

**COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA GAME COMMISSION**



**AGENDA
HARRISBURG, PENNSYLVANIA
July 24, 2021**

Bryan Burhans
Bryan Burhans
Executive Director

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DRAFT

Commonwealth of Pennsylvania
Pennsylvania Game Commission

Agenda

The Commission Meeting of the Pennsylvania Game Commission will be held on Saturday, July 24, 2021, at 2001 Elmerton Avenue, Harrisburg, PA 17110 beginning at 8:30 a.m.

Call to Order

Pledge of Allegiance

Roll Call of Commissioners

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

Approval of Minutes of Commission Meeting held April 10, 2021.

BUREAU OF WILDLIFE MANAGEMENT

PROPOSED RULE MAKING

A. Amend 58 Pa. Code § 133.21

Commentary: The Commission is proposing two changes to the Commonwealth's lists of threatened and endangered birds based on current monitoring data.

First, the Commission is proposing to amend § 133.21 (relating to classification of birds) to add the northern goshawk (*Accipiter gentilis*) to the Commonwealth's list of endangered birds. A large secretive raptor of mature, mixed forests, the northern goshawk is found in the northern tier and high elevations across Pennsylvania and has experienced both range contraction and breeding population decline over the past 20 years. Primary threats to goshawks include forest fragmentation and degradation, nest site disturbance, disease, and predation. Pennsylvania lies at the southern limits of the range of the Northeastern population of northern goshawk, which makes this population more susceptible to the above effects. Several recent agency-supported efforts to better understand this species have documented a dramatic decline in the state's population. The agency's advisory Ornithological Technical Committee (OTC) has recommended a change to endangered status. The proposed change would tailor protections for the species, including (but not limited to) limiting or delaying certain activities within known breeding northern goshawk habitat during courtship and nesting seasons.

Second, the Commission is also proposing to amend § 133.21 (relating to classification of birds) to remove the peregrine falcon (*Falco peregrinus*) from the Commonwealth's list of threatened birds. The Pennsylvania population of nesting peregrine falcons has continued to increase since the Commission's upgrade of the species from endangered to threatened in 2019, and the objectives established in the Commission's 2013-2022 Peregrine Falcon Management Plan have been achieved. This current status revision comes after more than 40 years of conservation recovery action in Pennsylvania and nationally, in which the Commission has taken an active role. The proposed status change accomplishes a significant victory for the Commission as the third high-profile raptor recovery, following bald eagle and osprey and demonstrating that an endangered or threatened species listing is not a permanent designation, and recovery is an achievable goal.

CHAPTER 133. WILDLIFE CLASSIFICATION

Subchapter B. BIRDS

§ 133.21. Classification of birds.

The following birds are classified:

(1) Endangered.

- (i) King Rail (*Rallus elegans*)
- (ii) Short-eared Owl (*Asio flammeus*)
- (iii) Black Tern (*Chlidonias niger*)
- (iv) Least Bittern (*Ixobrychus exilis*)
- (v) Piping Plover (*Charadrius melodus*)
- (vi) Loggerhead Shrike (*Lanius ludovicianus*)
- (vii) American Bittern (*Botaurus lentiginosus*)
- (viii) Great Egret (*Ardea alba*)
- (ix) Yellow-crowned Night Heron (*Nycticorax violaceus*)
- (x) Common Tern (*Sterna hirundo*)
- (xi) Blackpoll Warbler (*Setophaga striata*)
- (xii) Black-crowned Night-Heron (*Nycticorax nycticorax*)
- (xiii) Dickcissel (*Spiza americana*)
- (xiv) Sedge Wren (*Cistothorus platensis*)
- (xv) Yellow-bellied Flycatcher (*Empidonax flavi-ventris*)
- (xvi) Upland Sandpiper (*Batramia longicauda*)
- (xvii) Northern Goshawk (*Accipiter gentilis*)

(2) Threatened.

