

COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA GAME COMMISSION

AGENDA

HARRISBURG, PENNSYLVANIA  
October 2, 2007



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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 2, 2007, at 2001 Elmerton Avenue, Harrisburg, Pennsylvania beginning at 8:30 a.m.

Call to Order

Pledge of Allegiance

Roll Call of Commissioners

Thomas E. Boop, President  
Roxane S. Palone, Vice President  
Gregory J. Isabella, Secretary  
Russell E. Schleiden  
David W. Schreffler  
H. Daniel Hill  
Jay Delaney, Jr.

Approval of Minutes of Meeting held June 26, 2007

Proposed Change to 2008 Commission Meeting Date:

January 20, 21 and 22, change to January 27, 28 and 29, 2008  
(Commonwealth closes for Martin Luther King, Jr. Day)

**BUREAU OF WILDLIFE PROTECTION**

**ADOPTED RULE MAKING**

A. Adoption of proposed amendment to §133.41.

Commentary: To effectively manage the wildlife resources of this Commonwealth, the Game Commission, at its June 26, 2007 meeting, proposed the following change:

Amend §133.41 (relating to classification of mammals) to update Pennsylvania's list of native endangered and threatened species with current recommendations provided by scientific technical committees of the Pennsylvania Biological Survey.

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 133. WILDLIFE CLASSIFICATION

Subchapter C. MAMMALS

§133.41. Classification of mammals.

The following mammals are classified:

(1) Endangered.

\* \* \* \* \*

(iv) Northern flying squirrel  
(*Glaucomys sabrinus macrotis*)

\* \* \* \* \*

## PROPOSED RULE MAKING

### B. Amend 58 Pa. Code, §137.1.

Commentary: Currently, §137.1 requires a person importing lawfully acquired wildlife, or parts thereof, for menagerie, educational or scientific purposes to obtain an importation permit, but does not require an importation permit for exotic wildlife dealer or exotic wildlife possession permit holders. In an effort to create consistency in the regulations and increase the Commission's capabilities to address wildlife epidemiological concerns, the Commission is proposing to amend §137.1 (relating to importation, sale and release of certain wildlife) to specifically require propagation, exotic wildlife dealer and exotic wildlife possession permit holders to acquire an importation permit prior to importing any wildlife into this Commonwealth. The Commission is also proposing to amend §137.1 to prohibit the importation, possession, sale and release of all non-human primates and the Conure-Nanday, sometimes referred to as the Black-hooded Parakeet, in response to human health/safety and wildlife habitat health purposes.

## CHAPTER 137. WILDLIFE

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

(a) Unless otherwise provided in this section or the act, it is unlawful for a person to import, possess, sell, offer for sale or release within this Commonwealth the following wild animals or wild birds or the eggs of the birds or a crossbreed or hybrid of the wild animals or wild birds, which are similar in appearance:

(1) In the *family Felidae*. Species and subspecies, except species which are commonly called house cats which may be possessed but not released into the wild. Lawfully acquired bobcats – *Lynx rufus* – may be imported and/or possessed by licensed propagators specifically for propagation for fur farming purposes. Importation permits and transfer permits as mentioned in subsections (d) and (e) are not required for bobcats imported for propagation for fur farming purposes. Bobcats imported under this exception and their progeny may not be sold or transferred for wildlife pet purposes or released into the wild.

(2) In the *family Canidae*. Species and subspecies of the coyote, the red and gray fox and a full-blooded wolf or crossbreed thereof not licensed by the Department of Agriculture. Lawfully acquired coyotes and red or gray foxes may be imported and/or possessed by licensed propagators specifically for propagation for fur farming purposes. Coyotes and red and gray foxes imported under this exception and their progeny may not be sold or transferred for wildlife pet purposes or released into the wild. This subsection does not permit the sale for release or the release of the mammals into the wild.

\* \* \* \* \*

(7) ~~[Threatened, endangered or injurious. An animal, bird or egg of a bird listed by the Commonwealth or the United States Department of the Interior as threatened, endangered or injurious.]~~ The order Primates. All families of non-human primates.

(8) ~~[The Monk Parakeet. *Myiopsitts Monachus*, sometimes referred to as the Quaker Parakeet or Gray-headed Parakeet.]~~ Threatened, endangered or injurious. An animal, bird or egg of a bird listed by the Commonwealth or the United States Department of the Interior as threatened, endangered or injurious.

(9) ~~[Game or wildlife taken alive from the wild, except the Commission may import wildlife taken from the wild for enhancement of the Commonwealth's wild fauna.]~~ In the family *Psittacidae*. The Monk Parakeet, *Myiopsitts monachus*, sometimes referred to as the Quaker Parakeet or Gray-headed Parakeet, and the Conure-Nanday, *Nandayus nenday*, sometimes referred to as the Black-hooded Parakeet.

(10) ~~[Game or wildlife held in captivity or captive bred in another state or nation.]~~ Game or wildlife taken alive from the wild, except the Commission may import wildlife taken from the wild for enhancement of the Commonwealth's wild fauna.

(11) Game or wildlife held in captivity or captive bred in another state or nation.

\* \* \* \* \*

(c) Nothing in this section prevents zoological gardens~~[, exotic wildlife dealers or exotic wildlife possession permit holders]~~ from importing wildlife.

(d) A person wishing to import lawfully acquired wildlife, or parts thereof, ~~[for menagerie, educational or scientific purposes]~~ shall first obtain an importation permit from the Commission subject to the following:

\* \* \* \* \*

(2) A person wishing to import wildlife for a menagerie, exotic wildlife possession, exotic wildlife dealer or propagation purposes shall be in possession of a menagerie, exotic wildlife possession, exotic wildlife dealer or propagation permit prior to submitting the application for an import permit. See Chapter 147 (relating to special permits.)

\* \* \* \* \*

Recommendation: The Executive Director and staff recommend the Commission approve these changes.

Action:

C. Amend 58 Pa. Code, §141.20.

Commentary:

Various hunters and sporting organizations have called for the Commission to review and/or reconsider the current regulatory mandate that turkey hunters wear at least 100 square inches of solid fluorescent orange-colored material on the head while moving about or relocating during the spring turkey season. Safety of hunters afield is without a doubt one of the paramount concerns of the Commission, especially as it relates to hunters shooting other hunters in mistake for game. Notwithstanding anecdotal indications that the protective material requirement does in fact prevent some accidents, the available statistical data relating to HRSI's during the spring turkey season is indeed devoid of clear evidence that the protective material requirement has made any appreciable reduction in the occurrence of HRSI's. After thorough discussion and review, the Commission has determined that it is prepared to eliminate the protective material requirement for the spring turkey season, however, it will remain attentive to the effect such removal has on the occurrence of HRSI's. Therefore, the Commission is proposing to amend §141.20 (relating to protective material required) to eliminate the protective material requirement for the spring turkey season. Despite the removal of this requirement, the Commission recommends that hunters consider continuing to wear orange.

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:

\* \* \* \* \*

(x) Turkey during the spring turkey season.

