

**COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA GAME COMMISSION**



**AGENDA
HARRISBURG, PENNSYLVANIA
July 31, 2018**

Bryan Burhans

Bryan Burhans
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, July 31, 2018, at 2001 Elmerton Ave., Harrisburg, PA 17110 beginning at 8:30 a.m.

Call to Order

Pledge of Allegiance

Roll Call of Commissioners

Timothy S. Layton, President
James R. Daley, Vice President
Stanley J. Knick, Jr., Secretary
Scott H. Foradora
Charlie E. Fox
Dennis R. Fredericks
Brian H. Hoover
Michael F. Mitrick

Approval of Minutes of Commission Meeting held April 24, 2018.

BUREAU OF WILDLIFE MANAGEMENT

ANTLERLESS DEER ALLOCATION CLARIFICATION

A. WMU 2E ANTLERLESS DEER ALLOCATION CLARIFICATION.

Commentary: At the meeting of the Board of Commissioners on April 24, 2018, the antlerless allocation for WMU 2E was proposed to be "as recommended," but was incorrectly read as 23,000, when the recommendation was for 27,000. The Commissioners are all in agreement with accepting the recommendation of 27,000 and inadvertently did not notice the transposition of reading the lines during the meeting. The Commission desires to issue this clarification of their intent by notational vote to make the allocation for the 2018-2019 season for WMU 2E as 27,000.

Action: BY NOTATIONAL VOTE

DRAFT

BUREAU OF WILDLIFE PROTECTION

ADOPTED RULE MAKING

A. Create 58 Pa. Code § 141.29.

Commentary:

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its January 30, 2018, meeting to create § 141.29 (relating to hunting mourning doves over managed fields) to authorize the hunting and taking of mourning doves in areas where grain or other feed has been distributed or scattered solely as a result of manipulation of an agricultural crop or other feed where grown. This authorization will not authorize the hunting of any other species in these managed areas.

Action:

DRAFT

ANNEX A

CHAPTER 141. HUNTING AND TRAPPING

Subchapter B. SMALL GAME

§ 141.29. Hunting mourning doves over managed fields.

(a) *Limited hunting authorized.* In accordance with the authorization in 50 CFR 20.21 (relating to what hunting methods are illegal), it is lawful to hunt mourning doves on or over lands or areas that are not otherwise baited areas, and where grain or other feed has been distributed or scattered solely as the result of manipulation of an agricultural crop or other feed on the land where grown, or solely as the result of a normal agricultural operation. This authorization does not apply to any other species of wildlife or to the hunting of mourning doves where grain or other feed has been distributed or scattered as the result of manipulation of an agricultural crop or other feed after September 15 each license year.

(b) *Definition.* For the purposes of this section, "manipulation" means the alteration of natural vegetation or agricultural crops by activities that include mowing, shredding, discing, rolling, chopping, trampling, flattening, burning or herbicide treatments. The term manipulation does not include the distributing or scattering of grain, seed or other feed after removal from or storage on the field where grown.

PROPOSED RULE MAKING

- B. Amend 58 Pa. Code §§ 147.901 – 147.905 and create 58 Pa. Code §§ 147.903.1 and 147.904.1.

Commentary: The Commission is proposing to amend § 147.901 – 147.905 and create 147.903.1 to enhance and expand the scope of the guide permit program. These amendments will expand the scope of this program to cover all commercial guiding activities on State game lands and all commercial and noncommercial guiding activities for elk on all other lands and waters. This effort is intended to provide greater legitimacy to the holders of guiding permits within the Commonwealth by establishing minimum standards for the required knowledge base required to be a guide, including basic biology and identification of applicable game and wildlife species, methods of safe and ethical use of firearms, trap and other devices, applicable federal and state laws concerning to hunting and trapping, basic land navigation, basic first-aid and CPR skills.

CHAPTER 147. SPECIAL PERMITS

Subchapter Y. GUIDING PERMIT

§ 147.901. Purpose and scope.

The purpose of this subchapter is to provide for the issuance of guiding permits to authorize eligible applicants to serve as guides for persons hunting, trapping or otherwise taking ~~[certain designated species of]~~ game or wildlife.

§ 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.

Guide—A person who assists another person in any manner to hunt, trap or otherwise take ~~[certain designated species of]~~ game or wildlife.

Guiding activity—

(i) The act of assisting or conspiring to assist another person in any manner to hunt, trap or otherwise take ~~[certain designated species of]~~ game or wildlife by locating, calling or directing another person to the quarry.

(ii) The term is not intended to include or authorize the assistance taking the form of any overt act directly connected with harvesting game or wildlife by discharging a firearm, bow or crossbow or setting or resetting a trap or cable restraints.

§ 147.903. Application.

