COMMONWEALTH OF PENNSYLVANIA PENNSYLVANIA GAME COMMISSION



AGENDA HARRISBURG, PENNSYLVANIA June 26, 2017

Bryan Burlan

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 Monday, June 26, 2017, at 2001 Elmerton Avenue, Harrisburg, Pennsylvania beginning at 1:00 p.m.

Call to Order

Pledge of Allegiance

Roll Call of Commissioners

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

Approval of Minutes of Commission Meeting held March 28, 2017.

BUREAU OF WILDLIFE PROTECTION

PROPOSED RULE MAKING

A. Amend 58 Pa. Code §§ 141.1, 141.22 and 141.43.

<u>Commentary</u>: In relevant part, the act of November 21, 2016 (P.L. 1317, No. 168) made two significant changes to Section 2308 of the act (relating to unlawful devices and methods). Act 168 eliminated the Commonwealth's historic prohibitions against the use of air guns and semiautomatic rifles for hunting. It is important to note that Act 168 did not authorize the use of semiautomatic handguns and did not eliminate the two-shell in the shotgun magazine restriction for small game, furbearers, etc. On March 28, 2017, in an effort to implement Act 168 and expand hunting opportunities in this Commonwealth, the Commission amended §§ 131.2, 141.22, 141.43-141.45, 141.47 and 141.67 (relating to definitions; small game seasons; deer; bear; turkey; elk; and furbearer seasons) to authorize the use of air guns and semiautomatic rifles for small game and furbearers. These changes became effective on May 13, 2017.

> The Commission is now proposing a few housekeeping amendments to address concerns not addressed in the original proposal. First, the Commission is proposing to amend § 141.1 (relating to special regulations areas) to extend the use of air guns and semiautomatic rifles for small game and furbearers to the Commonwealth's special regulation areas. While this extension nearly matches the original statewide proposal, it is important to note the existing limitation to rimfire ammunition in this section will be carried forward in the special regulations areas in this amendment. The Commission is also proposing to amend § 141.22 to remove the limiting term "centerfire" from the manually operated or semiautomatic rifle authorization that was erroneously added in the publication of the original proposal. This correction will return the text to its intended structure. Lastly, the Commission is proposing to amend §§ 141.43 and 141.67 to relocate and extend the use of air guns and semiautomatic rimfire rifles .22 caliber or less for dispatching legally trapped furbearers caught in a trap during the regular or special firearms deer seasons.

CHAPTER 141. HUNTING AND TRAPPING

Subchapter A. GENERAL

§ 141.1. Special regulations areas.

* * * * *

(c) Prohibitions.

(1) Except as provided in subsection (d), it is unlawful to take, kill or attempt to take or kill wildlife through the use of a firearm of any description which discharges single-projectile ammunition, or, while hunting for wild birds or wild animals, to possess single-projectile ammunition, except for employees of political subdivisions and other persons who have a valid deer control permit issued under the authority of Chapter 29 of the act (relating to special licenses and permits).

* * * * *

(d) Permitted acts. It is lawful to:

(1) Except in Philadelphia County, Ridley Creek State Park, Delaware County and Tyler State Park, Bucks County, hunt and kill deer and bear through the use of a muzzleloading long gun or a shotgun, at least .410 gauge (rifled barrels permitted), including semiautomatics which, upon discharge, propel a single projectile.

(2) Take deer with a shotgun 20 gauge or larger—including semiautomatic—using buckshot in the Southeast area only.

(3) Take small game, furbearing animals, crows or wildlife with [a manually operated rimfire rifle or handgun .22 caliber or less.] :

(i) A manually operated or semiautomatic rimfire rifle or manually operated rimfire handgun .22 caliber or less.

(ii) A manually operated or semiautomatic air rifle or manually operated air handgun between .177 and .22 caliber, inclusive, that propels single-projectile pellet or bullet ammunition. BB ammunition is not authorized.

(4) Kill an animal legally caught in a trap with [a manually operated rimfire rifle or handgun .22 caliber or less while trapping.] :

(i) A manually operated or semiautomatic rimfire rifle or manually operated rimfire handgun .22 caliber or less.