- (i) Northern Harrier (*Circus cyaneus*)
- (ii) Long-eared Owl (*Asio otus*)
- (iii) [~~Peregrine Falcon (*Falco peregrinus anatum*)~~]
- (~~iv~~) Red Knot (*Calidris canutus rufa*)

Action:

DRAFT

B. Amend 58 Pa. Code §§ 147.551-147.559.

Commentary:

The Commission has initiated a review of the DMAP and Red Tag programs in response to public requests for various modifications. The Deer and Elk Sections organized a meeting of organizations who use or represent groups who use DMAP and Red Tag programs. Participants were asked to provide input on 3 questions; (1) what works? (2) what does not work? and (3) how do we fix the items that don't work? The Deer and Elk Section provided an overview of input from the external organizations followed by an open discussion of potential changes to both programs to address external and internal needs. The following recommendations of changes to sections 147.551-147.559 to improve efficiency and effectiveness of Red Tag Program were generated as a result of these efforts. These changes are not intended to take effect immediately, but rather will take effect on July 1, 2022 to allow for a smooth transition to the new program standards.

1. Remove public access requirement and signage requirements;
2. Change to 4 permits per person to be consistent with DMAP.
3. Red Tag permit valid Aug. 1 – Sep. 15 and Feb. 1 - April 15; remove summer dates.
4. Change the permit start/expire July 1 – June 30 to be consistent with other PGC permits and autorenewal.
5. Remove limit of 1 deer utilization; allowing hunter to keep all deer harvested.
6. Remove farmer/landowner reporting requirement and, instead, require hunters to report positive harvests in the same manner as during hunting seasons and negative harvests for all harvest permits by April 30.
7. Remove PA residency eligibility requirements.
8. Replace snap tags with standard harvest permit tag issued through the PALS system.
9. Refer baiting authorization text to section 141.1 (relating to special regulations areas) for improved consistency.

CHAPTER 147. SPECIAL PERMITS

Subchapter R. DEER CONTROL; AGRICULTURE

§ 147.551. General.

~~[This section and §§ Sections 147.552--147.559 (relating to agriculture) [provide for permits to be issued to a qualified person as defined in section 2121(e) of the act (relating to killing game or wildlife to protect property) to remove deer by shooting on lands under their ownership or control, or both] establish rules for the submission of applications and the issuance of agriculture deer control harvest permits on lands enrolled in the agriculture deer control program.~~

§ 147.551a. Definitions.

The following words and terms, when used in this section and §§ 147.551—147.559, have the following meanings unless the context clearly indicates otherwise:

Agriculture deer control permit--The permit issued to a qualified person, as defined in section 2121(c) of the act (relating to killing game or wildlife to protect property), that authorizes its holder to issue harvest permit coupons to aid in the removal of deer by shooting on lands under their ownership or control, or both.

Harvest permit--The numbered permit issued through the Commission's PALS, authorizing the holder thereof to hunt antlerless deer in the area indicated on the coupon. Each agriculture deer control harvest permit has its own antlerless deer ear tag attached to be used only for tagging an antlerless deer harvested on the designated area.

Coupon--The coupon issued by the Commission for an approved agriculture deer control area entitling the holder to one agriculture deer control harvest permit for the area indicated on the coupon.

§ 147.552. [Application] Eligibility and application for agriculture deer control permit.

(a) Application for the agriculture deer control permit shall be made through the applicant's local [wildlife conservation officer] game officer on a form provided by the Commission.

(b) [Except in wildlife management units 5C and 5D, applications will only be accepted from persons who are currently enrolled in one of the Commission public access programs (Farm Game Project or Safety Zone P.1 2 3)] Applicants shall submit a copy of a deed or lease showing them to be the owner or have control, or both, of the hunting rights of the land to be covered by the permit.

(c) [A copy of a deed or lease showing the applicant to be the owner or have control, or both, of the hunting rights of the land to be permitted must accompany the application.] Applicants shall designate the location and boundaries of the area to be covered by the permit in a manner approved by the Commission.

(d) [Applicants from the southeast special regulations areas only may be eligible to obtain approval to engage in limited baiting activities to enhance deer control activities on their properties. Approval will be based solely upon an applicant's demonstrable need for a baiting authorization as evidenced by written justifications or other evidence submitted on or in addition to the application at the time of application or renewal] The Commission will allocate one agriculture deer control coupon for every 5 acres of land that the permittee has under cultivation, except the local game officer may recommend an increase in this allocation under warranted circumstances.