\* \* \* \* \*

(3) Move about or relocate while wearing a hat containing a minimum of 100 square inches of a solid daylight fluorescent orange-colored material on the head only and be stationary without wearing the required orange-colored material when hunting for:

(i) [~~Turkey during the spring turkey season.~~

~~(ii)~~ Turkey during the fall turkey season in wildlife management units 1A, 1B, 2A, 2B, 5B, 5C and 5D.

~~[(iii)]~~ (ii) \* \* \*

~~[(iv)]~~ (iii) \* \* \*

Recommendation: The Executive Director and staff recommend the Commission approve this change.

Action:

D. Amend 58 Pa. Code, §143.12.

Commentary: The Pennsylvania Game Commission's hunter education program has grown in recent years to include not only the basic Hunter-Trapper Education curriculum for all first-time license buyers, but also a mandatory Remedial Hunter Education training program and a Cable Restraint Certification curriculum required for certain trapping activities. A voluntary advanced training program, titled Successful Bowhunting was developed to improve bowhunters knowledge, skills and abilities. Future curriculum expansion is envisioned with additional species-specific and discipline-specific advanced training programs.

With this growth, many agency staff and volunteer instructors have benefited from these training programs, resulting in an improvement in their knowledge and skills. This regulation formalizes the ability for the agency to waive course registration fees associated with certain hunter education training programs, thereby allowing staff and volunteer instructors to participate in these and future training programs without being charged a fee. This waiver would be further defined by formal, written hunter education policy and would be subject to review and approval by the Director.

## CHAPTER 143. HUNTING AND FURTKER LICENSES

### Subchapter A. GENERAL

§143.12. ~~[Fee for replacement hunter education training certificate.]~~ Hunter education training.

~~[A \$10 fee shall be remitted by any person requesting a replacement Hunter Education Training Certificate.]~~

(a) Course registration fees. Upon application for enrollment in each fee-based hunter education course, a student must remit the associated, non-refundable course registration fee in the form of cash, credit card, check or money order. Checks or money orders shall be made payable to the "Pennsylvania Game Commission."

(b) Training certificate. The Commission shall issue an appropriate certificate of training to each student who successfully completes an approved hunter education course. The Commission shall issue a replacement hunter education training certificate to any person who provides sufficient affirmation or evidence of their successful completion of that course of instruction. A \$10 fee shall be remitted by any person requesting a replacement hunter education training certificate.

(c) Waiver. The Director may waive any course registration fee required by this section when such waiver is determined to be consistent with the Commission's hunter education training program or the intent of the act.

Recommendation: The Executive Director and staff recommend the Commission approve this change.

Action:

E. Amend 58 Pa. Code, Chapter 147, Subchapter P.

Commentary: The Commission has been working in consultation with the Wildlife Rehabilitation Council to update and amend the wildlife rehabilitation regulations to redress concerns the Commission and Council share respecting current deficiencies. Some notable changes in the proposal include the creation of new rehabilitation facility caging and sanitation requirements for all wildlife, new special requirements for the rehabilitation of rabies vector species and new application, qualification and testing standards for permit applicants. Therefore, the Commission is proposing to amend §§147.301-147.307, §147.309 and §147.311 to update and correct regulatory deficiencies in these provisions.

## CHAPTER 147. SPECIAL PERMITS

### Subchapter P. WILDLIFE REHABILITATION

Sec.

\* \* \*

147.306. Endangered ~~[or]~~ , threatened or rabies vector species certification.

\* \* \*

§147.301. Definitions.

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

\* \* \* \* \*

Rabies vector species (RVS) – Any wildlife species determined by the Pennsylvania Department of Health to pose a high risk of susceptibility to carrying and transmitting rabies, including, but not limited to, raccoons, skunks, foxes, bats, coyotes and groundhogs.

\* \* \* \* \*

§147.302. General.

\* \* \* \* \*

(f) Nonreleasable wildlife, which visibly appears to be in good condition, may be held by authority of an educational use of rehabilitation wildlife permit or transferred to a zoological park or garden which is open to the public or to the holder of a wildlife menagerie permit. Raptor may additionally be transferred to holders of falconry or raptor propagation permits. A wildlife transfer permit, available from the Bureau of [~~Law Enforcement~~] Wildlife Protection, shall be obtained for each specimen prior to any transaction.

(g) Nonreleasable wildlife may be held, with the approval of the Bureau of [~~Law Enforcement~~] Wildlife Protection, for cross-fostering purposes.

\* \* \* \* \*

(i) Wildlife may be transferred to or from properly permitted facilities outside of this Commonwealth only upon issuance of a wildlife importation or exportation permit by the Bureau of [~~Law Enforcement~~] Wildlife Protection.

\* \* \* \* \*

(l) A wildlife rehabilitation facility and its records shall be available for inspection by an officer of the Commission [~~at any reasonable hour~~] during normal business hours. These officers may remove wildlife from the custody of the permittee if it is deemed necessary for the welfare of the wildlife. During an inspection, members of the Council may accompany these officers to act in an advisory capacity.

(1) Facility cages. Cages shall be large enough to provide for the health and comfort of the wildlife and strong enough to contain the wildlife while protecting the animals from injury from other specimens being held.

(2) Sanitation. Wildlife being held under this subchapter must be kept in a sanitary manner per the standards established for wildlife menageries in §147.283(a) through (f).

(3) Rabies vector species. Rabies vector species must be housed under sanitary conditions and in a manner that prevents escape and exposure to people, pets, livestock, other wildlife at the facility and free ranging wildlife. Outside caging for rabies vector species requires physical barriers around cage such as double wiring, a solid wall barrier or other types of protective fencing. Except for treatment, maintenance or release, RVS may not be removed from their cages.

\* \* \* \* \*

§147.303. Permit applications.

\* \* \* \* \*

(b) Each application shall include the following:

\* \* \* \* \*

(8) ~~[The]~~ A letter from a sponsoring wildlife rehabilitator. The letter shall include the name, address and permit number of the sponsoring wildlife rehabilitator. (Capture and transportation and novice wildlife rehabilitation permits only).

(9) ~~[The]~~ A letter from a sponsoring veterinarian. The letter shall include the name and address of the veterinarian who will be assisting and advising the applicant (required for wildlife rehabilitation permit only).

(10) Any wildlife rehabilitator whose permit lapses for 2 or more years shall make application as a new applicant.

(11) Any wildlife rehabilitator whose permit was recalled shall wait 2 years prior to reapplying and shall be required to retest.

§147.304. Wildlife rehabilitation permits.

(a) Wildlife rehabilitation permits. Wildlife rehabilitation permits will be limited as follows:

\* \* \* \* \*

(3) Exceptions will be recommended by the Council and approved by the Bureau of ~~[Law Enforcement]~~ Wildlife Protection.

(b) Novice class wildlife rehabilitation permits.

(1) Qualifications.

(i) The applicant shall successfully pass a written examination administered by the Bureau of ~~[Law Enforcement]~~ Wildlife Protection.