(ii) A manually operated or semiautomatic air rifle or manually operated air handgun between .177 and .22 caliber, inclusive, that propels single-projectile pellet or bullet ammunition. BB ammunition is not authorized.

* * * * *

Subchapter B. SMALL GAME

§ 141.22. Small game seasons.

(a) Permitted devices. It is lawful to hunt small game, except woodchucks, during any small game season with the following devices:

* * * * *

(7) [An air gun. The firearm must be] A manually operated or semiautomatic air rifle or manually operated air handgun between .177 and .22 caliber, inclusive, that propels single-projectile pellet or bullet ammunition. BB ammunition is not authorized.

* * * * *

(c) Woodchuck (Groundhog) season.

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

(i) A manually operated or semiautomatic [centerfire] rifle or manually operated handgun that propels single-projectile ammunition.

* * * * *

(vii) [An air gun. The firearm must be] <u>A manually operated or</u> semiautomatic air rifle or manually operated air handgun .22 caliber or larger that propels singleprojectile pellet or bullet ammunition. BB ammunition is not authorized.

* * * * *

Subchapter C. BIG GAME

§ 141.43. Deer <u>seasons</u>.

[(f) .22 caliber or less rimfire required for furbearers. When using a firearm only a rimfire rifle or handgun .22 caliber or less may be used to dispatch legally trapped furbearers during the regular or special firearms deer seasons.]

§ 141.67. Furbearer seasons.

(a) Permitted devices. It is lawful to hunt or take furbearers during any furtaking season with the following devices:

* * * * *

(6) [An air gun. The firearm must be] <u>A manually operated or</u> <u>semiautomatic air rifle or manually operated air handgun</u> .22 caliber or larger that propels single-projectile pellet or bullet ammunition. BB ammunition is not authorized.

(b) Prohibitions. While hunting furbearers during any furbearer hunting or trapping season, it is unlawful to:

* * * * *

(3) Use any firearm, other than authorized below, to dispatch legally trapped furbearers during the overlap with the regular or special firearms deer seasons:

(i) A manually operated or semiautomatic rimfire rifle or manually operated rimfire handgun .22 caliber or less.

(ii) A manually operated or semiautomatic air rifle or manually operated air handgun between .177 and .22 caliber, inclusive, that propels single-projectile pellet or bullet ammunition. BB ammunition is not authorized.

B. Amend 58 Pa. Code § 141.18.

Each year the Commission is asked to review the prospective use of Commentary: certain devices for hunting or trapping purposes that are otherwise prohibited by statute or regulation. As part of the review process, the Commission generally reviews to what degree use of a given device might negatively impact principles of resource conservation, equal opportunity, fair chase or public safety. The Commission has recently been requested to formally review the use of electronic decoys used to hunt waterfowl, electronically heated scent or lure dispensers and electronic devices that generate and distribute ozone gas for scent control purposes. The Commission has reviewed these devices and determined that their use will have no or negligible negative impacts to the previously mentioned principles. The Commission is proposing to amend § 141.18 (relating to permitted devices) to authorize the use of electronic decoys used to hunt waterfowl, electronically heated scent, or lure dispensers and electronic devices that generate and distribute ozone gas for scent control purposes.

CHAPTER 141. HUNTING AND TRAPPING

Subchapter A. GENERAL

§ 141.18. Permitted devices.

Notwithstanding the prohibitions found in § 141.6 (relating to illegal devices), the [The] following devices may be used to hunt or take wildlife:

(1) [Any manually operated firearm that uses an electronic impulse to detonate the primer or main powder charge of the ammunition unless those firearms are a specifically prohibited device] Firearms that use an electronic impulse to initiate discharge of their ammunition. This provision is not intended to authorize use of these devices where such firearms are otherwise prohibited devices for the applicable hunting or trapping season.

(2) Electronic sound amplification devices that are incorporated into hearing protection devices and completely contained in or on the hunter's ear.

(3) Electronic devices used for locating dogs while training or hunting, including devices such as e-collars, radio-telemetry dog tracking systems and beeper collars.

(4) Electronic illuminating devices that are affixed at the aft end of a bolt or arrow and used solely for the purpose of locating or tracking bolt or arrow flight after being launched from a crossbow or bow.