(e) There is no fee to apply for the agricultural deer control permit.

(f) A permittee may not issue more than four coupons to a person to take deer on the permittee's land enrolled in the agricultural deer control program.

§ 147.553. Agriculture Deer Control Harvest Permit.

~~[The deer control permit authorizes the permittee to enlist the aid of a limited number of subpermits. The maximum number of subpermits issued will be no more than one for every 5 acres of land that is under cultivation unless the wildlife conservation officer recommends an increase in the number due to warranted circumstances.~~

~~(1) — *Validity.* The permit is valid from February 1 to September 28 each calendar year, excluding Sundays, during legal hunting hours as set forth in § 141.4 and Chapter 141, Appendix G (relating to hunting hours).~~

~~(2) — *Exceptions.* The permit is not valid from May 16 to June 30 during peak fawning season.~~

~~(3) — *Posting.* Except in wildlife management units 5C and 5D, deer control permit signs provided by the Commission shall be conspicuously posted on the boundary of and along all public roadways traversing the property by the landowner/cooperator on all contiguous acres of the farm under agreement. Posting shall be completed prior to February 1.~~

~~(4) — *Fee for permit.* There is no fee for the issuance of the deer control permit.]~~

(a) *Validity.* An agriculture deer control harvest permit is valid from August 1 to September 15 and February 1 to April 15 each license year, excluding Sundays, during legal hunting hours as set forth in § 141.4 and Chapter 141, Appendix G (relating to hunting hours).

(b) *Fee for permit.* Coupon holders shall submit a valid, completed coupon and pay the applicable transaction and issuing agent fees to receive a harvest permit.

(c) A harvest permit will only be issued to a person who possesses a valid Pennsylvania hunting license or qualifies for license and fee exemptions under section 2706 of the act (relating to resident license and fee exemptions) for the property covered by the agricultural deer control permit.

(d) A person issued a harvest permit shall comply with the protective material requirements of section 141.20(a) (relating to protective material required) at all times while engaged in activities authorized by the permit.

(e) A person issued a harvest permit shall possess the permit at all times while engaged in activities authorized by the permit.

~~[§ 147.554. — Subpermit.~~

~~The permittee may acquire from the Commission subpermits, not to exceed the number provided for in § 147.553 (relating to permit) to be issued to qualified individuals of the permittee's choosing for the purpose of removing deer from the permittee's property by shooting. There is no fee charged for the subpermit. Qualifications are as follows:~~

~~(1) — A subpermit will only be issued to residents of this Commonwealth who 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).~~

~~(2) — A person issued a subpermit will be required to wear a minimum of 250 square inches of daylight fluorescent orange colored material on the head, chest and back combined so it is visible in a 360° arc when involved in taking deer under this subchapter.~~

~~(3) — A permittee may not issue more than one subpermit to a person to take deer on the permittee's land enrolled in the Agricultural Deer Control Program, except in wildlife management units 5C and 5D, where a permittee may not issue more than two subpermits to a person.~~

~~(4) — Each deer taken under the permit shall be tagged with a tag provided by the Commission.~~

~~(5) — Each person issued a subpermit shall report each deer taken to the permittee.~~

~~(6) — Deer taken under the permit may be utilized by the person with the subpermit or donated to a valid food bank.~~

~~(7) — Unused subpermits shall be returned to the district wildlife conservation officer within 5 days of the expiration of the permit.] (Reserved.)~~

§ 147.555. Antlerless deer only.

Only antlerless deer may be taken under this subchapter unless otherwise authorized by the Director. For the purposes of enforcing this chapter, the term “antlerless deer” has the meaning as defined in § ~~[139.2]~~ 131.2 (relating to definitions).

§ 147.556. Lawful devices and methods.

(a) *Devices.* ~~[Subpermittees are]~~ A person issued a harvest permit is authorized to hunt and take deer with firearms, bows and crossbows as may be authorized for hunting deer during the regular firearms deer season as provided in the act and § 141.43 (relating to deer).