(a) Applications for guiding permits issued under this subchapter shall be made through the [~~applicants' local district wildlife conservation officers~~] Commission's Special Permit Enforcement Division on the appropriate form provided by the Commission.

(b) Each application must include the name, address, telephone number and date of birth of the applicant[~~, as well as the specific eligible species of wildlife sought to be covered by the permit~~]. In addition, applications shall be accompanied by copies of any license(s) or training certifications required under subsection (c).

(c) Applications for guiding permits will only be accepted from persons who possess a valid hunting or furtaking license [~~or qualify for license and fee exemptions under section 2706 of the act (relating to license and fee exemptions)~~], possess a valid first aid and CPR training certifications from a nationally recognized source(s) and have no prior record of violations of the act or this title or related license revocations within the previous 10 years.

(d) [~~The fee for a guiding permit will be \$25 for residents and \$50 for nonresidents for each respective eligible species of wildlife to be covered by the permit.~~] Examination and permit fees.

(1) Examination fee. Each new application shall be accompanied by a non-refundable \$50 examination fee and shall specify each applicable category of game and wildlife species the applicant is requesting certification to guide for. The eligible categories are big game, small game and furbearers.

(2) Permit fee.

i. Commercial guiding permit. After the required examination is passed successfully for each applicable category of game and wildlife species, the applicant shall submit a permit fee in the amount of \$100 for each applicable category of game and wildlife species the applicant is requesting certification to guide for.

ii. Noncommercial elk guiding permit. The permit applicant shall submit a permit fee in the amount of \$25.

(e) Any guide whose permit is not renewed for a period of one or more years shall reapply as a new applicant.

§ 147.903.1. Examination.

(a) Any new applicants for a commercial guiding permit issued under this subchapter are required to pass a supervised written, oral and practical examination approved by the director. The minimum score to achieve passage is 80% correct.

(b) Examinations for new applicants for a commercial guiding permit will include the following subject matter:

(1) Biology, life history and habits of each applicable category of game and wildlife species.

(2) Identification of each applicable category of game and wildlife species.

(3) State and federal laws and regulations applicable to the hunting, trapping and taking of each applicable category of game and wildlife species.

(4) Basic orienteering using map and compass.

(5) Safe and ethical operation of firearms, traps, cable restraints and other devices.

(c) Inapplicability. The examination requirements of this section shall not be construed to apply to persons that held a guide permit, in good standing, issued by the commission, for the five (5) previous permit years preceding the effective date of this section. Nothing in this section shall be construed to require an examination for applicants for a noncommercial guiding permit.

§ 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 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] either of the following activities:

(1) Commercial guiding activities on lands and waters designated as State game lands.

(2) Commercial or noncommercial guiding activities for elk.

(b) Additional permits. Possession of a guiding permit issued under this subchapter does not diminish an individual's obligation to obtain any other applicable Federal, State or local permits concerning the guiding activities.

(c) *Guiding on State game lands.* Notwithstanding the general prohibitions of § 135.41 (relating to state game lands), a guiding permit issued pursuant to this subchapter shall authorize its holder to engage in commercial guiding activities on State game lands [~~for an eligible species of wildlife~~].

(d) [~~*Orientation.*— In any year the Commission establishes an orientation program for an eligible species of wildlife, the continuing validity of any guiding permit issued under this subchapter covering the eligible species, is premised upon the permit holder's completion of the orientation program prior to engaging in any guiding activities for the eligible species of wildlife.~~] *Licenses, permits and stamps required.* A guide shall maintain valid licenses, permits and stamps for all of the species for which they are conducting guiding activities, excepting only elk licenses, if applicable. A guide shall carry the licenses, permits and stamps required by this subsection on their person while conducting any guiding activities and shall produce same, upon demand, to any officer whose duty it is to enforce the title.

§ 147.904.1. Records and reports.

(a) *Records.* A guide shall maintain legible, accurate and complete field records of all guiding activities conducted under the authority of the guiding permit on a form supplied by the Commission. These field records shall be maintained and made available for inspection in accordance with section 2906 of the act (relating to records). A guide shall complete the field records form according to the instructions on the form and must contain the following information for each guiding activity:

(1) Name, address and C.I.D. number for each client.

(2) Date of guided activity.

(3) Quantity and species of game or wildlife harvested by each client.

(4) Name and guide permit number of any accompanying guide permit holder for each guided activity.

(b) *Reports.* All field records shall be submitted to the Commission annually in accordance with section 2907 of the act (relating to reports).

§ 147.905. Violations.

Violations of this subchapter will be prosecuted under section 2908 of the act (relating to violations). The Director may deny, revoke or suspend any permit for any violation of this subchapter upon written notice to the permittee.

