

**COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA GAME COMMISSION**



**AGENDA
HARRISBURG, PENNSYLVANIA
July 25, 2020**

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 Saturday, July 25, 2020, at 2001 Elmerton Ave., Harrisburg, PA 17110 beginning at 8:30 a.m.

Call to Order

Pledge of Allegiance

Roll Call of Commissioners

Charlie E. Fox, President
Stanley I. Knick, Jr., Vice President
Michael F. Mitrick, Secretary
Scott H. Foradora
Dennis R. Fredericks
Brian H. Hoover
Timothy S. Layton
Kristen Schnepf-Giger

Approval of Minutes of Commission Meeting held April 7, 2020.

BUREAU OF WILDLIFE MANAGEMENT

PROPOSED RULE MAKING

A. Amend 58 Pa. Code § 147.746.

Commentary:

The Commission is proposing to amend § 147.746 (relating to exceptions for resident Canada geese) to align state-level regulations with recent federal amendments to depredation orders. Depredation orders for resident Canada geese were established in federal and state regulations in 2006 and have been successful in providing affected individuals and businesses with methods to reduce goose-related damage and conflicts, especially in situations where recreational hunting is impractical or insufficient for population control. Based on a recent review of the existing depredation orders which found the time frames for certain control activities to be overly restrictive, the U.S. Fish and Wildlife Service has amended depredation order regulations to allow nest and egg control to occur at any time of year, and to expand the previous May-August time period for take under the agricultural depredation order to also include the month of April in the Atlantic Flyway. Incorporating these federal changes into state regulations is not expected to result in a large increase in take of Canada geese and will have little to no impact on overall goose populations. However, individual landowners, property managers, and agricultural producers will benefit from additional flexibility to address localized instances of negative impacts from this species.

CHAPTER 147. SPECIAL PERMITS

Subchapter U. DEPREDATION

§ 147.746. Exceptions for resident Canada geese.

(a) *Egg addling and nest destruction.* Private landowners and managers of public lands and their employees or agents may destroy the nests and eggs of resident Canada geese on lands under their jurisdiction when necessary to resolve or prevent injury to people or damage to property or agricultural crops [~~between March 1 and June 30~~] without the need for a joint state/Federal permit when the following conditions have been met:

(1) Private landowners or managers of public land have registered with the United States Fish and Wildlife Service at [~~www.fws.gov/permits/mbpermits/gooseegg-registration.html~~] <https://epermits.fws.gov/eRCCR/geSI.aspx>. Each person who will be conducting the activity shall be registered at this site prior to implementing control activities.

(i) Eggs may be addled by shaking, freezing with CO₂ or oiling. If addled by oil, only 100% corn oil may be [~~use~~] used.

(ii) Nests and eggs may be disposed of by burying or burning.

(2) Persons exercising privileges authorized by this subchapter shall file a report with the United States Fish and Wildlife Service at [~~www.fws.gov/permits/mibpermits/gooseeggregistration.html~~] <https://epermits.fws.gov/eRCGR/geSI.aspx> no later than October 31 of each year. Failure to file a report may result in the denial of permission to addle the eggs or destroy the nests of resident Canada geese in subsequent years.

(3) It shall be unlawful to interfere with the nest or eggs of resident Canada geese without first registering with the United States Fish and Wildlife Service as required by this subchapter.

(b) *Agricultural facilities.*

(1) *Commercial agricultural production.* Persons actively engaged in commercial agriculture production may apply for a State-issued resident Canada goose depredation permit. This permit allows a commercial agricultural producer and its legitimate employees and agents to engage in the shooting or capture of resident Canada geese when necessary to prevent damage to agricultural crops and other interests by resident Canada geese. The permit will prescribe the method of taking and the number of resident Canada geese that may be taken. The permit will be valid from [~~May~~] April 1--August 31 of the year in which the permit was issued. The permittee shall file a written report on a form provided by the Commission, regarding the activities authorized by the permit no later than October 31 of the year in which the permit was issued. Failure to file the report as required may result in future applications being denied.

(2) *Application fee.* An application fee of \$50 in the form of check or money order shall be remitted to the Commission by the applicant at the time of application.