(b) *Methods.* ~~[Subpermittees operating under the authority of a permit with an approved baiting authorization are]~~ A person issued a harvest permit for an agricultural deer control area in the southeast special regulations areas is authorized to hunt or take deer through the use of or by taking advantage of bait [subject to the following limitations:] in the manner set forth in section 141.1(d)(7) (relating to special regulations areas).

~~[(1) This authorization applies to private lands in wildlife management units 5C and 5D only.~~

~~(2) Bait may be placed or distributed 2 weeks prior to the validity period of the deer control permit through the close of the validity period as established in § 147.553 (relating to permit).~~

~~(3) Bait accumulation in any one location may not exceed 5 gallons total volume at any given time.]~~

(c) *Further restrictions.* A permittee may further restrict the use of devices and methods authorized under this section on lands under the permittee's ownership or control, or both.

§ 147.557. Reporting ~~[of deer taken]~~ requirements.

~~[The permittee shall report, on a form provided by the Commission, the number of deer killed and other information the Commission deems necessary. The completed report shall be submitted to the district wildlife conservation officer within 5 days after the end of each month while the permit is valid. If no deer are killed, a negative report shall be submitted] Any person who harvests a deer under the authorization of an agriculture deer control harvest permit shall report their harvest in accordance with the requirements of section 2323(a)(3) of the act (relating to tagging and reporting big game kills) on a form provided by the Commission. The holder of a harvest permit that remains unused or unexhausted after April 15 shall report a negative harvest on a form provided by the Commission by April 30 each year.~~

§ 147.558. Tagging ~~[of deer taken]~~ requirements.

~~[Deer taken under the authority of the permit shall immediately be tagged with a tag provided by the Commission. The tag shall be attached to the head of the deer and may not be removed. Unused tags shall be returned to the district wildlife conservation officer within 5 days of the expiration of the permit] Any person who harvests a deer under the authorization of an agriculture deer control harvest permit shall tag the deer in accordance with the requirements of section 2323(a)(1) of the act (relating to tagging and reporting big game kills.~~

§ 147.558a. Political subdivisions as applicants.

(a) *Eligibility.* Political subdivisions are authorized to apply for an agricultural deer control permit under this subchapter for the limited purpose of managing the agricultural deer control activities occurring on a conglomeration of separate, but otherwise individually eligible properties located within the jurisdictional boundaries of the political subdivision. Any lands, other than those publicly owned, which lie immediately adjacent to and are connected with otherwise individually eligible lands may be included in the conglomeration of properties with the written consent of the owner or lessee thereof.

(b) *Application.* Political subdivisions ~~[applying]~~ applying for an agricultural deer control permit are responsible for the collection and submission of the application records required under § 147.552 (relating to application) for each of the properties included in the conglomeration.

~~[(e) — *Management.* Political subdivision permittees shall manage the distribution of agricultural deer control subpermits to qualified individuals in accordance with the eligibility criteria and quota limitations in §§ 147.553 and 147.554 (relating to permit; and subpermit). Political subdivision permittees shall appoint an officer or employee of the political subdivision to manage the permit activities and serve as a point of contact for affected [land owners] landowners and the Commission.~~

~~(d) — *Reporting.* Political subdivision permittees are responsible for the collection and submission of reporting records required under § 147.557 (relating to reporting of deer taken) for each of the properties included in the conglomeration.]~~

§ 147.559. Violations.

(a) It is unlawful to:

(1) Use, possess or attempt to use or possess more than four agricultural deer control harvest permits for a specific agricultural deer control area in any permit year.

(2) Use or possess or attempt to use or possess agricultural deer control harvest permit that was issued to another person.

(3) Lend or transfer in any manner whatsoever a agricultural deer control harvest permit to any other person regardless of the purpose.

(4) Issue more than four coupons to any person for a specific agricultural deer control area in any permit year.

(5) Fail to tag any deer taken with an agricultural deer control harvest permit in accordance with provisions of this part and the act relating to tagging big game.

(6) Fail to submit harvest report and survey information in accordance with instructions provided.

(7) Charge or accept any fee or consideration for an agriculture deer control coupon.

(8) Fail to comply with any other provisions of §§ 147.551-147.558a.