(ii) The applicant shall appear for and successfully pass an oral examination/interview which shall be conducted by members of the Council and the Bureau of Wildlife Protection. The applicant shall submit photographs or videotape with commentary of their facility for review.

(2) Permit conditions.

\* \* \* \* \*

(iii) Educational use of rehabilitation wildlife permits will not be issued to novice wildlife rehabilitators unless specifically recommended by the Council and approved by the Bureau of ~~[Law Enforcement]~~ Wildlife Protection.

\* \* \* \* \*

(vi) A novice wildlife rehabilitator shall only renew their permit for 1 permit year at a time.

(vii) A novice wildlife rehabilitator may only remain as a novice for a period not to exceed 4 years. After the 4th year is reached, the permit shall be voided and all game or wildlife held under that permit shall be removed and relocated to another licensed facility, unless otherwise directed by the Director.

(viii) A novice wildlife rehabilitator shall have outside conditioning or pre-release cages established before upgrade to a general class will be approved.

(ix) A novice wildlife rehabilitator request for upgrade to the class of general shall only be accepted during the month of April.

(c) General class wildlife rehabilitation permits.

(1) Qualifications.

(i) The applicant shall have actively rehabilitated wildlife for a minimum of 2 years as a novice wildlife rehabilitator or equivalent experience approved by the Council and the Bureau of ~~[Law Enforcement]~~ Wildlife Protection.

(ii) ~~[Submit photographs or videotape with commentary of the permittee's facility to the Bureau of Law Enforcement for review by the council.~~

~~(iii)~~ The applicant shall appear for and successfully pass an oral examination/interview which shall be conducted by members of the Council and the Bureau of Wildlife Protection. The applicant shall also submit photographs or videotape with commentary of their facility for review.

(2) Permit conditions.

\* \* \* \* \*

(ii) A permittee may accept endangered ~~[or]~~ , threatened ~~[wildlife]~~ or rabies vector species for rehabilitation following proper additional certification under §147. 306 (relating to endangered ~~[or]~~ , threatened or rabies vector species certification).

\* \* \* \* \*

(iv) A general class wildlife rehabilitator may appoint no more than ten responsible individuals to assist in providing food and housing for wildlife being rehabilitated, with the exception of endangered or threatened species. It shall be the permittee's responsibility to notify the Bureau of ~~[Law Enforcement]~~ Wildlife Protection in writing of the names, addresses and telephone numbers of the appointees and necessary changes as they occur.

(v) Additional capture and transportation permittees and assistants may be listed, only with the advance approval of the Council and the Bureau of ~~[Law Enforcement]~~ Wildlife Protection. A request shall be in writing with justification for an increase.

§147.305. Wildlife capture and transportation permits.

\* \* \* \* \*

(b) Qualifications are as follows:

\* \* \* \* \*

(2) The applicant shall successfully pass a ~~[written examination administered by the Bureau of Law Enforcement]~~ supervised written examination with a minimum score of 80%.

\* \* \* \* \*

§147.306. Endangered ~~[or]~~ , threatened or rabies vector species certification.

(a) A written request for the endangered ~~[or]~~ , threatened or rabies vector species certification examination shall be made to the Bureau of ~~[Law Enforcement]~~ Wildlife Protection.

\* \* \* \* \*

(c) Attend a certification workshop or seminar as established by council and the Bureau of ~~[Law Enforcement]~~ Wildlife Protection.

(d) Rabies vector species certified permittees must operate their facilities in accordance with the guidelines in the rabies vector species protocol established by the Council, Pennsylvania Game Commission and Pennsylvania Department of Health.

§147.307. Areas of service.

(a) The area serviced by wildlife rehabilitators will be restricted to the county or portion of a county in which facilities are established unless otherwise approved by the Bureau of [~~Law Enforcement~~] Wildlife Protection.

(b) Capture and transportation permittees will be restricted to the area serviced by their sponsoring permittee unless otherwise approved by the Bureau of [~~Law Enforcement~~] Wildlife Protection.

§147.309. Educational use of rehabilitation wildlife permits.

\* \* \* \* \*

(b) Permit applications shall be made in writing to the Bureau of [~~Law Enforcement~~] Wildlife Protection and shall include the following:

\* \* \* \* \*

(c) Permit applications will be approved by the Council and the Bureau of [~~Law Enforcement~~] Wildlife Protection.

(d) Permit conditions are as follows:

\* \* \* \* \*

(4) Rabies vector species held by a rabies vector certified rehabilitator may not be used for educational programs or exhibits.

(e) Records shall be maintained by the permittee and shall include the date, location and listing of wildlife used for each exhibit or program conducted. These records shall be retained for 2 years and be available for inspection by the wildlife conservation officer or other officers of the Commission at any reasonable hour. A copy of these records shall be made available to the Bureau of [~~Law Enforcement~~] Wildlife Protection upon request.

§147.311. Council.

The Director may appoint up to seven competent citizens of this Commonwealth to serve as members of the Council. Members of the Council shall serve as advisers to the Director on matters relating to wildlife rehabilitation and public education associated with this activity, assist the Bureau of [~~Law Enforcement~~] Wildlife Protection in devising tests to be administered under this subchapter and conduct other activities associated with wildlife rehabilitation as the Director may request. Members of the Council will not receive compensation for services rendered.

Recommendation: The Executive Director and staff recommend the Commission approve these changes.

Action:

F. Amend 58 Pa. Code, Chapter 147, by adding Subchapter V, §§147.761-147.765.

Commentary: On July 3, 2007, Governor Rendell signed into law House Bill 881, which in relevant part, amended section 2121 of the act (relating to killing game or wildlife to protect property) to authorize the Commission to permit other individuals to assist eligible landowners in the destruction of wildlife causing agricultural damage on their property. This bill became effective September 1, 2007 however, before the Commission can begin the issuance of any permits to authorize this activity, the Commission must define and create the regulatory structure to implement this new program. To that end, the Commission is proposing to create Subchapter V (relating to agricultural damage depredation permit) in Chapter 147 (relating to special permits) to define and create agricultural damage wildlife depredation permits.

## CHAPTER 147. SPECIAL PERMITS

### Subchapter V. AGRICULTURAL DAMAGE DEPREDAATION PERMIT

#### Sec.

147.761. Purpose and scope.

147.762. Application.

147.763. Permit.

147.764. Subpermittee.

147.765. Violations.

§147.761. Purpose and scope.

The purpose of this subchapter is to provide for depredation permits to be issued to qualified agricultural landowners to authorize them to secure the assistance of subpermittees, not otherwise individually qualified by section 2121 of the act (relating to killing game or wildlife to protect property) themselves, to destroy game or wildlife causing agricultural damage on lands owned, leased or otherwise controlled by the agricultural landowners.

§147.762. Application.

(a) Applications for depredation permits issued under this subchapter shall be made through the district wildlife conservation officer on the appropriate form provided by the Commission.