Action:

C. Create 58 Pa. Code § 133.7 and amend 58 Pa. Code § 137.2.

Commentary:

The Hungarian partridge (also known as the grey partridge) is a non-native bird first introduced to the United States from Hungary in the early 1900s. Wildlife agencies, including the Pennsylvania Game Commission, stocked many thousands of these birds in an attempt to establish wild populations and to maintain quality small game hunting opportunities. Hungarian partridges were stocked by the PGC in the 1920s, 1930s and then again in the 1950's. These efforts failed and a population of wild Hungarian partridges was never established within the Commonwealth. The Commission has determined that there are currently no wild populations of Hungarian partridges found within the Commonwealth.

The Commission has received a public request to consider adding Hungarian Partridges to the list of birds that may be released for dog training purposes. The Commission has reviewed the proposal and determined there to be no significant biological concerns in moving forward with this proposal. As a result, the Commission is proposing to amend § 137.2 (relating to release of animals) to add the Hungarian partridge to the list of species that may be lawfully released on public or private lands for dog training or hunting purposes without first securing a permit. The Commission is also proposing to create § 133.7 (relating to Hungarian partridge) to reclassify the Hungarian partridge as a wild bird and not a game bird in an effort to treat this species in a similar manner to the Chukar partridge.

CHAPTER 133. WILDLIFE CLASSIFICATION

Subchapter A. GENERAL

§ 133.7. Hungarian partridge.

Notwithstanding the listing of the Hungarian partridge in the definition of a game bird in section 102 of the act (relating to definitions), the Hungarian partridge shall be reclassified as a wild bird generally and will no longer be classified as a game bird.

CHAPTER 137. WILDLIFE

§ 137.2. Release of animals.

(a) Except as otherwise provided, it is unlawful to release captive held or captive raised game or wildlife on any lands, public or private, without first securing a permit from

the Commission. Lawfully acquired mallard ducks, ring-neck pheasant, bobwhite quail, ~~and~~ chukar partridge and Hungarian partridge may be released for dog training or hunting purposes.

* * * * *

Action:

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D. Amend 58 Pa. Code § 147.322.

Commentary:

Section 147.322 (relating to application for deer control permit) has historically required that all “[p]ublic land within the proposed boundaries be open to lawful public hunting unless otherwise prohibited under this title or as otherwise authorized or waived by the Director.” In large part, this requirement is derived directly from section 103 of the act which provides, in relevant part, that “[t]he commission shall utilize hunting and trapping as methods of effecting necessary management of game, furbearer and wildlife populations.” While section 103 does not limit management of wild resources to public hunting only, the Commission has concluded that it is clearly intended as the primary method of management.

Over the years, the Commission has observed that deer control permit applicants utilize varying degrees of use of public hunting as a prerequisite to meeting the public hunting requirement of § 147.322. Many applicants have established organized controlled hunts, while others have organized or invited established hunting clubs onto the public and/or private properties covered by the permit to help reduce deer populations. Still others invite only local government (permittee) employees to engage in hunting on the public and/or private properties covered by the permit. While the Commission has approved permit applications in the past involving this latter method of satisfying the public hunting component, it has more recently recognized the importance of pushing deer control back, primarily, into the hands of the public through more clearly defined public hunting. This action will still allow landowners (both public and private) to allow hunting, in whole or in limited part, to meet their deer control and land use goals.

To this end, the Commission is proposing to amend § 147.322 to provide greater clarity of what circumstances will satisfy the ‘public hunting’ requirement. The Commission specifically intends with this action to reject hunting opportunity that is afforded to an individual or class of individuals solely by virtue of their public employment as satisfying the public hunting requirement. This action will improve the use and prominence of public hunting as the primary method of wild resource management without unduly restricting the purpose and ultimate goals of the deer control permit program. This action will formalize into the deer control permit regulations the current policy being used to evaluate and approve deer control permit applications.

CHAPTER 147. SPECIAL PERMITS

Subchapter R. DEER CONTROL

§ 147.322. Application for deer control permit.

(a) An application for a deer control permit shall be completed and submitted by an authorized officer or employee of the political subdivision, homeowners association or nonprofit land-holding organization in the form and manner required by the Director.

(b) An application for a deer control permit must contain the following information:

(1) *Description.* A comprehensive description of the background and scope of the white-tailed deer population or damage problem, or both. The description must include a report of all alternative solutions or other steps taken by the applicant to mitigate the white-tailed deer population or damage problem, or both, prior to application for this permit and must specifically define how licensed public hunting for white-tailed deer has been utilized in the problem area and what results hunting activities have had on the population or damage problem, or both.

(2) *Deer management plan.* A comprehensive deer management plan which sets forth the applicant's white-tailed deer management goals, recommended implementation plan and a reference to the specific number of animals sought to be removed. The applicant shall specifically define how licensed public hunting for white-tailed deer will be utilized in the problem area during the term of the requested deer control permit.