(5) Electronic crow decoys used solely for [harvesting] hunting crows.

(6) Electronic rangefinders, including hand-held devices and those contained within a scope or archery sight. This authorization may not be construed to permit a device that

emits a light beam, infrared beam, ultraviolet light beam, radio beam, thermal beam, ultrasonic beam, particle beam or other beam that is visible outside of the device or on the target.

(7) Electronically heated scent or lure dispensers. This provision is not intended to authorize use of scents and lures where such use is otherwise prohibited by section 2308 of the act (relating to unlawful devices and methods) or sections 137.34 or 137.35 of this part (relating to Chronic Wasting Disease and the emergency authority of the Director; Chronic Wasting Disease restrictions.

(8) Electronic devices that generate and distribute ozone gas for scent control

purposes.

(9) Electronic waterfowl decoys used solely for hunting waterfowl.

BUREAU OF WILDLIFE PROTECTION

ADOPTED RULE MAKING

- C. Amend 58 Pa. Code §§ 135.103, 135.104 and 143.42.
- <u>Commentary</u>: To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its March 28, 2017, meeting, proposed to amend §§ 135.103 and 143.42 (relating to registration for controlled goose hunting areas; and definitions) to require that registrations for controlled goose hunting areas and antlerless licenses be submitted on a form and in the manner designated by the Commission. These proposed amendments will allow the Commission and public greater access to electronic sources and methods of application. The Commission is also proposing to amend §§ 135.103 and 135.104 (relating to restrictions on controlled goose hunting areas) to update the parameters for establishing and managing the controlled hunts at the Middle Creek and Pymatuning Wildlife Management Areas. These updates allow for greater flexibility, consistency and clarity in the regulations.

ANNEX "A"

CHAPTER 135. LANDS AND BUILDINGS

Subchapter F. SPECIAL WILDLIFE MANAGEMENT AREAS

§ 135.103. Registration for controlled goose hunting areas.

The following apply to reservations for controlled goose hunting areas:

(1) Applications shall be submitted on a form and in the manner designated by the Commission. Applications must include the applicant's name, address, date of birth and Commission-issued Customer Identification Number, and any other information required by the Commission.

(2) Applications for controlled goose hunting areas in the Middle Creek Wildlife Management Area or Pymatuning Wildlife Management Area shall be submitted to the Commission by the deadline set by the Director or his designee.

(3) An individual may submit no more than one official application per year to hunt on a controlled hunting area in this Commonwealth. Incomplete, illegible or duplicate applications will not be included in the drawing.

(4) The Director will establish the number of applications to be drawn no later than 20 days prior to the respective drawing of reservations for the Middle Creek and Pymatuning Wildlife Management Areas. Reservations will be awarded by the Commission to individuals selected during random public drawings from all eligible applications submitted for each management area. The drawings for each management area will occur on the date, time and at the location set by the Director or designee. The Commission will hold separate drawings for the disabled access blinds for persons in possession of a disabled person permit issued under section 2923(a) of the act (relating to disabled person permits).

(i) Youth only day. The Director may designate 1 shooting day at the Middle Creek and Pymatuning Wildlife Management Areas as a youth-only day. Adults who accompany a junior hunter on this day may participate in the hunt by calling only. Applications received from junior hunters will be separated and drawn prior to the other applications on the established drawing date for the management area. Unsuccessful applicants for the youth shooting day will then be placed with all other application and the drawing will proceed until all shooting days are filled.

(ii) Veterans with disabilities only day. The Director may designate 1 shooting day at the Middle Creek and Pymatuning Wildlife Management Areas as a veterans with disabilities only day. Only persons who possess a resident disabled veteran license or a reduced fee resident disabled veteran license are eligible to apply. Successful applicants may be accompanied by up to three properly licensed guests of any general or base hunting license classification. Applications received from veterans with disabilities will be separated and drawn prior to all other applications on the established drawing date for each wildlife management area.

* * * * *

§ 135.104. Restrictions on controlled goose hunting areas.

It is unlawful to:

(1) Take wildlife other than ducks, geese, coots and mergansers, except by permit issued by the Director or a designee.

(2) Remove ducks, geese, coots and mergansers from a blind prior to vacating the blind to check out.