(b) Applications shall identify the name and contact information of the permit applicant, the names and contact information of the subpermittees, the specific location of the subject property owned, leased or otherwise controlled by the applicant, the species of game or wildlife causing damage, the specific nature and extent of the damage caused by the game or wildlife and any additional information the Commission may require.

(c) Applications will only be accepted from persons meeting the following criteria:

(1) Permit applicant meets the definition of a qualified "person," as defined in section 2121(c) of the act (relating to killing game or wildlife to protect property).

(2) Except in wildlife management units 5C and 5D, permit applicant is currently enrolled in one of the Commission public access programs (Farm Game or Safety Zone) for a minimum of 2 years.

(3) Permit applicant possesses a valid agriculture deer control permit if the species sought to be destroyed is white-tailed deer.

(d) Applications shall be accompanied by a copy of the deed, lease or other legal document evidencing the permit applicant to be the owner, lesser and/or the person in control of the lands to be permitted, including the hunting rights thereon.

§147.763. Permit.

A depredation permit issued under this subchapter authorizes the permittee to enlist the aid of a limited number of subpermittees for the purpose of destroying game or wildlife causing agricultural damage on lands owned, leased or otherwise controlled by the permittee. The maximum number of subpermittees listed shall not exceed two per permit, unless the district wildlife conservation officer recommends an increase due to warranted circumstances.

(1) Validity. A depredation permit issued under this subchapter is valid at any hour, day or night, but only for the duration of the current permit year. An annual report shall be submitted on forms supplied by the Commission by July 31 of each permit year.

§147.764. Subpermittees.

A depredation permit issued under this subchapter authorizes a limited number of subpermittees, selected by the permittee, to act on behalf of permittee by destroying game or wildlife causing agricultural damage on lands owned, leased or otherwise controlled by the permittee.

(1) Qualifications. Subpermittees shall be a resident of this Commonwealth, possess a valid resident hunting license or qualify for license and fee exemptions under section 2706 of the act (relating to resident license and fee exemptions) and have no prior record of Game Code violations or related license revocations within the previous 10 years.

(2) Eligibility. A subpermittee may destroy game or wildlife upon lands owned, leased or otherwise controlled by the permittee only when such game or wildlife is either actually engaged in the material destruction of cultivated crops, fruit trees, vegetables, livestock, poultry or beehives, immediately following such destruction or when there is just cause for reasonable apprehension of additional imminent destruction.

(3) Lawful devices and methods. A subpermittee shall comply with the arms, ammunition and method restrictions located in section 2126 of the act (relating to unlawful activities) and §141.19 (relating to killing game or wildlife to protect property). A permittee may further restrict or limit the usage of specific arms, ammunition or methods of destruction as deemed appropriate.

(4) Reporting. A subpermittee shall report all wildlife destroyed within 24 hours to the Commission in the manner required by section 2122 of the act (relating to report to commission officer).

(5) Surrender of carcass. The allowances of section 2124 of the act (relating to retention of edible carcass for food) shall not extend to subpermittees. A subpermittee shall surrender the entire carcass, including the head and hide, of any and all game or wildlife destroyed pursuant to this subchapter to the Commission in the manner provided by sections 2123 and 2125 of the act (relating to safekeeping edible carcass pending disposition; and surrender of carcass to commission officer). A subpermittee who surrenders the entire carcass of any game or wildlife destroyed pursuant to this subchapter to a food bank or a butcher operating on behalf of a food bank, at the express direction of the district wildlife conservation officer, shall be deemed to have met the surrender requirement.

§147.765. Violations.

The Director may deny, revoke or suspend any permit for any violation of this subchapter, specifically including violations of the conditions of the permit or reporting requirements, upon written notice to the permittee.

Recommendation: The Executive Director and staff recommend the Commission approve this addition to 58 Pa. Code.

Action:

G. Amend 58 Pa. Code, §141.4, and Chapter 147, by adding Subchapter W, §§147.781-147.785.

Commentary:

Continental snow goose populations have experienced rapid population growth and have reached levels resulting in extensive, possibly irreversible damage to their arctic and subarctic breeding habitats, as well as negative impacts on other bird populations dependent in these habitats. The Federal government has proposed via a Light Goose Management Final Environmental Impact Statement to reduce and stabilize snow goose populations primarily by allowing additional hunting methods and days. The U.S. Fish and Wildlife Service intends to establish a conservation order that will authorize states, beginning in 2008, to use hunters to harvest snow geese during the period when all waterfowl seasons, excluding falconry, are closed inside or outside the migratory bird hunting season framework. Participating states are required to monitor and assess hunting activity and harvest conducted under this conservation order and annually report to the U.S. Fish and Wildlife Service each September.

To let Pennsylvania waterfowl hunters take advantage of this additional taking opportunity and participate in controlling overabundant continental snow goose populations, and to allow the Commission to assess accurately hunter activity and harvest, this amendment to 58 Pa. Code creating a special snow goose conservation hunt permit is being proposed.

CHAPTER 141. HUNTING AND TRAPPING

Subchapter A. GENERAL

§141.4. Hunting hours.

Except as otherwise provided, wild birds and animals may be taken 1/2 hour before sunrise to 1/2 hour after sunset.

\* \* \* \* \*

(5) Migratory birds may only be hunted 1/2 hour before sunrise until sunset, except during the snow goose conservation season and the September resident [Canada] goose season, when [Canada] geese may be hunted 1/2 hour before sunrise until 1/2 hour after sunset.

\* \* \* \* \*

CHAPTER 147. SPECIAL PERMITS

Subchapter W. SNOW GOOSE CONSERVATION HUNT PERMIT

Sec.

147.781. Purpose and scope.

147.782. Application.

147.783. Permit.

147.784. Violations.

§147.781. Purpose and scope.

The purpose of this subchapter is to provide for snow goose conservation hunt permits to be issued to licensed migratory bird hunters. This permit will authorize migratory bird hunters to harvest snow geese during a time specified by the Director when all waterfowl seasons are closed and require hunter activity and harvest reporting carried out under the permit.

§147.782. Application.

(a) A permit will only be issued to persons who possess a valid hunting license, a valid migratory game bird license and, if the applicant is age 16 or older, a valid federal duck stamp.

(b) Applications for snow goose conservation hunt permits issued under this subchapter shall be made on the form and in a manner provided by the Commission.

(c) Applications shall include the name and contact information of the permit applicant.

§147.783. Permit.

(a) A snow goose conservation hunt permit issued under this subchapter authorizes the permittee to harvest snow geese within this Commonwealth during a period of time when all waterfowl seasons are closed.

(b) The permittee is required to maintain records specifying hunting activity and harvest by day, time of day, and any other detail required by the Commission. An annual report of this hunting record shall be submitted in a manner specified by the Commission within 30 days of the last hunting day of the conservation hunt period.

(c) The permittee shall comply with the arms, ammunition, hunting hours and hunting regulations for migratory game birds adopted by the United States Secretary of the Interior as published in the Federal Register each year.

§147.784. Violations.