(3) *Map.*

(i) A map or set of maps showing the proposed project area and its boundaries and clearly illustrating all of the following distinct features and areas within the proposed project area:

- (A) Land uses.
- (B) Cover types.
- (C) Areas open to public hunting for white-tailed deer.
- (D) Areas damaged by white-tailed deer.
- (E) Areas of white-tailed deer congregation.
- (F) Applicable safety zones.
- (G) Proposed white-tailed deer control areas.

(ii) The map must indicate the individual acreage values for each of the listed features and acres.

(c) Public land within the proposed boundaries shall be open to lawful public hunting unless otherwise prohibited under this title or as otherwise authorized or waived by the Director. Private land within the proposed boundaries may be closed to public hunting at the landowner's discretion. However, if closed, deer control activities may not occur thereon.

(d) For the purposes of this section, the term *public hunting* shall be defined as hunting opportunity that is available, in whole or in part, to members of the general public, but shall not include hunting opportunity that is afforded to an individual or class of individuals solely by virtue of their public employment.

Action:

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BUREAU OF WILDLIFE HABITAT MANAGEMENT

REAL ESTATE

A. Donation

Contract No. L-3730, State Game Land No. 106, Berks County

Commentary: Hawk Mountain Sanctuary (HMS) is offering to donate 77+/- acres of land in Albany Township, Berks County, adjoining State Game Land No. 106 (Exhibit RED 1). The Game Commission, working in partnership with HMS and Berks Nature, applied for grant funding available for migratory bird habitat conservation from the Transcontinental Gas Pipe Line Company, LLC in connection with the construction and operation of the Atlantic Sunrise Natural Gas Pipeline Project. The partnership submitted a grant proposal titled, "Kittatinny Bird Habitat Expansion: Hawk Mountain Sanctuary and PA Game Commission Fee Simple Acquisition of Newell/Bolich Property." The proposal to acquire and manage the 77+/- acre property, commonly referred to as the James K. Newell Living Trust Tract, was selected to receive grant funding. Most of the property is currently a 58-acre continuous agricultural field with woods at the margins and forested wetlands to the south of Hawk Mountain Road which provides access to the property. Three tributaries to Pine Creek flow through the property along the western and southern forested margins. The property is to be perpetually managed in accordance with the Stewardship/Restoration Plan Atlantic Sunrise Pipeline Project for the Kittatinny Bird Habitat Expansion as co-authored by HMS, Game Commission and Berks Nature.

Action:

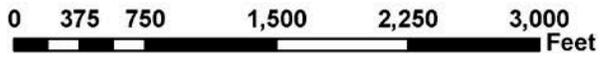
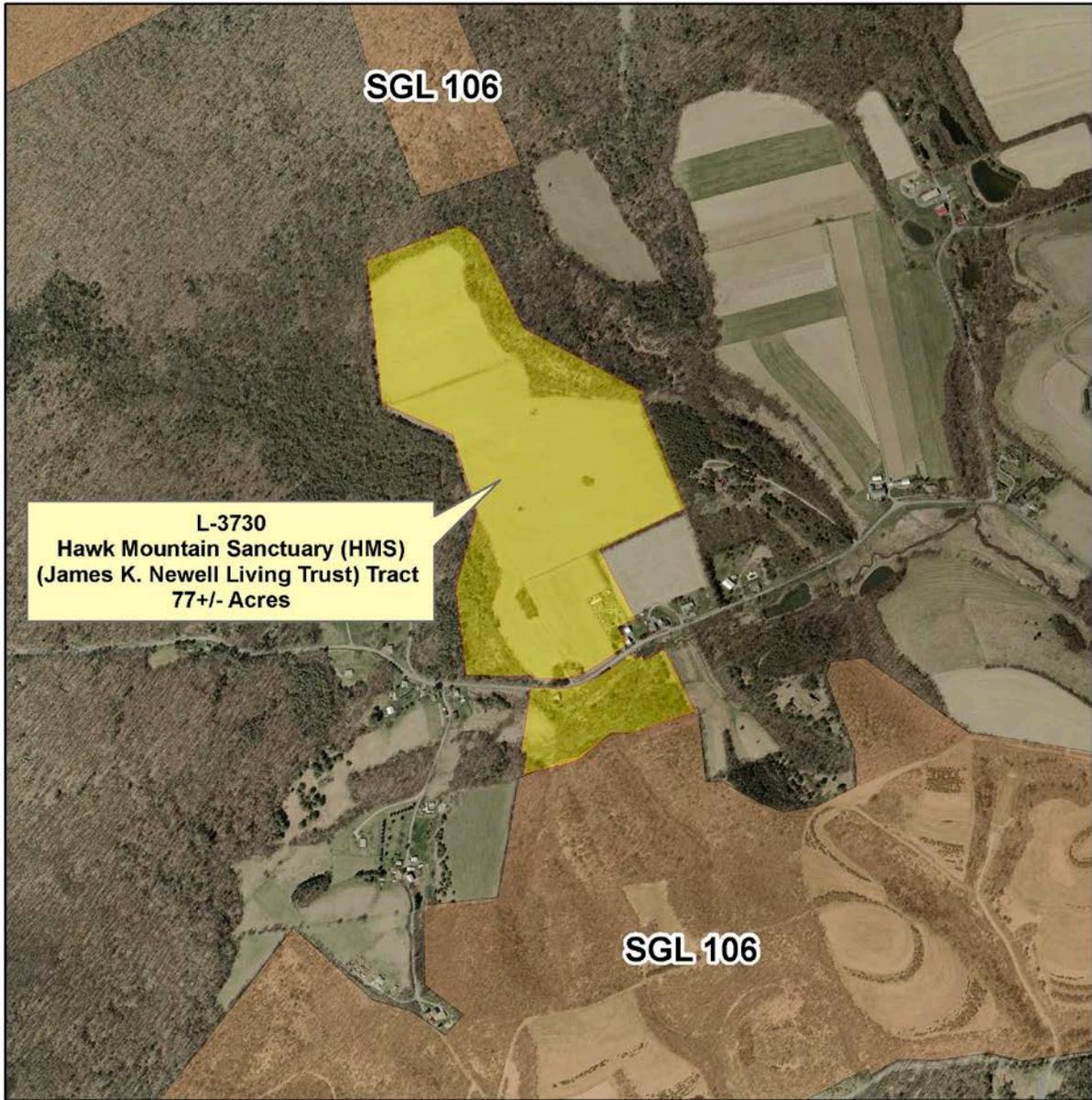