(c) *Airports and military airfields.*

* * * * *

Action:

BUREAU OF WILDLIFE PROTECTION

PROPOSED RULE MAKING

A. Amend 58 Pa. Code §§ 141.43 and 141.44

Commentary:

Current regulations concerning deer and bear hunting require that, when a firearm is used, that it is centerfire firearm that propels single-projectile ammunition. Unlike elk regulations, the deer and bear hunting regulations do not establish any minimum caliber or projectile weight requirements. There are several centerfire cartridges which are clearly designed for small game, varmint and predator hunting. The Commission has determined that these calibers cannot be used to ethically harvest deer and bear. The list includes, but is not limited to, .17 Hornet, .17 Remington, .17 Remington Fireball, .22 Hornet and .204 Ruger. These centerfire rifle calibers are currently lawful but largely inadequate for deer and bear hunting. Beyond the calibers already mentioned, there are many .22 caliber centerfire cartridges which were designed for varmint or predator hunting, although some would argue they are adequate for deer hunting under the right circumstances. Considerations that would make a marginal cartridge minimally acceptable would be premium bullets, reloading, taking close shots that are at right angles and not quartering away, etc. The list includes, but is not limited to: .218 Bee, .220 Swift, .221 Fireball, .222 Remington, .223 Remington, .22-250 Remington, and 224 Weatherby.

A survey of the NE Chiefs regarding lawful calibers for big game in their states yielded the following information: New York: Deer or bear any centerfire rifle; Maine: Deer .22 Winchester magnum rimfire minimum / Bear: Any centerfire rifle or any shotgun shooting slugs; Nova Scotia: Deer or bear, .23 caliber or greater; Connecticut: Deer 6 mm or larger (.243) rifles are permitted; Virginia: Deer, elk and bear - centerfire rifles .23 cal or greater; Massachusetts: Deer - shotgun only NLT 10 gauge slugs or buckshot, Bear: .23 caliber or larger; Vermont: Deer / bear: No restriction; and Maryland: Deer / Rifle with 1200 ft lbs of energy at the muzzle. A review of lawful deer hunting calibers across the country and Canada revealed the following: 20 allow any centerfire; 7 require a minimum of .22 centerfire; 7 require a minimum of .24 centerfire; 5 allow shotguns only; 5 require a minimum of .23 centerfire; 5 require firearms generating a minimum of 900 to 1200 ft. pounds of energy; 1 requires minimum of .25 rimfire; and 1 requires a minimum of .22 magnum rimfire.

As the wildlife management agency for the Commonwealth, the Commission has determined that we should do more to encourage humane harvests with sporting arms that are appropriate for the game being hunted. This will reduce the occurrence of lost / injured game animals. The Commission is proposing to amend §§ 141.43 and 141.44 to require that firearms used to hunt deer and bear be .24 caliber or greater.

CHAPTER 141. HUNTING AND TRAPPING

Subchapter C. BIG GAME

§ 141.43. Deer.

(a) *Archery deer season.*

(1) *Permitted devices.* It is lawful to hunt deer...

* * * * *

(d) *Regular and special firearms deer seasons.*

(1) *Permitted devices.* It is lawful to hunt deer during the regular and special firearms deer seasons with any of the following devices:

(i) A manually operated, centerfire rifle or handgun. The firearm must be a .24 caliber or larger firearm that propels single-projectile ammunition.

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

* * * * *

§ 141.44. Bear.

(a) *Archery bear season.*

(1) *Permitted devices.* It is lawful to hunt bear...

* * * * *

(c) *Regular and extended firearms bear seasons.*

(1) *Permitted devices.* It is lawful to hunt bear during the regular and extended firearms bear seasons with any of the following devices:

(i) A manually operated, centerfire rifle or handgun. The firearm must be a .24 caliber or larger firearm that propels single-projectile ammunition.

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

* * * * *

Action:

BUREAU OF WILDLIFE HABITAT MANAGEMENT

ADOPTED RULE MAKING

A. Amend 58 Pa. Code §§ 131.2, 135.2 and 135.41.

Commentary: To effectively manage the wildlife resources of this Commonwealth, the Commission proposed at its January 25, 2020, meeting to amend §§ 131.2, 135.2 and 135.41 to define and allow use of Class I & Class II e-bikes on State game lands in the same manner as traditional bicycles. It is important to note that these amendments do not eliminate current statutory restrictions prohibiting the possession of loaded firearms in, on or against vehicles propelled by mechanical power under section 2503 of the act.