(3) Remain in a blind when the maximum limit of geese has been killed or the ammunition limit has been expended, or after the time specified on the permit has expired.

* * * * *

CHAPTER 143. HUNTING AND FURTAKER LICENSES

Subchapter C. ANTLERLESS DEER LICENSES

§ 143.42. Definitions.

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

Application—The original PALS form issued with a regular hunting license or the original or reasonable facsimile of the universal form provided by the Commission that is used in applying for an antlerless license or an unsold tag.

* * * * *

D. Amend 58 Pa. Code § 141.15.

<u>Commentary</u>: To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its March 28, 2017, meeting, proposed to amend § 141.15 (related to loaded firearms or devices in vehicles) to clarify that any air gun with a pellet or bullet ammunition in either the chamber or magazine will be considered "loaded" for the purposes of 34 Pa.C.S. § 2503 (relating to loaded firearms in vehicles).

ANNEX "A"

CHAPTER 141. HUNTING AND TRAPPING

Subchapter A. GENERAL

§ 141.15. Loaded firearms or devices in vehicles.

For the purpose of enforcing section 2503 of the act (relating to loaded firearms in vehicles), the term "loaded firearm" includes the following meanings:

(1) Any centerfire or rimfire firearm that has a live shell or cartridge in either the chamber or magazine.

(2) Any muzzleloading firearm that has a live charge of ammunition in its firing chamber and a primer, flash powder or a battery, whichever is applicable, properly positioned in the firing mechanism of the firearm rendering it capable of discharge.

(3) Any crossbow that has been cocked and has a bolt affixed onto the string or positioned into the firing mechanism of the device.

(4) Any air gun that has a pellet or bullet ammunition in either the chamber or magazine.

- E. Remove 58 Pa. Code § 147.687.
- <u>Commentary</u>: To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its March 28, 2017, meeting, proposed to rescind § 147.687 to establish the continued effectiveness of the deer attractant permit program.

ANNEX "A" CHAPTER 147. SPECIAL PERMITS Subchapter R. DEER CONTROL

§ 147.687. (Reserved).

- F. Amend 58 Pa. Code §§ 147.106a and 147.111b.
- <u>Commentary</u>: To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its March 28, 2017, meeting, proposed to amend §§ 147.106a and 147.111b (relating to nonresident falconers; and Arctic Peregrine Falcon limited take special permit) to expand the limited take of Arctic Peregrine Falcons (Falco peregrinus tundrius) within this Commonwealth to also include general class and nonresident falconry permit holders.

ANNEX "A"

CHAPTER 147. SPECIAL PERMITS

Subchapter F. FALCONRY

§ 147.106a. Nonresident falconers.

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

* * * * *

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

(11) Raptors taken under the authority of this permit may only be captured by devices authorized under § 147.105a(4) (relating to resident falconers).

§ 147.111b. Arctic Peregrine Falcon limited take special permit.

* * * * *

(c) *Eligibility*.

(1) Applications will only be accepted from persons who meet all of the following criteria:

(i) Applicants shall possess a current and valid master or general class falconry permit issued under this subchapter.

(ii) Applicants shall possess a current and valid Pennsylvania

hunting license.

(iii) Applicants must be a resident of this Commonwealth or a nonresident whose home state allows the taking of Arctic Peregrine Falcons by residents of this Commonwealth.

(2) Applicants who were successfully drawn for an Arctic Peregrine Falcon limited take special permit during the previous 2 permit years are ineligible to make application.

(d) Drawing.

(1) Each year the Commission will determine the allowable take of Arctic Peregrine Falcons for the season based on the guidelines provided by the United States Fish and Wildlife Service.

(2) If the allowable take authorized for this Commonwealth is one or more in any given year, the Commission will hold a public drawing by August 15 at a location to be determined by the Commission to determine the successful applicants.

(3) The Commission will randomly draw the names of eligible applicants up to and including the total allowable take. The number of permits issued will be based solely on the total allowable take each year. When the total allowable take number is reached, the drawing will be closed and additional permits will not be issued. Resident applications will be drawn first until either the annual allowable take quota or pool of available resident applications is exhausted. If any portion of the annual allowable take quota is available after resident applications are exhausted, then nonresident applications will be drawn until the annual allowable take quota is exhausted.