Exhibit RED 1
State Game Land No. 106
L-3730
Hawk Mountain Sanctuary (HMS)
(James K. Newell Living Trust) Tract
77+/- Acres

Albany Township
Berks County
Southeast Region

B. Acquisition

Contract No. L-3731, State Game Land No. 13, Sullivan County

Commentary: The Conservation Fund (TCF) is offering 752.6+/- acres of land in Colley Township, Sullivan County, adjoining State Game Land No. 13 (Exhibit RED 2). The option price is \$200,000 lump sum to be paid with funds from third party commitments for compensation of habitat and recreational losses which occurred on State Game Lands from previously approved projects. The option price includes twenty-five percent (25%) of the oil and gas rights situated below the surface of the land. TCF acquired the 752.6+/- acre property, referred to as the Red Rock Associates, LLC Tract, in part with funds from Transcontinental Gas Pipe Line Company, LLC for voluntary mitigation designed to restore and preserve upland forest habitats for migratory birds and Indiana bats associated with the construction and operation of the Atlantic Sunrise Natural Gas Pipeline Project. Most of the property is forested with more than half being dominated by northern hardwoods and the remaining portion covered in hemlock/white pine and hemlock-mixed hardwood palustrine forest. The understory is limited with evidence of leatherleaf, and low and high bush blueberry. There are two forest openings totaling approximately three acres. Mehoopany Creek flows through the southern portion with a series of wetlands located in low drainages along the riparian corridor. The property is within Important Bird Area 48, North Mountain - Ricketts Glen State Park and Important Mammal Area 28, Ricketts Glen State Park. Access is from State Route 487.

Action:

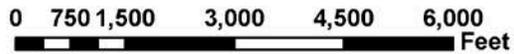
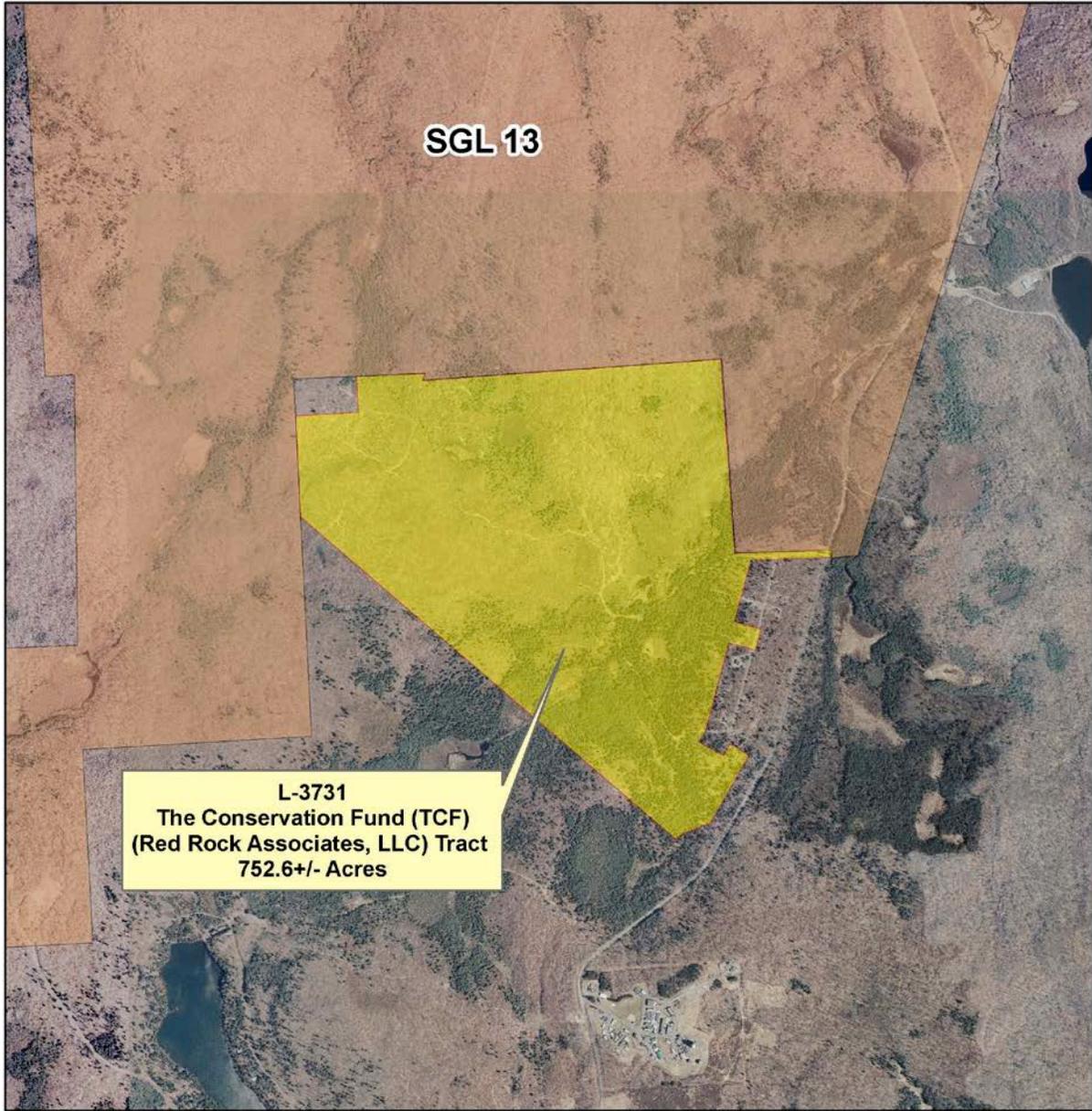


Exhibit RED 2

State Game Land No. 13

L-3731

**The Conservation Fund (TCF)
(Red Rock Associates, LLC) Tract
752.6+/- Acres**

**Colley Township
Sullivan County
Northeast Region**

C. Exchange

Contract No. L-3732, State Game Land No. 168, Monroe and Northampton Counties

Commentary:

PennEast Pipeline Company, LLC (PennEast) is offering 70+/- acres of land located in Eldred Township, Monroe County adjacent to State Game Land No. 168 (Exhibit RED 3) in exchange for a License for Right-of-Way (License) granting the privilege of constructing, operating, maintaining and removing a natural gas pipeline on State Game Land No. 168 in Eldred and Moore Townships, Monroe and Northampton Counties. PennEast has agreed to cause to convey this land to the Commission in addition to paying the Commission's standard habitat, surface and timber damages, as well as paying the Commission's standard annual license fee so long as the License remains active.

The License will authorize 7,956' of 36-inch natural gas pipeline in a 30' wide right-of-way occupying 5.48 acres of State Game Land No. 168. PennEast will also be licensed to use and reclaim a total of 12.97 acres of temporary workspace and existing access roads outside of the right-of-way during construction and reclamation (Exhibit RED 3).

The tract offered by PennEast is located adjacent to State Game Land No. 168, and will serve to provide much needed public and administrative access to the game lands on the north slope of Blue Mountain. The habitat is primarily a mature hemlock forest interspersed with oak, with a few reverting herbaceous openings along the floodplain of Aquashicola Creek. Access is from Lower Smith Gap Road (S.R. 3002) via two private bridges over Aquashicola Creek.