(b) The Director may revoke a permit for [a] any violation of this subchapter [; conditions of a permit or for failing to submit a report as required,] upon written notice to the permittee.

Action:

DRAFT

ADOPTED RULE MAKING

C. Amend 58 Pa. Code § 141.62

Commentary: To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) at its April 10, 2021, meeting amended § 141.62 (relating to beaver and otter trapping) to eliminate the restriction on the number of traps that beaver trappers can set during the 5-day period after the closure of otter trapping seasons.

Action:

DRAFT

ANNEX "A"

CHAPTER 141. HUNTING AND TRAPPING

Subchapter D. FURBEARERS

§ 141.62. Beaver and otter trapping.

* * * * *

(b) Unlawful acts. It is unlawful to:

* * * * *

(4) Set, tend or operate any number of traps or snares for beaver trapping in excess of the limits established by this paragraph.

(i) Beaver trappers are generally limited to a combined Statewide total of 20 traps or snares, no more than 10 of which may be traps. No more than 2 of the 10 traps may be body-gripping traps, except:

(A) In Wildlife Management Units where beaver bag limits are 40 per season, all 10 traps may be body-gripping traps.

(B) In Wildlife Management Units where beaver bag limits are 60 per season, all 20 traps or snares may be body-gripping traps.

(ii) Beaver trappers are limited to using no more than five traps or snares, no more than two of which may be body-gripping traps, in any Wildlife Management Unit with an open otter trapping season. This limitation is inclusive of any otter traps or snares set under paragraph (7). This limitation is applicable during periods when the open beaver trapping season overlaps by calendar date with the open otter trapping season.

* * * * *

BUREAU OF WILDLIFE PROTECTION

PROPOSED RULE MAKING

A. Amend 58 Pa. Code § 131.8

Commentary:

The Pennsylvania population of nesting peregrine falcons (*Falco peregrinus*) has continued to increase since the Commission's upgrade of the species from endangered to threatened. This action follows the Commission's Peregrine Falcon Management Plan (dated 2013) in which objectives for delisting the species were established. Section 925(i) of the Code (relating to jurisdiction and penalties) states that "[i]n addition to the fines and costs imposed for violations pursuant to subsection (b), the costs incurred by the commission for the replacement of the species involved in the violation shall be assessed by the magisterial district judge in such amount as is fixed by regulation of the commission." Upon the peregrine falcon's delisting, replacement costs for this species will be reduced from \$5,000 to a default of \$200. Notwithstanding its efforts to delist the peregrine falcon, the Commission has determined that the species necessitates further protection from unlawful takings in the form of increased replacement costs upon its effective delisting date. The Commission is proposing to amend § 131.8 (relating to replacement costs for wildlife killed) to increase replacement costs for peregrine falcons from \$200 to \$2,500.

CHAPTER 131. PRELIMINARY PROVISIONS

§ 131.8. Replacement costs for wildlife killed.

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

(1) General class.

(i) Each threatened or endangered bird or mammal, \$5,000.

(ii) Each bald eagle, golden eagle, [ø] osprey or peregrine falcon,
\$2,500.

(iii) Each elk or black bear, \$1,500.

(iv) Each white-tailed deer, \$800.

(v) Each bobcat or otter, \$500.

(vi) Each wild turkey or beaver, \$300.

(vii) Any other wildlife, \$200.

(2) Trophy class.

(i) Each elk with a Boone and Crockett green score of 200 [~~points~~] inches or more, \$5,000.

(ii) Each white-tailed deer with a Boone and Crockett green score of 115 [~~points~~] inches or more, \$5,000.

(iii) Each black bear with a field dressed weight of 350 pounds or more, \$5,000.

Action:

DRAFT

ADOPTED RULE MAKING

B. Amend 58 Pa. Code §§ 131.2 and 141.1

Commentary: To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) at its April 10, 2021, meeting amended §§ 131.2 and 141.1 (relating to definitions; and special regulations areas) to define and authorize the use firearms that utilize straight-walled cartridges within most areas designated as special regulations areas and also reorganize § 141.1 to provide a clearer and more seamless construction within the section itself and with related arms and ammunition provisions.