Action:

ANNEX “A”

CHAPTER 131. PRELIMINARY PROVISIONS

§ 131.2. Definitions.

In addition to the definitions contained in section 102 of the act (relating to definitions), the following words and terms, when used in this part or in the act, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Broadhead-A fixed or mechanical tip affixed to the fore end of an arrow or bolt having sharpened cutting edges consisting of metal or naturally occurring stone.

Class I electric bicycle—A two-wheeled bicycle equipped with fully operable pedals and an electric motor of 750 watts (1 horsepower) or less that provides assistance only when the rider is actively pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour. This term does not include any device that is equipped with a throttle or that provides any degree of assistance from an electric motor when the rider is not actively pedaling.

Closed season-Periods of the calendar year and hours during which it is unlawful to take game or wildlife.

* * * * *

CHAPTER 135. LANDS AND BUILDINGS

Subchapter A. GENERAL PROVISIONS

§ 135.2. Unlawful actions.

In addition to the prohibitions in the act on lands, waters or buildings under Commission ownership, lease, agreement, control or jurisdiction, it is unlawful, except with the permission of the person in charge of the lands, or the written permission of the Director to:

- (1) Camp or use campsites.
- (2) Plant, gather, cut, dig, remove or otherwise injure plants or parts thereof, including trees, shrubs, vines, flowering plants, cultivated crops, mushrooms and fruits of berry-producing plants.
- (3) Travel on lands by means of vehicle or conveyance propelled by motorized power. This provision is not intended to restrict travel by Class I or Class II electric bicycles and

certain devices used for persons with mobility disabilities as specifically authorized under Subchapter C (relating to State game lands).

* * * * *

Subchapter C. STATE GAME LANDS

§ 135.41. State game lands.

* * * * *

(c) Additional prohibitions. In addition to the prohibitions contained in the act pertaining to State game lands and § 135.2, except with the written permission of the Director, it is unlawful to:

- (1) Contaminate, pollute or degrade groundwaters or surface waters or any waterways.
- (2) Graze or permit the grazing of livestock, place or maintain beehives or beekeeping apparatus.
- (3) Solicit, or place advertisements, signs, or posters.
- (4) Ride a nonmotorized vehicle, conveyance, Class I or Class II electric bicycle or animal, except on roads normally open to public travel, or designated routes as posted, or while lawfully engaged in hunting, trapping or fishing.
- (5) Ride a nonmotorized vehicle, conveyance, Class I or Class II electric bicycle or animal from the last Saturday in September until the third Saturday in January, and before 1 p.m. from the second Saturday in April through the last Saturday in May inclusive, except on Sundays or while lawfully engaged in hunting, trapping or fishing.
- (6) Ride a nonmotorized vehicle, conveyance, Class I or Class II electric bicycle or animal on roads open to foot travel only.

* * * * *

B. Amend 58 Pa. Code § 135.41.

Commentary: To effectively manage the wildlife resources of this Commonwealth, the Commission proposed at its April 7, 2020 meeting to amend § 135.41 (relating to State game lands) to eliminate the Sunday exemption from the fluorescent orange wearing requirement.

Action:

CHAPTER 135. LANDS AND BUILDINGS

Subchapter C. STATE GAME LANDS

§ 135.41. State game lands.

* * * * *

(c) *Additional prohibitions.* In addition to the prohibitions contained in the act pertaining to State game lands and § 135.2, except with the written permission of the Director, it is unlawful to:

* * * * *

(21) Be present on State game lands from November 15 through December 15 inclusive when not engaged in lawful hunting or trapping and fail to wear a minimum of 250 square inches of daylight fluorescent orange-colored material on the head, chest and back combined or, in lieu thereof, a hat of the same colored material. The material shall be worn so it is visible in a 360° arc. Persons using shooting ranges are exempted from this requirement.