Action:

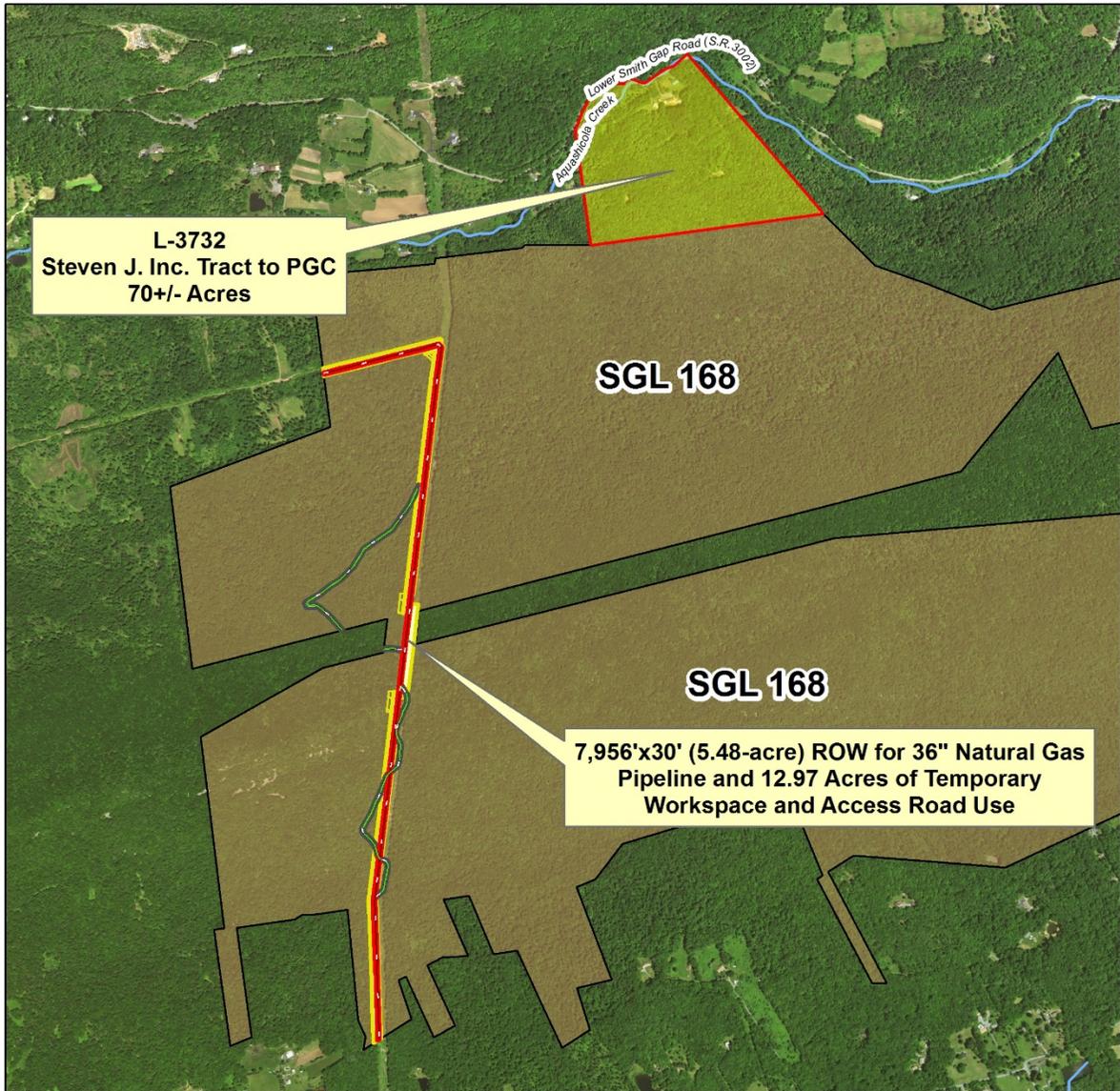
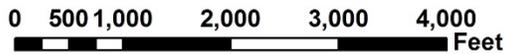


Exhibit RED 3

State Game Land No. 168

L-3732
 Steven J. Inc. Tract to PGC
 70+- Acres
 License to PennEast Pipeline Company, LLC
 ROW License/Land Exchange