Action:

DRAFT

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:

* * * * *

Beekeeper's agent--A person who accepts the responsibility of bees, hives and related equipment in the absence of the owner, and who is willing and able to reset disrupted hives, maintain fencing where present and report damage done by bears to the nearest available Commission officer as soon as practical, but, in any event, within 10 days of the damage. The agent shall be domiciled within 300 yards of the beehives.

Bottle-necked cartridge--A cartridge having a main diameter and a distinct angular shoulder stepping down to a smaller diameter at the neck position of the case. This term does not include straight-walled cartridges.

Bow--In addition to the definition in section 102 of the act, a device for launching an arrow, which derives its propulsive energy solely from the bending and recovery of two limbs. The energy used to propel the arrow may not be derived from another source. These limitations may not exclude the mechanical leverage advantage provided by eccentric wheels or cams so long as the available energy stored in the bent limbs of the bow is the sole result of a single, continuous and direct pulling effort by the shooter. The bowstring shall be drawn, held and released as a direct and conscious action of the shooter. Release shall be accomplished by either relaxing the tension of the fingers or triggering the release action of a manually held release aid.

* * * * *

Special firearms deer season--Any firearms deer season, except muzzleloader season, that precedes the regular firearms deer season.

Straight-walled cartridge--A cartridge having straight or slightly tapered walls down to the projectile. This term does not include bottle-necked cartridges.

Sustained yield--As used in section 546(b)(2) of the act (relating to limitation on expenditures for deterrent fencing), continuous and planned forest production through accepted forestry management practices.

Venison--For the purpose of section 2312 of the act (relating to buying and selling game), any meat derived from a white-tailed deer.

CHAPTER 141. HUNTING AND TRAPPING

Subchapter A. GENERAL

§ 141.1. Special regulations areas.

(a) *Name.* The areas shall be known and referred to as special regulations areas.

(b) *Descriptions.*

(1) Southwest area. Includes the County of Allegheny.

(2) Southeast area. Includes the Counties of Bucks, Montgomery, Chester, Delaware and Philadelphia and also includes Tyler and Ridley Creek State Parks and other publicly-owned lands therein.

(c) *Prohibitions.*

(1) *Restricted devices.* Notwithstanding the authorizations of §§ 141.22, 141.43-141.45, 141.47 and 141.67, it is unlawful to:

(A) Hunt, take, kill or to attempt, aid, abet, assist or conspire to hunt, take or kill any game or wildlife through the use of a firearm that discharges bottle-necked centerfire cartridges or to possess bottle-necked centerfire cartridges or any firearm that is designed to discharge bottle-necked centerfire cartridges while hunting any game or wildlife within any special regulations area.

(B) Hunt, take, kill or to attempt, aid, abet, assist or conspire to hunt, take or kill any game or wildlife through the use of a centerfire or muzzleloading firearm or to possess centerfire cartridges or muzzleloading ammunition or any firearm that is designed to discharge centerfire cartridges or muzzleloading ammunition while hunting any game or wildlife within the following parts of the southeast special regulations area: Philadelphia County, Ridley Creek State Park, Delaware County and Tyler State Park, Bucks County.

(2) (Reserved).

(3) *Restricted feeding.* It is unlawful to, except for normal or accepted farming, habitat management practices, oil and gas drilling, mining, forest management activities, or other legitimate commercial or industrial practices, intentionally lay or place food, fruit, hay, grain, chemical, salt or other minerals anywhere in the southeast special regulations area for the purpose of feeding white-tailed deer, or to intentionally lay or place food, fruit, hay, grain, chemical, salt or other minerals that may cause white-tailed deer to congregate or habituate an area. If otherwise lawful feeding is attracting white-tailed deer, the Commission may provide written notice prohibiting this activity.

(d) *Permitted acts.* It is lawful to:

- (1) (Reserved).
- (2) (Reserved).
- (3) (Reserved).
 - (i) (Reserved).
 - (ii) (Reserved).
- (4) (Reserved).
 - (i) (Reserved).
 - (ii) (Reserved).
- (5) (Reserved).