* * * * *

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REAL ESTATE

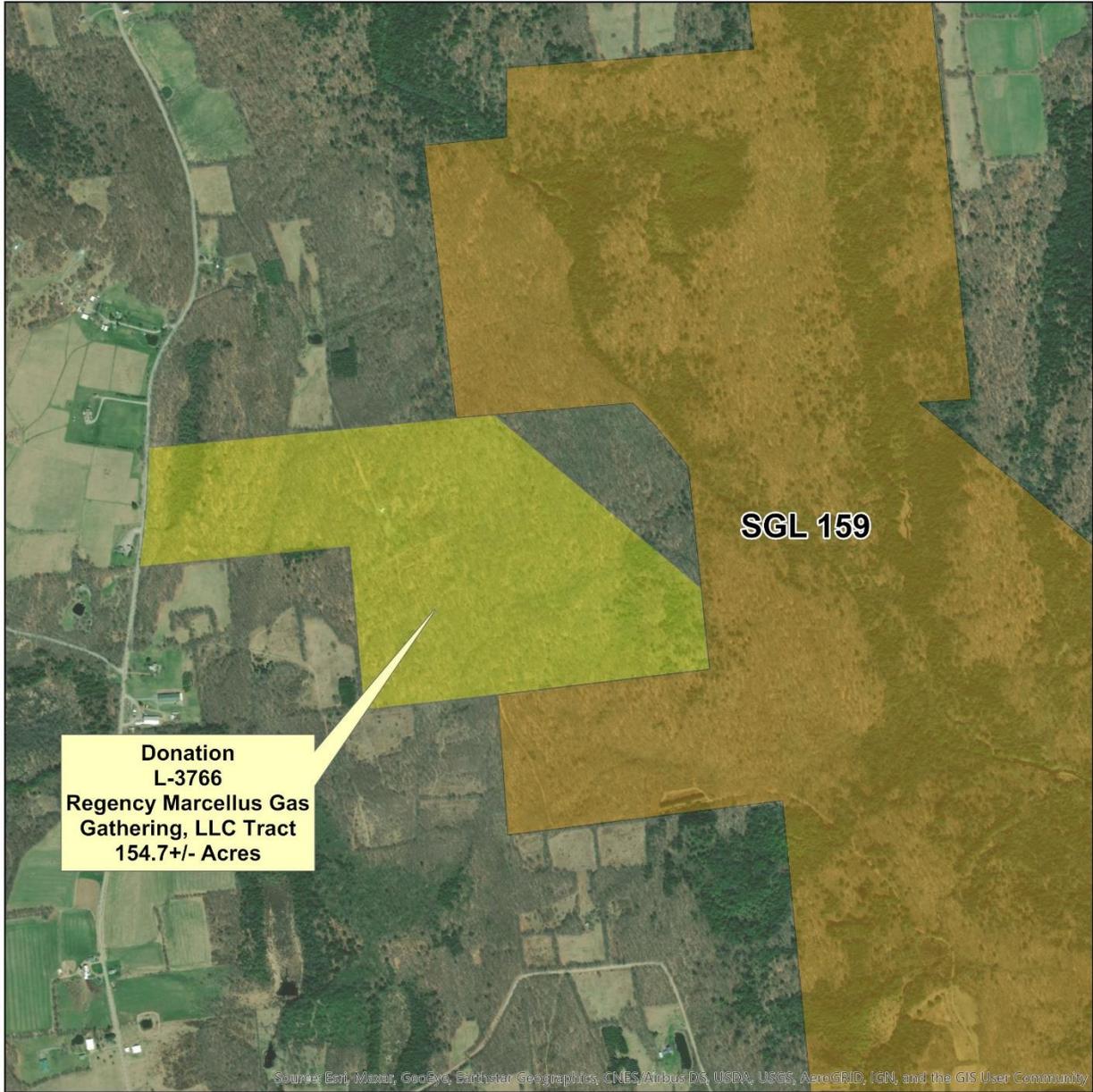
A. Donation

Contract No. L-3766, State Game Land No. 159, Wayne County

Commentary:

Regency Marcellus Gas Gathering, LLC (Regency) is offering to donate 154.7+/- acres of land in Mount Pleasant Township, Wayne County, an indenture into State Game Land No. 159 (Exhibit RED 1). Regency offered to donate the land as replacement habitat to mitigate for lost wildlife resources and recreational values associated with construction and maintenance activities associated with the issuance of Licenses for Right-of-Way for natural gas pipelines and appurtenances on State Game Lands No.12 in Sullivan and Bradford Counties. Access is from Creamton Drive.