The Director may deny permit applications received from persons who failed to complete and submit harvest reports and survey information from the prior season.

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

Action:

H. Amend 58 Pa. Code, §143.52.

Commentary: County Treasurers who issue antlerless deer licenses for Wildlife Management Units 2B, 5C and 5D currently begin accepting applications over-the-counter on the third Monday in September, which is after the opening day of the new early archery season for antlerless deer.

By moving over-the-counter sales to the second Monday in September it will allow the County Treasurers to begin accepting applications and have time to process and issue over-the-counter antlerless licenses prior to the opening day of the new archery season.

## CHAPTER 143. HUNTING AND FURTKER LICENSES

### Subchapter C. ANTLERLESS DEER LICENSES

§143.52. Procedure for unlimited antlerless licenses.

\* \* \* \* \*

(c) Beginning on the [~~third~~] second Monday in September, county treasurers within the designated wildlife management units shall accept antlerless applications over the counter from residents and nonresidents of this Commonwealth and may immediately issue licenses to applicants.

Recommendation: The Executive Director and staff recommend the Commission approve this change.

Action:

I. Hunting License Revocations - Convictions - 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, 2008, 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, 2008, 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

##### 1. Option No. 50020

41.48 +/- acres of land in Blacklick Township, Cambria County, adjoining State Game Land No. 79 (Exhibit RED 1). The option price is \$31,000 lump sum. The amount to be paid from the Game Fund will be \$15,592, being part of a \$30,000 donation from Stephen Szabados for purchase of lands in the Southwest Region. The remainder will be paid from an escrow account set up by TJS Coal with regard to mining taking place on State Game Land No. 153. Gas has been reserved for 15 years from the date of conveyance. The property is mostly forested with cherry, oak, maple and birch. Approximately seven acres of the property have been previously mined and reclaimed to Department of Environmental Protection standards. The South Branch of Blacklick Creek is the eastern most boundary and creates nearly two acres of riparian wetlands associated with the one-half mile of stream frontage.

##### 2. Option No. 50029

100 +/- acres of land in Shade Township, Somerset County, being near to State Game Land No. 93 (Exhibit RED 2). This is a donation from Consol Coal Company, made possible through The Conservation Fund. A township road bisects the property and provides good public access to the tract. The entire property is forested with young pole-size cherry, red oak, maple and aspen. Only five percent of the tree species are in a mature saw timber class. There is a small tributary located on the eastern boundary of the property.

##### 3. Option No. 50012

926 +/- acres of land in Covington Township, Clearfield County, adjoining State Game Land No. 100 (Exhibit RED 3). The option price is \$962,000 lump sum to be paid from the Penn State escrowed funds and will therefore require approval of the United States Fish and Wildlife Service. Approximately twenty percent of the property is grasslands and reverting fields with the remaining portions in woodlands. Access is provided on the northwest corner from State Route 1016, commonly known as the Keewaydin Road and by Woolridge Road bisecting the western portion of the property running north and southeast. This tract will also provide vital access to a 113-acre parcel of State Game Land No. 100 currently separated from the main portion of State Game Land No. 100 by the West Branch of the Susquehanna River. Potter Run flows through the property until it enters adjoining State Game Land No. 100 and empties into the West Branch of the Susquehanna River.

4. Option No. 50042

68 +/- acres of land in Karthaus Township, Clearfield County, adjoining State Game Land No. 100 (Exhibit RED 3). The option price is \$136,000 lump sum to be paid from the Penn State escrowed funds and will therefore require approval of the United States Fish and Wildlife Service. The majority of the property is forested. Askey Road traverses the property running east and west and the West Branch of the Susquehanna River borders the southern boundary.

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

Action:

## B. Report of Notational Votes

The following items were voted on notationally and were unanimously approved on August 27th:

### 1. Option No. 50003, State Game Land No. 158, Cambria County

Commentary: Trout Unlimited has agreed to a land exchange involving a 50' by 1,000' tract of land, being part of State Game Land No. 51 situate in Dunbar Township, Fayette County. Trout Unlimited requires this property to convey to property owner who will allow Trout Unlimited to construct acid mine drainage treatment ponds on his property. A restriction shall run with the land that no occupied dwellings shall be built on the property. The Commission also excepts and reserves all oil, gas and mineral rights. The acid mine drainage ponds shall be constructed with a Growing Greener grant received from the Department of Environmental Protection (DEP). This project has a high benefit to the environment, specifically Morgan Run, by alleviating acid mine drainage.

In exchange, Trout Unlimited will cause to be transferred from DEP 68 acres situate in Reade Township, Cambria County. The exchange will provide additional hunting acreage on State Game Land No. 158.

Settlement will occur when Trout Unlimited is ready to proceed with the project. If the project is not completed by June 30, 2008, the land reverts to the Commission.

### 2. AT&T Class Action

Commentary: In January of 2000, a statewide class action was filed on behalf of three individuals, who owned similarly situated property adjoining railroad corridors in Pennsylvania. The complaint averred that AT&T had installed cable in railroad corridors without the consent of the underlying and adjoining property owners. Plaintiffs sought compensatory and punitive damages against AT&T in trespass, unjust enrichment, and slander of title. This was one of several suits filed nationwide with regard to the same issues. On November 4, 2005, the Federal Rules of Civil Procedure Rule 23(B)(3) class was certified to include all persons or entities, possessing a fee simple interest in land for some period of time after the AT&T cable was installed, underlying or adjoining railroad corridors in Pennsylvania. The Pennsylvania Game Commission (PGC) is a class member for purposes of this litigation. The PGC chose to opt-in and filed timely claims for Landowner Benefits by the deadline of October 12, 2006.