Eldred and Moore Townships
 Monroe and Northampton Counties
 Southeast Region



OIL/GAS & MINERALS

D. Non-Surface Use Oil and Gas Cooperative Agreement Tract 268A-18, State Game Land No. 268, Tioga County

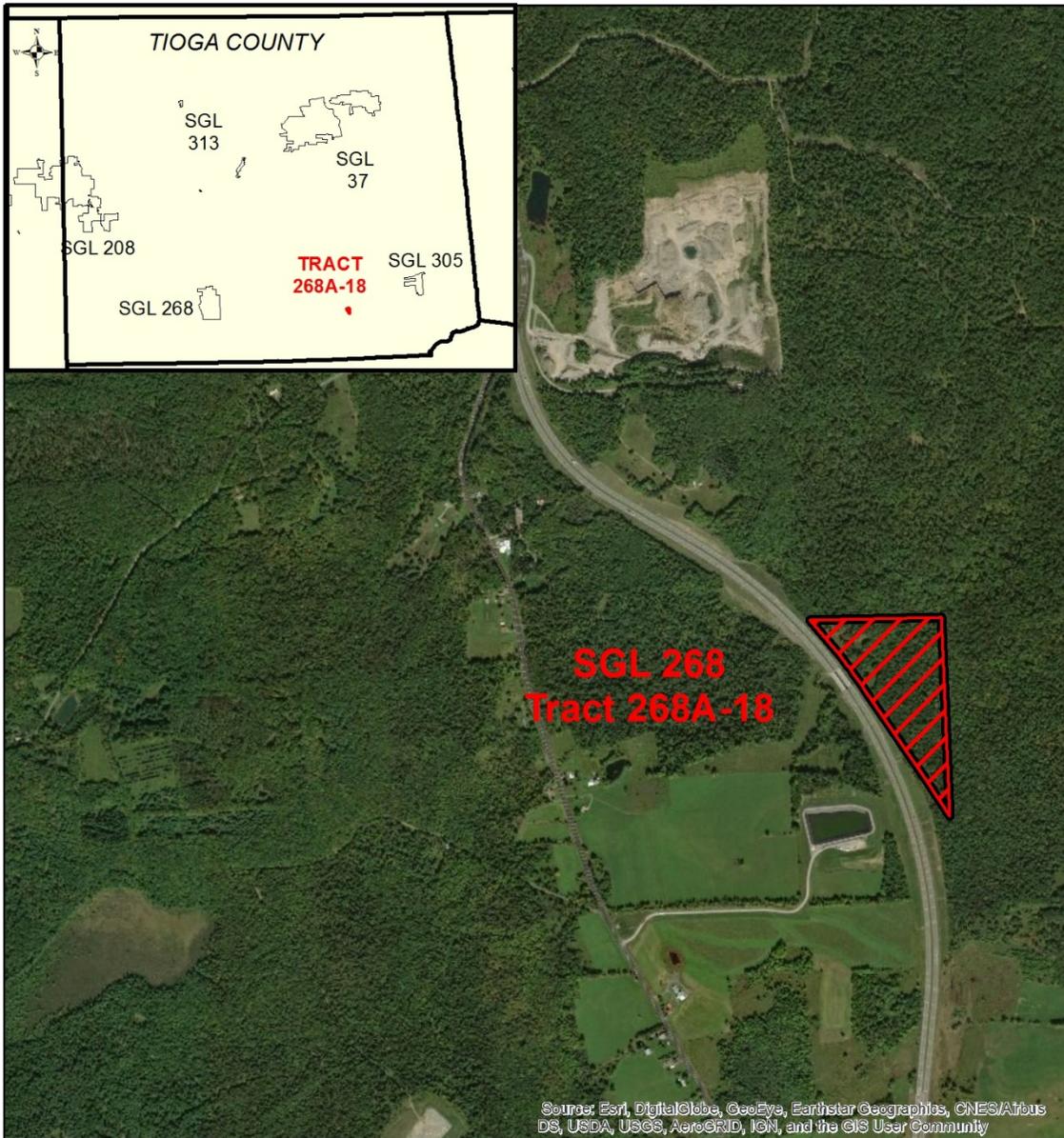
Commentary: Repsol Oil and Gas USA, LLC, (Repsol) requested the Commission offer it's oil and gas rights under a portion of State Game Land No. 268 for Non-Surface Use Development. The proposed tract, containing approximately 25.65 acres is located in Liberty Township, Tioga County (Exhibit OGM 1).

Repsol has a strong privately owned Oil and Gas lease position surrounding this detached portion of State Game Land No. 268, has initiated unconventional well drilling and development in the vicinity of the proposed tract, and 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. The Commission has negotiated the proposed terms of the agreement with Repsol in an effort to prudently develop the Commission's Oil and Gas reserves and simultaneously protect the wildlife resources and recreational use of State Game Land No. 268.

The terms of the Agreement are a five-year paid up non-surface use oil and gas agreement, a \$2,000 per net oil and gas acre bonus payment and 18.0% royalty for all oil/gas and other liquids or condensates produced and sold from the proposed tract. The Agreement limits development to the unconventional shale formations above the Onondaga limestone. The bonus payment of approximately \$51,300 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:



Legend

-  Non-Surface Use Agreement Area
25.65 +/- Acres
-  State Game Land No. 268



EXHIBIT OGM 1
State Game Land No. 268
Non-Surface Use
Oil & Gas Cooperative Agreement
Repsol
Tract 268A-18
25.65 +/- Surface Acres
 Liberty Township,
 Tioga County, Northcentral Region

OTHER NEW BUSINESS

Next Working Group Meeting – August 27, 2018

Next Commission Meeting – September 24 - 25, 2018

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

Adjournment

DRAFT