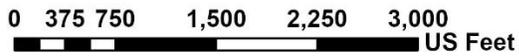
Action:



**Exhibit RED 1
State Game Land No. 159**

**Donation
L-3766
Regency Marcellus Gas Gathering, LLC Tract
154.7+/- Acres**

**Mount Pleasant Township
Wayne County
Northeast Region**



Contract No. L-3767, State Game Land No. 236, Susquehanna County

Commentary: The Conservation Fund is offering to donate 35+/- acres of land in Ararat Township, Susquehanna County, an indenture into State Game Land No. 236 (Exhibit RED 2). The Conservation Fund acting as a conservation agent is acquiring the property with funding provided by Williams Companies for voluntary mitigation as a result of impacts associated with the Constitution Pipeline project located in Susquehanna County. Access is from Ridge Road.

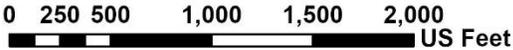
Action:



Exhibit RED 2
State Game Land No. 236

Donation
L-3767
The Conservation Fund Tract
35+/- Acres

Ararat Township
Susquehanna County
Northeast Region



Contract No. L-3768, State Game Land No. 315, Berks County

Commentary: The Last Will and Testament of Dwight K. Gehman bequest real estate consisting of 13.52+/- acres of land located in Pike Township, Berks County. The property is located approximately one mile south of one of four separate parcels that comprise State Game Land No. 315 (Exhibit RED 3). Access is from Keim Road.

Action:

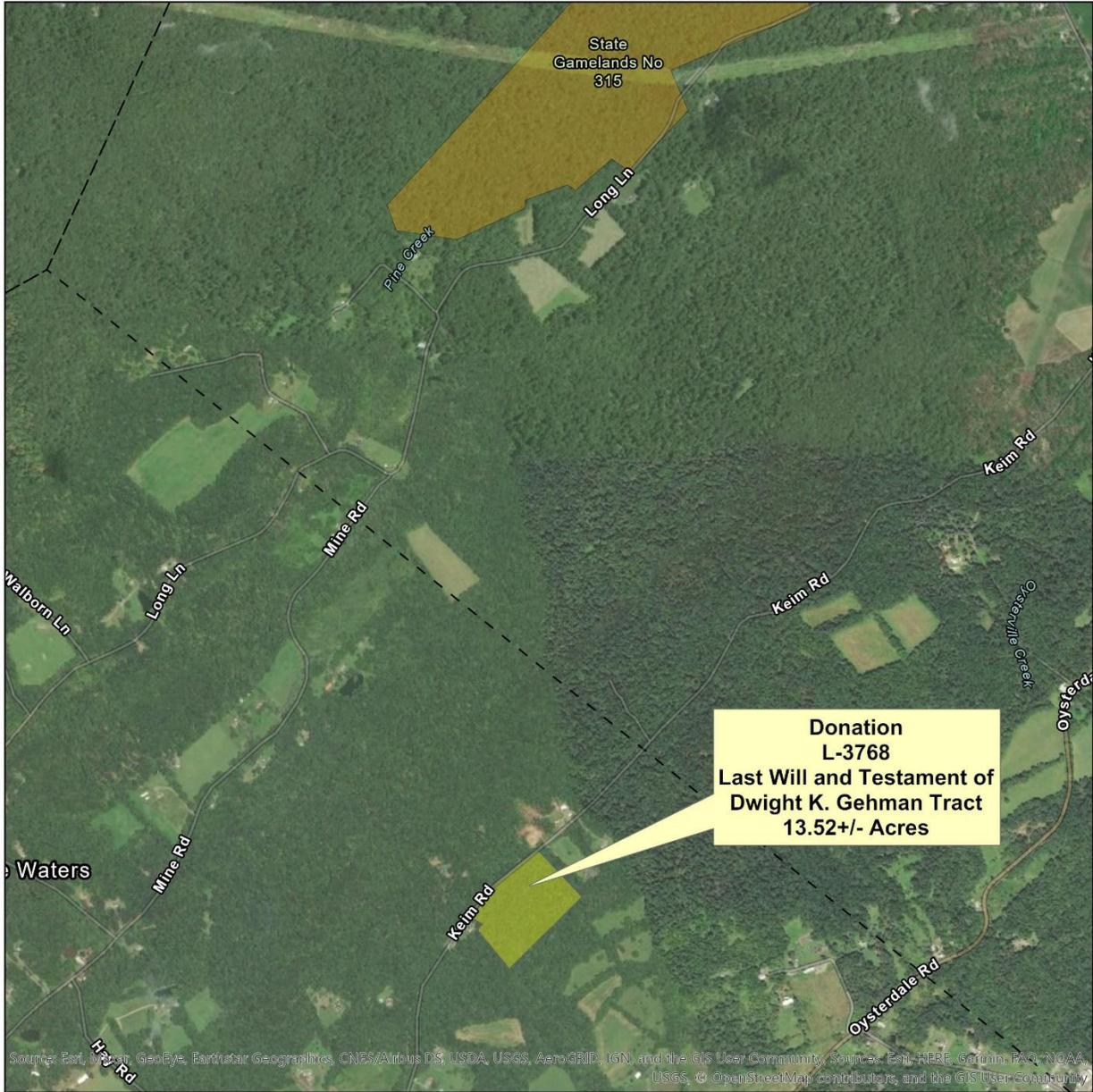


Exhibit RED 3
State Game Land No. 315

Donation
L-3768
Last Will and Testament of