(4) The Commission will issue an Arctic Peregrine Falcon limited take special permit to successful applications by August 31 each year.

(e) *Authorized activities*.

(1) Arctic Peregrine Falcons (Falco peregrinus tundrius) may only be taken by persons who have been issued a valid Arctic Peregrine Falcon limited take special permit and who continue to meet the eligibility criteria in subsection (c)(1).

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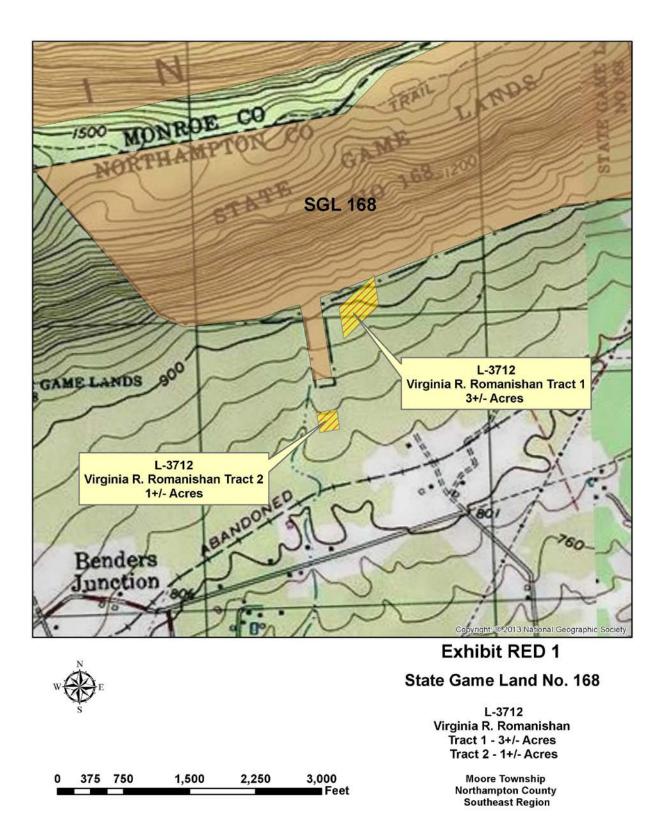
BUREAU OF WILDLIFE HABITAT MANAGEMENT

REAL ESTATE

A. Donation

Contract No. L-3712, State Game Land No. 168, Northampton County

<u>Commentary</u>: Virginia R. Romanishan is offering to donate two parcels of land totaling 4+/- acres located in Moore Township, Northampton County adjoining and near State Game Land No. 168 (Exhibit RED 1). Tract 1 is 3+/-acres and adjoins State Game Land No. 168. Tract 2 is 1+/- acre and is located south of State Game Land No. 168. Both tracts are forested with mixed hardwoods and lie on the south slope of Blue Mountain.



B. Exchange

Contract No. L-3713, State Game Land No. 168, Monroe, Northampton, and Carbon Counties

<u>Commentary</u>: The United States of America, acting through the Department of the Interior, National Park Service (NPS), and the Commission (PGC) are proposing to exchange equal value 2.25-acre tracts located approximately one mile from one another along the summit of Blue Mountain. The 2.25-acre tract to be conveyed from the NPS to the PGC is located entirely within Eldred Township, Monroe County, does not contain any portion of the Appalachian National Scenic Trail (AT), and contains a 100-foot wide overhead electric transmission line right-of-way (Exhibit RED 2). The 2.25-acre tract to be conveyed from the PGC to the NPS is located within Lower Towamensing Township, Carbon County and Moore Township, Northampton County, and contains approximately 421 linear feet of the AT which bisects the tract (Exhibit RED 2).

> The primary purpose of the exchange is to encourage responsible future energy corridor development, namely natural gas and petroleum pipelines, across Blue Mountain and State Game Land No. 168 by allowing for pipeline or utility co-location within or immediately adjacent to the existing, cleared right-of-way. By siting future energy infrastructure in this area, the Commission can avoid additional forest fragmentation from new corridor development that would otherwise be necessary for projects that must cross Blue Mountain and State Game Land No. 168. Co-location within the existing corridor will also minimize future adverse impacts to the AT which is located on or near the summit throughout this area.