(6) Hunt or take deer during any deer season through the use of or by taking advantage of bait on private property currently operating under a valid deer control permit where approval for limited baiting activities has previously been obtained under § 147.552 (relating to application). This limited authorization is valid only to the extent that persons comply with the standards and conditions in § 147.556 (relating to lawful devices and methods).

(7) Hunt or take deer in the southeast special regulations area during regular open hunting seasons for white-tailed deer through the use of or by taking advantage of bait on private, township or municipal property only as set forth in this paragraph.

* * * * *

C. Amend 58 Pa. Code § 147.804

Commentary:

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) at its April 10, 2021, meeting amended § 147.804 (relating to general) to expand species eligibility for the mentored hunting program to include participation in waterfowl, bear and expanded spring (special) turkey seasons. Existing regulatory structures will authorize mentored youth over 7 years of age at the time of application and mentored adults to make application for bear licenses and special wild turkey licenses as a direct applicant. Mentored youth under the age of 7 years of age at the time of application will be authorized to receive the harvest tags from bear and special wild turkey licenses by transfer from a mentor in similar fashion to other big game harvest tags.

Action:

DRAFT

ANNEX “A”

CHAPTER 147. SPECIAL PERMITS

Subchapter X. MENTORED HUNTING PROGRAM PERMIT

§ 147.804. General.

(a) *License required.* A mentor shall possess a valid Pennsylvania hunting license or qualify for license and fee exemptions under section 2706 of the act (relating to resident license and fee exemptions) prior to engaging in any mentored hunting activities.

(b) *Permit required.* A mentored youth or mentored adult shall possess a valid applicable mentored hunting permit prior to engaging in any mentored hunting activities. Purchase of a hunting license by an eligible mentored youth or mentored adult shall automatically invalidate any mentored permit and associated harvest tags held by same.

(c) *Species limitation.* A mentored youth's or mentored adult's hunting eligibility is restricted to the following species: rabbit, hare, ruffed grouse, mourning dove, bobwhite quail, pheasant, crow, squirrel, porcupine, woodchuck, coyote, deer, waterfowl, bear, and wild turkey.

* * * * *

(k) *Transfer of a spring turkey harvest tag or special wild turkey harvest tag.* Notwithstanding the prohibitions in section 2711(a)(3) and (5) of the act, mentors are authorized to transfer spring turkey harvest tags or special wild turkey harvest tags issued to them to a mentored youth who was under 7 years of age at the time of application. The spring turkey harvest tag or special wild turkey harvest tag shall be valid and in the possession of the mentor at all times while hunting spring turkey. The transfer of the spring turkey harvest tag or special wild turkey harvest tag may not occur until after the mentored youth has harvested the spring turkey, but before tagging the carcass. A mentored youth may not receive by transfer more than one spring turkey harvest tag or special wild turkey harvest tag each license year. This provision shall not be construed to authorize the transfer of a spring turkey harvest tag or special wild turkey harvest tag to a mentored adult or a mentored youth that was 7 years of age or older at the time of application for the mentored permit.

(l) *Application for and issuance of big game harvest tags.* Except as provided as follows, mentored youth and mentored adult hunting permits will be issued with an antlered deer, fall turkey and spring turkey harvest tag. No harvest tags will be issued with a mentored youth permit where the applicant is under 7 years of age at the time of application. Mentored youth over 7 years of age at the time of application and mentored adults are additionally eligible to make application for a bear license, a special wild turkey license, and one antlerless deer license and as many DMAP harvest permits that are within the eligibility standards and limitations of these programs.

(m) *Application for and issuance of add-on licenses and permits.* Mentored youth and mentored adults are exempt from requirements to obtain archery and muzzleloader add-on licenses or stamps applicable to hunting archery or muzzleloader seasons for any species listed in subsection (c). Unless otherwise excepted by existing program standards, all mentored youth and mentored adults are required to obtain migratory bird licenses and pheasant permits to participate in hunting during applicable seasons for any associated species listed in subsection (c).