Dwight K. Gehman Tract
13.52+/- Acres

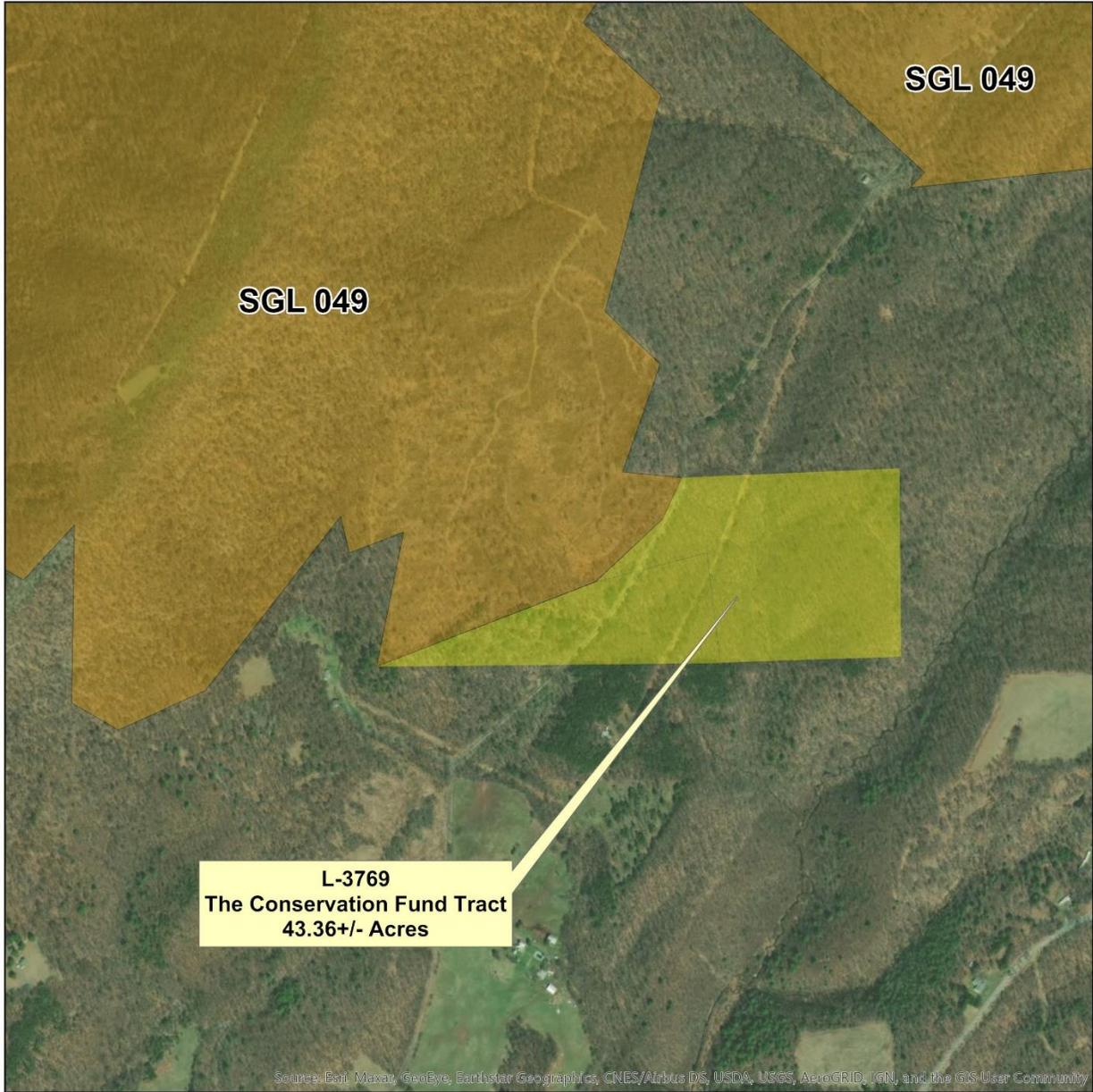
Pike Township
Berks County
Southeast Region