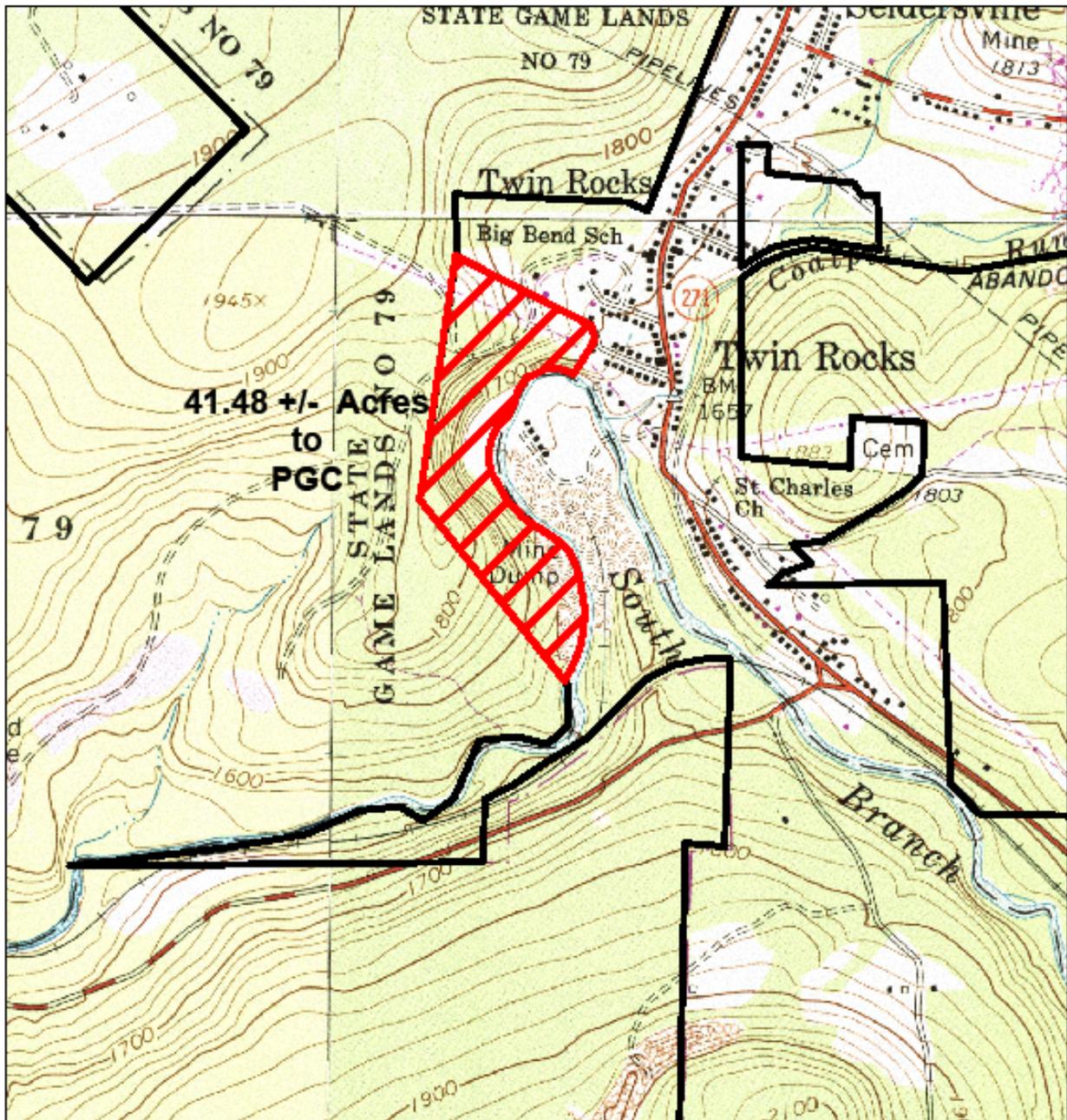
The PGC identified twenty-five tax parcels that were possibly implicated in the class action. These twenty-five parcels are part of eight game lands in the Northwest, Southwest, Southcentral and Southeast Regions. The cable side properties of the PGC will be eligible for current landowner benefits, if Conrail was only granted an easement to use the corridor property. If Conrail owns the corridor property that the PGC land adjoins in fee, then all of the tax parcel will be ineligible for compensation under the settlement agreement. The Tele-Cable Settlement Center for the Pennsylvania case has the responsibility of researching the ownership rights of the actual portions of the corridor itself. Of the twenty-five properties identified by the PGC, the Settlement Center has verified PGC claims on five of the parcels totaling 4,673 feet, for a total cash benefit (less minor adjustments) of \$7,410.

The non-cash benefits include the creation by Class Counsel of the Corridor Enterprise. The Corridor Enterprise is optional for those class members with a fee interest in property underlying or adjoining the Settlement Corridor. The purpose of the enterprise is to benefit from the additional value of the remaining property in the corridor, which is not attributed to AT&T's easement. The corporation was created in order to enhance the value of the right of way of property in the corridor, by pooling the property interests of the class members together, in the hopes of profiting from the efforts of the enterprise. The class members that participate in the enterprise must transfer their remaining easement rights to the Enterprise and in return, receive equity shares. If the Corridor Enterprise is successful in its marketing of the easements rights, the equity owners will each receive a share of the profits.

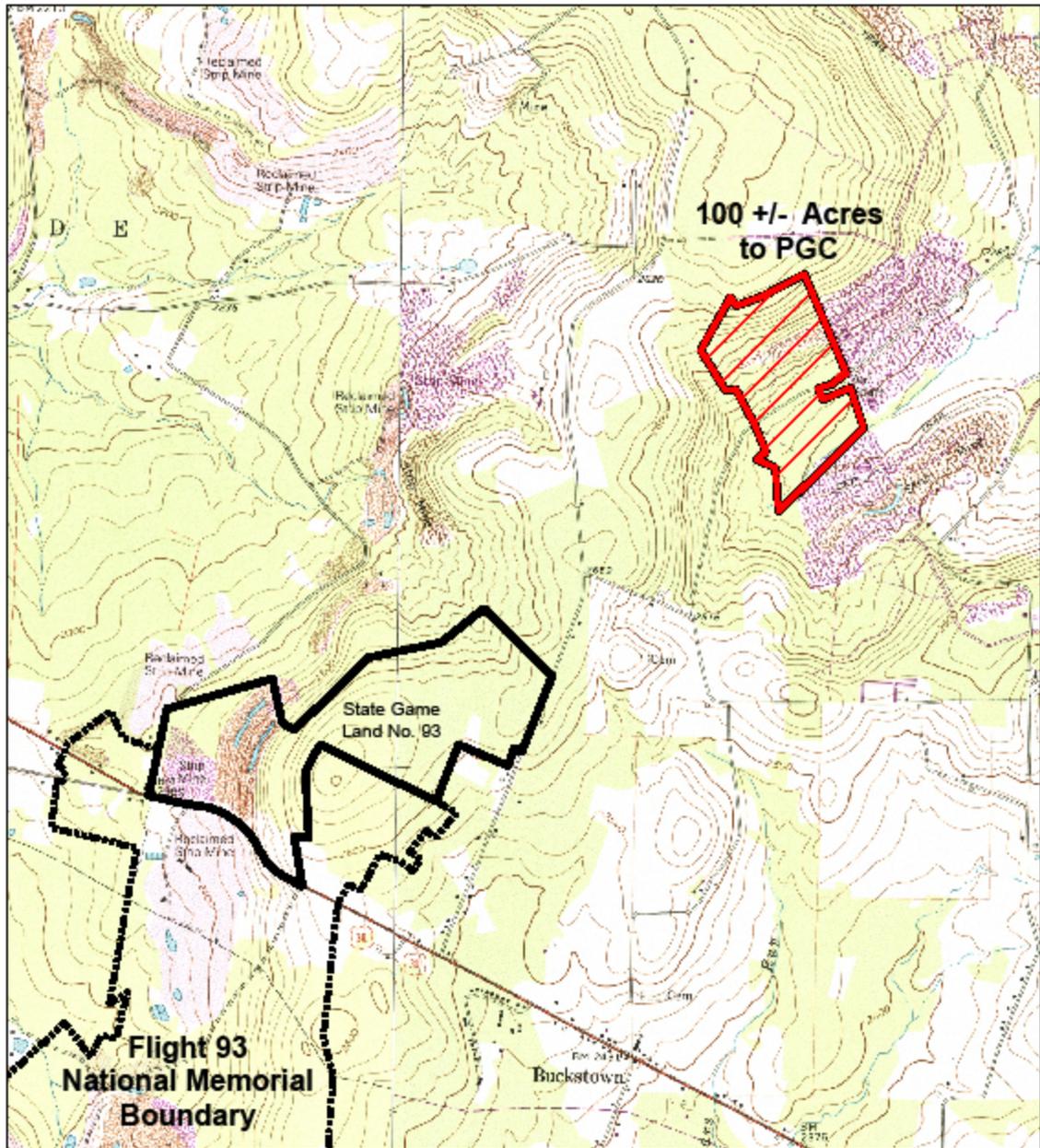
A class member that qualifies for the landowner's benefits portion of the settlement is required to grant an easement to AT&T on a 16 ½ ft-wide strip of Settlement Corridor land, where the AT&T cable is currently located. AT&T will relinquish any claim against Class Members (other than the rights to the 16 ½ ft. easement) to any existing right in the Settlement Corridors, except where AT&T might in the future enter into an agreement with the Corridor Enterprise.