> Additional benefits to the PGC and sportsmen resulting from this exchange include the establishment of the sole connection between the northern and southern tracts of the State Game Land No. 168 on this 3-mile section of the summit, along with the reduction of potential conflicts between AT users and sportsmen through a decrease in length of the AT on State Game Land No. 168.

With the exception of the existing overhead electric transmission right-ofway, both tracts consist of typical dry oak mixed hardwood forest ranging in age from approximately 81 to 125 years.

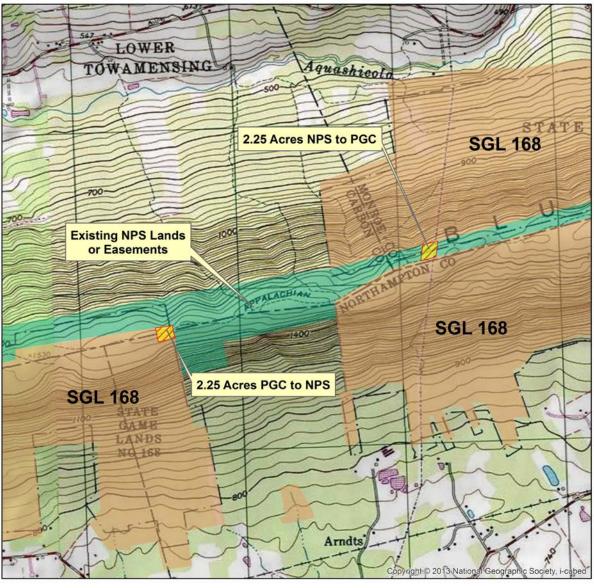


Exhibit RED 2

State Game Land No. 168

L-3713

2.25 Acres NPS to PGC Eldred Township, Monroe County

2.25 Acres PGC to NPS Moore Township, Northampton County Lower Towamensing Township, Carbon County

Southeast Region

750 1,500

0

3,000

4,500

Feet

OIL/GAS & MINERALS

C. Bituminous Surface Coal Mining Agreement

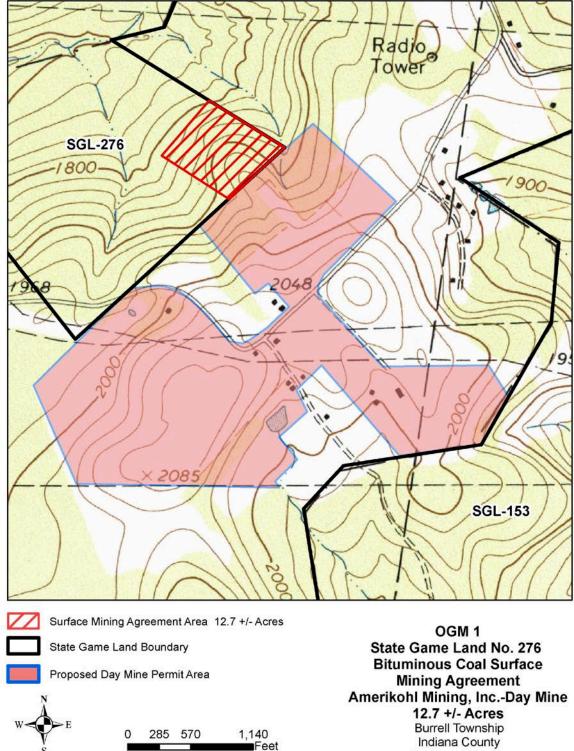
Tract 276A-17, West Burrell Township, Indiana County

<u>Commentary</u>: Amerikohl Mining, Inc. of Butler, Pennsylvania is developing a coal surface mining project on private land situated immediately between State Game Lands No. 153 and 276, and proposes to extend the operation onto a portion of State Game Land No. 276 located in Burrell Township, Indiana County (Exhibit OGM 1). Amerikohl has requested an Agreement for approximately 13 acres to mine and remove approximately 4.4 acres of Lower Kittanning (LK) coal and remaining 8.3 acres as support area. There is an estimated 15,840 tons of recoverable LK coal within the 4.4 acres of Game Land. The Commission owns the surface, surface support rights, and the coal.