B. Acquisition

Contract No. L-3769, State Game Land No. 49, Fulton County

Commentary: The Conservation Fund is offering 43.36+/- acres of land in Union Township, Fulton County, adjoining State Game Land No. 49 (Exhibit RED 4). The option price is \$400.00 per acre to be paid with funds from the Game Fund. Access is from T-310.

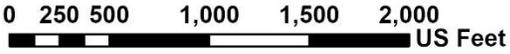
Action:



**Exhibit RED 4
State Game Land No. 49**

**L-3769
The Conservation Fund Tract
43.36+/- Acres**

**Union Township
Fulton County
Southcentral Region**



Contract No. L-3770, State Game Land No. 211, Dauphin County

Commentary: Central Pennsylvania Conservancy, Inc. is offering 231+/- acres of land in Middle Paxton Township, Dauphin County, adjoining State Game Land No. 211 (Exhibit RED 5). The option price is \$400.00 per acre to be paid with funds from the Game Fund. Access is from existing State Game Land No. 211.

Action:



**Exhibit RED 5
State Game Land No. 211**

**L-3770
Central Pennsylvania Conservancy, Inc. Tract
231+/- Acres**

**Middle Paxton Township
Dauphin County
Southeast Region**



**0 500 1,000 2,000 3,000 4,000
US Feet**

OIL/GAS & MINERALS

F. Non-Surface Use Cooperative Agreement for Oil and Gas Production

Tract 134A-20, State Game Land No. 134, Lycoming County

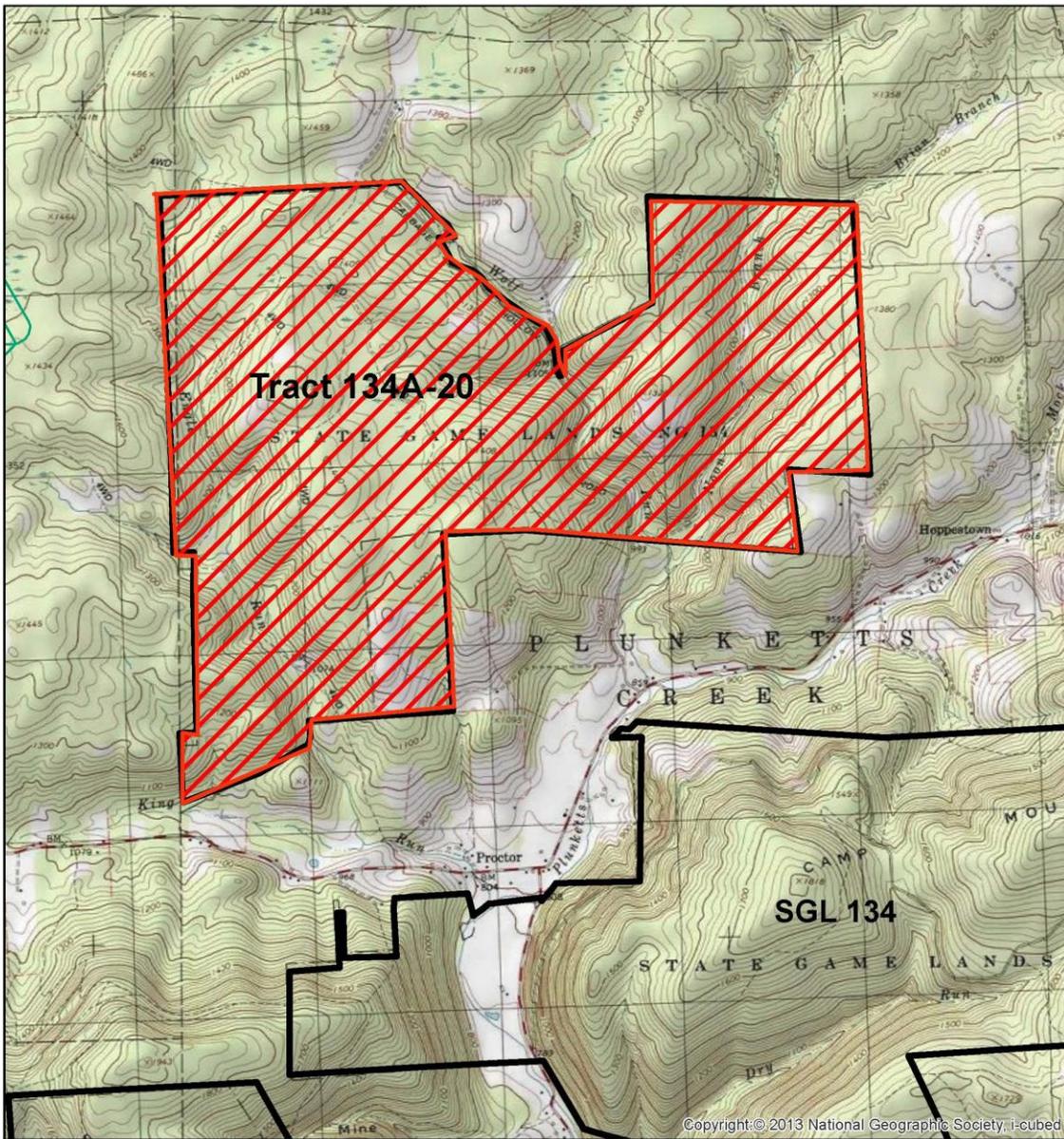
Commentary: Alta Marcellus Development, LLC (Alta), of Houston, Texas requests that the Commission offer its oil and gas ownership under a portion of State Game Land No. 134 for development under a Non-Surface Use Cooperative Agreement for Exercise of Production rights for Oil and Gas. The proposed Tract 134A-20, containing approximately 1,966 acres of Commission owned surface, is located in Plunketts Creek Township, Lycoming County (Exhibit OGM 1).

Alta has secured leases on private acreage to the north of the proposed Game Land tract and has the ability to develop the Commission's oil and gas reserves from the private holdings. OGM staff has negotiated with Alta to safeguard the prudent development of the Commission's oil and gas reserve and to simultaneously protect and minimize the impacts to the wildlife resources and recreational use of State Game Land No. 134. There will be no surface use of the game land under this agreement.

In exchange for the Non-Surface Use Oil and Gas Production Cooperative Agreement, Alta will pay the Commission a bonus of \$2,000 per net mineral acre for a five year paid up primary term agreement and a royalty rate of 18% per thousand cubic feet (mcf) for all oil, gas and liquid hydrocarbons produced and sold from the areas in which the Commission owns the oil and gas rights. The bonus payment of \$3,932,500 will be due within 60 days of the execution of the agreement and deposited into the Game Fund.

Alta's Oil and Gas Development under this Agreement will be regulated by the Commonwealth's Oil and Gas Regulations and the Commission's Requirements for Protection and Conservation of State Game Lands with Respect to Oil, Gas, and Liquid Hydrocarbon Production.

Action:



Legend

-  Non-Surface Use Agreement Area
1,966.25 +/- Surface Acres
(net 1,966.25 +/- Oil/Gas Acres)
-  State Game Land No. 134



EXHIBIT OGM 1
State Game Land No. 134
Non-Surface Use
Oil & Gas Cooperative Agreement
Alta Marcellus Development, LLC
Tract 134A-20
1,966.25 +/- Oil/Gas Acres
 Plunketts Creek Twp., Lycoming County
 Northcentral Region

OTHER NEW BUSINESS

Next Commission Meeting – September 25-26, 2020 in Harrisburg, PA

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

Adjournment