It is too late to opt-out of the class. In fact, the ownership records are incomplete and it is uncertain whether the Commonwealth could prevail on either the title claim or the claim of damages. As the class notice indicates, the PGC may be subject to an individual condemnation suit for particular parcels, in which AT&T may seek to condemn a permanent easement for telecommunication purposes. Habitat damages occurred years ago and would be difficult, if not impossible to prove. The corridors were existing railroad corridors and the resulting damages are much less than what would be expected through pristine habitat. Since the Federal Court has already ordered a settlement and so many

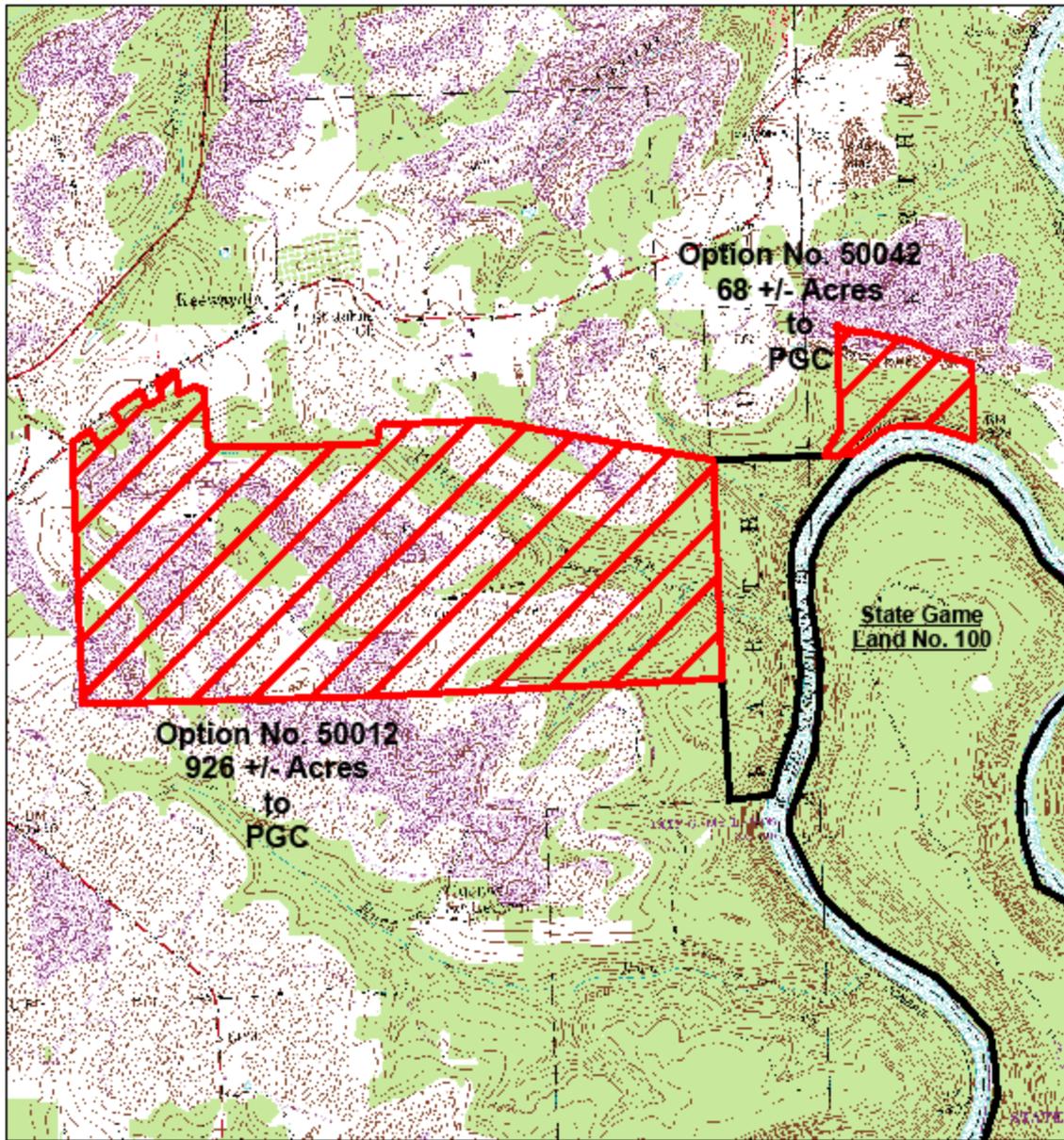
landowners across the nation have accepted the settlement, there is a strong likelihood the PGC would only be entitled to just compensation in the amount already ordered by the federal court.



**EXHIBIT RED 1**  
 STATE GAME LAND No. 79  
**Skebeck to PGC**  
**41.48 +/- acres**  
 Blacklick Twp., Cambria County  
 Southwest Region



**EXHIBIT RED 2**  
**STATE GAME LAND No. 79**  
**The Conservation Fund**  
**100 +/- acres**  
**(CONSOL Donation)**  
 Shade Twp., Somerset County  
 Southwest Region



**EXHIBIT RED 3**  
STATE GAME LAND No. 100

**Woolridge to PGC**  
**994 +/- acres**

Covington & Karthaus Twps., Clearfield County  
Northcentral Region

## OIL/GAS & MINERALS

### C. Deep Mine Daylighting & Acid Mine Drainage Abatement Project

State Game Land No. 268, Tioga County

Commentary: The Pennsylvania Department of Environmental Protection has requested approval to conduct a mine reclamation and water quality enhancement project encompassing a 30.8-acre portion of State Game Land No. 268 in Morris Township, Tioga County (Exhibit OGM 1).