The Commission was approached by the Department of Environmental Protection (DEP), Cambria District Mining Office, and was encouraged to allow the off-site mining operation to extend onto the gameland for the complete removal of the LK crop coal in order to eliminate the potential for future downgradient mine discharges on gamelands. If the section of LK crop coal were to remain in place on the gamelands, then DEP would require Amerikohl to clay seal the low wall in the mining area to a depth above the exposed LK coal seam. A clay seal would be required because the LK coal exhibits high sulfur and its structure dips towards the northwest (towards State Game Land No. 276). A clay seal would reduce, but not completely eliminate the potential for downgradient discharges if the section of coal were left in place on the gameland. Removal of the LK coal seam in its entirety essentially eliminates the potential for degraded post-mining discharges.

The terms are for a 5-year Agreement, and a royalty rate of 12% of the F.O.B. pit price for all coal mined and sold from the premises, or \$3.00 per ton, whichever the greater.

All coal royalty payments will be deposited in the Game Fund. Mining will be regulated by the Commonwealth's Mining Regulations and the Commission's Standard Surface Coal Mining Agreement.



Southwest Region

D. Non-Surface Use Oil and Gas Cooperative Agreement

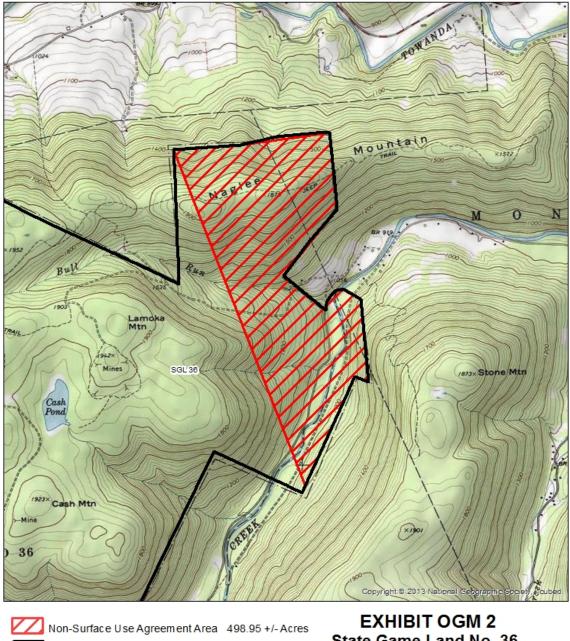
Tract 36A-17, Franklin and Monroe Townships, Bradford County

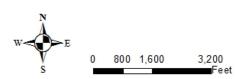
<u>Commentary</u>: Chief Oil & Gas, LLC of Dallas, Texas (Chief) has submitted a solesource lease proposal nomination to the Commission requesting development of the Commission's oil and gas rights under a portion of State Game Land No. 36 for non-surface use development. The proposed tract, containing approximately 498.95 +/- acres is located in Franklin and Monroe Townships, Bradford County (Exhibit OGM 2).

Chief has a strong, privately-owned oil/gas lease position surrounding this portion of State Game Land No. 36. They have initiated unconventional well drilling and development in the vicinity of the proposed tract, and also have 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. OGM staff negotiated the proposed terms of the agreement with Chief, in an effort to prudently develop the Commission's oil/gas reserves and simultaneously protect the wildlife resources and recreational use of State Game Land No. 36.

The terms of the Agreement are a 5-year paid up non-surface use oil and gas agreement, a \$2,350 per net oil and gas acre bonus payment and 21% royalty for all oil/gas and other liquids or condensates produced and sold from the proposed tract. The bonus payment of approximately \$1,172,532 may be deposited into either the Game Fund or 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 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.





State Game Land No. 36

Cres State Game Land No. 36 Non-Surface Use Oil & Gas Cooperative Agreement Chief Oil & Gas. Tract 36A-17 498.95 +/- Acres

Franklin/Monroe Twps., Bradford County Northeast Region

OTHER NEW BUSINESS

Next Working Group Meeting Date

Next Commission Meeting Dates September 25-26, 2017

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

Adjournment