pennsylvania, requested the Commission offer its oil and gas rights under a portion of State Game Land No. 223 for non-surface use development. The proposed tract, containing approximately 213.7 acres is located in Greene Township, Greene County (Exhibit OGM 2).

Chevron has a strong privately owned oil/gas lease position surrounding State Game Land No. 223, and has initiated unconventional well drilling and development in the vicinity of the proposed tract. Chevron also has the ability to unitize and develop the Commission's oil and gas reserve under the proposed tract by horizontal drilling with no surface use or disturbance to the game land. Commission staff has negotiated the proposed terms of the agreement with Chevron in an effort to prudently develop the Commission's oil/gas reserve, as well as simultaneously protect the wildlife resources and recreational use of State Game Land No. 223.

The terms of the Agreement are a four-year paid up Non-Surface Use Oil and Gas Agreement, a \$3,000 per net oil and gas acre bonus payment and 18% royalty for all oil/gas and other liquids or condensates produced and sold from the proposed tract. The bonus payment of approximately \$641,100 may be deposited either into the Game Fund or into an interest bearing escrow account to be used for the future purchase of wildlife habitats, lands or other uses incidental to hunting, furtaking and wildlife resource management. Future rentals and royalties owed the Commission shall be directly deposited into the Game Fund.

Oil and gas development will be regulated by the Commonwealth's Oil and Gas Regulations and the Commission's Standard Non-Surface Use Oil and Gas Cooperative Agreement.

Action:



Legend

-  Tract 223B-15
-  223A-08 Lease
-  SGL Boundary

EXHIBIT OGM 2

STATE GAME LAND NO. 223
Non-Surface Use Oil / Gas Agreement
CHEVRON APPALACHIA, LLC
TRACT 223B-15
213.7 +/- Acres
 Greene Twp., Greene County

F. Restricted Surface Use Oil and Gas Cooperative Agreement

Tract 238A-15, State Game Land No. 238, Fayette County

Commentary:

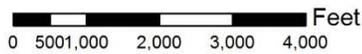
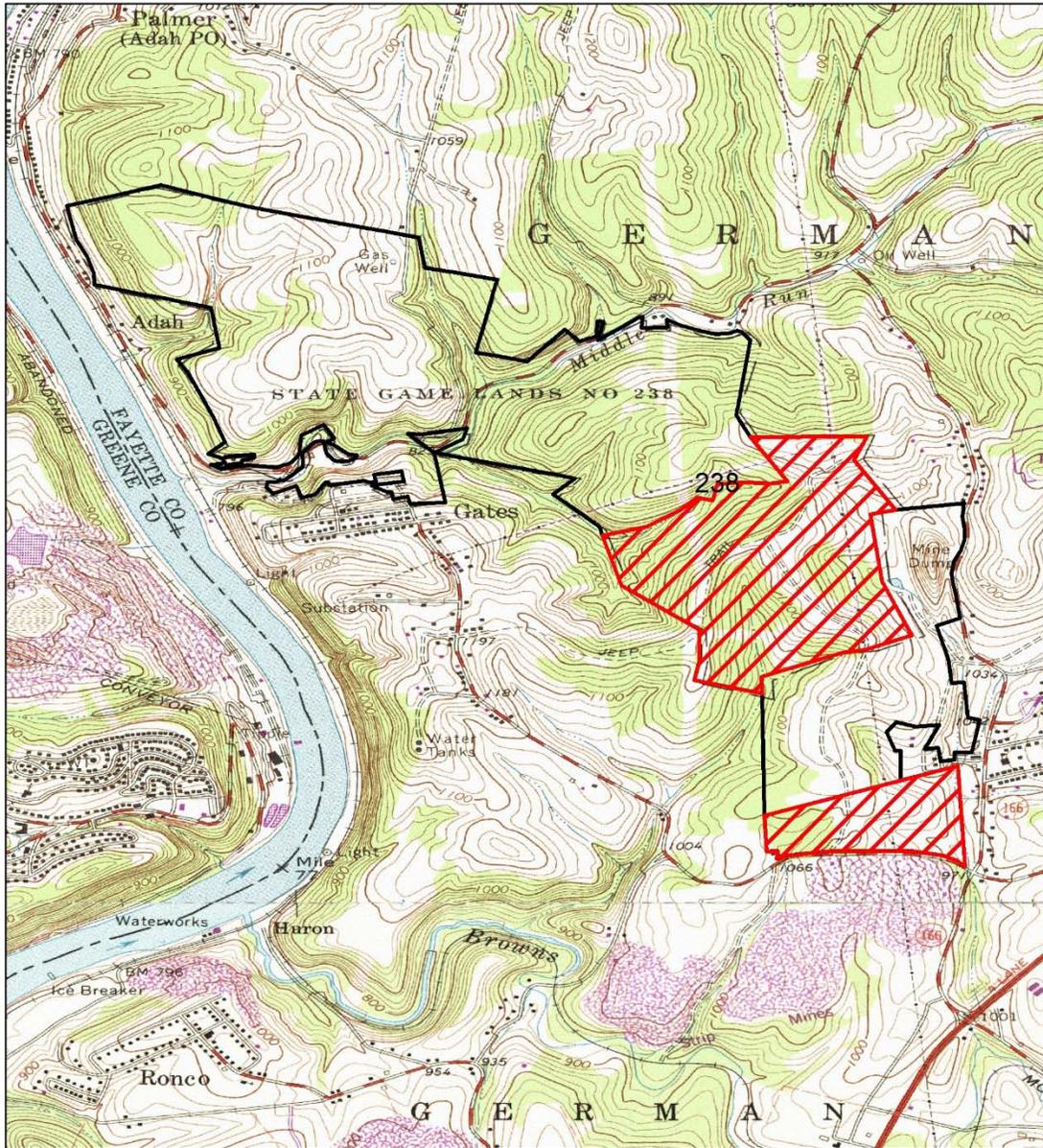
Chevron Appalachia, LLC (Chevron) of Coraopolis, Pennsylvania, has requested the Commission offer its oil and gas rights under approximately 215 acres of State Game Land No. 238 in German Township, Fayette County, for oil and gas development (Exhibit OGM 3).

Chevron has acquired private leases on the remaining 562 acres of State Game Land No. 238 and has the right to utilize the Game Commission surface to access and develop the privately held oil and gas rights. Additionally, Chevron maintains a strong lease position on private lands immediately adjacent to State Game Land No. 238 and has already drilled several horizontal wells in the immediate vicinity of the game land.

The terms of the Agreement are a five-year paid restricted surface use oil and gas agreement, a \$3,000 per net oil and gas acre bonus payment and 18% royalty for all oil/gas and other liquids or condensates produced and sold from the proposed tract. The bonus payment of approximately \$645,000 shall be deposited into the Game Fund or into an interest bearing escrow account for the future purchase of wildlife habitats, lands or other uses incidental to hunting, furtaking and wildlife resource management. Future rentals and royalties owed the Commission shall also be deposited into the Game Fund.

Oil and gas development will be regulated by the Commonwealth's oil and Gas Regulations and the Commission's Standard Restricted Surface Use Oil and Gas Cooperative Agreement.

Action:



 Tract 238A-15 (215.0 +/- Acres)

 State Game Land No. 238

EXHIBIT OGM 3
State Game Land No. 238
Restricted Surface Use
Oil & Gas Cooperative Agreement
Chevron Appalachia, LLC
Tract 238A-15
215 +/- Acres
 German Twp., Fayette County

Other New Business

Next Working Group Meeting -January 4, 2016

The January Commission Meeting will be held on January 31, February 1 and 2, 2016 at Harrisburg Headquarters at 2001 Elmerton Avenue, Harrisburg, Pennsylvania.

DRAFT