The Rattler underground mine, operating on the Bloss Coal seam from 1903 until 1959, resulted in severe acid mine drainage discharges affecting the water quality and biologic life in Paint Run, Stoney Fork and Babb Creek. Between 2001 and 2003, the Department of Environmental Protection in coordination with the Babbs Creek Watershed Association and the Pennsylvania Game Commission (PGC) constructed passive treatment systems and completed reclamation of 75 acres of abandoned surface mine spoils. Unfortunately, the passive mine drainage treatment systems are overwhelmed by the severe acid mine drainage resulting in continued water quality impairment of Paint Run.

In an attempt to minimize or abate the severe acid mine drainage from the A2-4 discharge, the Department of Environmental Protection proposes to daylight a maximum of 15.3 acres of the deep mine complex, recover all remaining coal reserves including the One-Foot and Bloss coal reserves, apply 2,500 tons per acre of lime or waste lime, replace and re-grade mine spoil to original contour, construct sub-surface drains, construct erosion and sedimentation controls, and restore wildlife habitat. The proposed operation will consist of two phases, with Phase I consisting of 8.2 acres of daylighting and Phase II consisting of 7.1 acres of daylighting. The project will require 15.5 acres of support area including the existing access road. The Department of Environmental Protection will award a contract to complete the reclamation project.

The PGC, as a partner in the project, has agreed to contribute its coal royalty value of the remaining coal reserves for Phase I to the project. Approximately 12,000 tons of recoverable coal reserves are estimated for Phase I of the project with a royalty value of \$42,500. The Commission's royalty value will be directly applied to the project to offset the cost of alkaline addition, the subsurface drainage system and the surface reclamation.

Upon the successful completion of Phase I, the successful bidder, the PGC and the Department of Environmental Protection may elect to continue and complete Phase II. The successful bidder and the Commission may, at the Commission's discretion, require the successful bidder to enter into the Commission's standard surface coal mining lease agreement. In exchange for the 5-year lease, the successful bidder will pay the Commission at a royalty

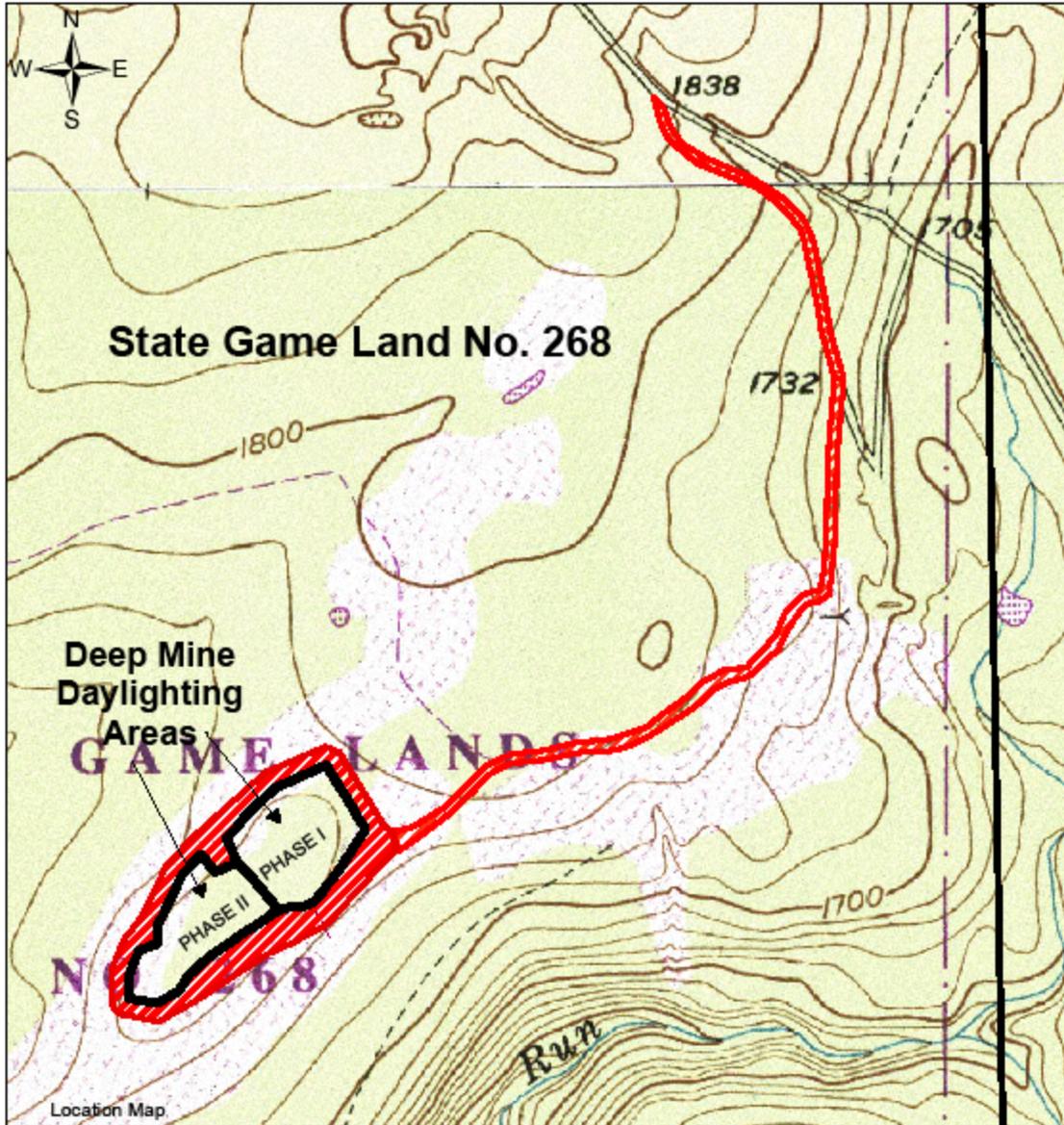
rate of two-dollars and fifty cents (\$2.50) or 12% of the then current pit price, whichever the greater, for each and every marketable ton of coal mined and removed from the leased premises. All royalty revenues generated from Phase II will be deposited directly into the Game Fund. Approximately 10,224 tons of recoverable coal reserves are estimated for Phase II of the project with an estimated royalty value of \$36,800.

The project will be regulated by the Commonwealth's and Surface coal Mining regulations and the Commission's standard lease agreement.

The staff has reviewed this proposal and has determined that the total value of the reclamation and water quality enhancement is equal to or greater than the estimated value of the coal.

Recommendation: The Executive Director and staff recommend the proposed reclamation project and lease be approved and the Commission authorize the Bureau of Wildlife Habitat Management to proceed with the leasing arrangement as listed above.

Action:



**Legend**

-  Phase 1 - 8.2 Acres
-  Phase 2 - 7.1 Acres
-  Support Area 15.5 Acres



**EXHIBIT OGM 1**  
 PENNSYLVANIA GAME COMMISSION  
 STATE GAME LAND No. 268  
 Deep Mine Daylighting &  
 Mine Drainage Abatement Project  
**TRACT 268A-07**  
 Morris Twp., Tioga County  
 Northcentral Region

## Other New Business

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

## Adjournment