(n) *Transfer of a bear harvest tag.* Notwithstanding the prohibitions in section 2711(a)(3) and (5) of the act, mentors are authorized to transfer bear harvest tags issued to them to a mentored youth who was under 7 years of age at the time of application. The bear harvest tag shall be valid and in the possession of the mentor at all times while hunting bear. The transfer of the bear harvest tag may not occur until after the mentored youth has harvested the bear, but before tagging the carcass. A mentored youth may not receive by transfer more than one bear harvest tag each license year. This provision shall not be construed to authorize the transfer of a bear harvest tag to a mentored adult or a mentored youth that was 7 years of age or older at the time of application for the mentored permit.

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REAL ESTATE

A. Donation

Contract No. L-3776, State Game Land No. 157, Bucks County

Commentary:

At the Commission Meeting held on January 23, 2021, the Board of Game Commissioners approved a donation from Natural Lands Trust, Inc. (NLT) of 15+/- acres of land in Haycock Township, Bucks County, an indenture in State Game Land No. 157. NLT was successful in receiving funding through partnership grants provided by the Pennsylvania Department of Conservation and Natural Resources (DCNR) and the United States Fish and Wildlife Service through the Highlands Conservation Act (HCA); however, the HCA funds are payable to the Commonwealth only as reimbursement.

The Commonwealth has determined the most expeditious way to move forward is for the Commission to accept a subaward for the federal funds from DCNR, provide the HCA award amount of \$85,000 to NLT from the Commission's restricted revenue account set up through Treasury for "Other Cost Sharing Funds" and then directly accept the HCA federal reimbursement amount of \$85,000 back into the restricted revenue account. This has the double benefit of being efficient, as well as ensuring federal dollars can be tracked directly to the acquisition project as intended by the HCA. The net effect to the restricted revenue account or the Game Fund is \$0.00. To accomplish this, the Board of Game Commissioners must approve use of the restricted revenue account, payment from the account, and the subsequent acceptance of the federal HCA funds deposited into the account.

Action:

B. Acquisition

Contract No. L-3782, State Game Land No. 168, Northampton County

Commentary: Rodney and Judith Holzer are offering 19.2+/- acres of land in Lehigh Township, Northampton County, adjoining State Game Land No. 168 (Exhibit RED 1). The option price is \$33,000 lump sum to be paid with funds from the Game Fund's restricted revenue account "Other Cost Sharing Funds". Access is through existing State Game Land No. 168.

Action:

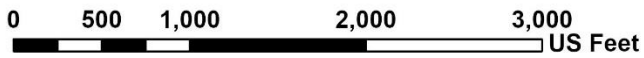
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Exhibit RED 1
State Game Land No. 168

L-3782
Rodney & Judith Holzer Tract
19.2+/- Acres

Lehigh Township
Northampton County
Southeast Region



C. Informational Item

Contract No. L-3765, State Game Land Nos. 46, 156, Lancaster County

Commentary: At the Commission Meeting held on April 7, 2020, the Board of Game Commissioners approved the exchange of a 9.36 +/- property known as the Brady Henderson Elementary School in Huntingdon County to Alabaster House, in exchange for a portion of the consideration for the acquisition of 392.3+/- acres of land in Elizabeth Township, Lancaster County. The exchange of the Lancaster County property was to be completed in cooperation with the Natural Lands Trust, Inc. (NLT) with funding provided by the Department of Conservation and Natural Resources (DCNR) and the United States Fish and Wildlife Service through the Highlands Conservation Act (HCA).

The school building has been transferred and the money made available to NLT for the exchange by Alabaster House, Inc. However, the HCA monies are payable to the Commonwealth only as reimbursement.

The Commonwealth has determined the most expeditious way to move forward is for the Commission to accept a subaward for the federal funds from DCNR, provide the HCA award amount of \$1,471,041 to NLT from the Commission's restricted revenue account set up through Treasury for "Other Cost Sharing Funds" and then directly accept HCA federal reimbursement back into the restricted revenue account. This has the double benefit of being efficient, as well as ensuring federal dollars can be tracked directly to the acquisition project as intended by the HCA. The net effect to the restricted revenue account or the Game Fund is \$0.00.

To further reduce delays in NLT receiving the payment of HCA funds, approval to use the restricted revenue account, payment from the account, and the subsequent acceptance of the HCA funds deposited into the restricted revenue account was submitted as a notational vote to the Board of Commissioners on April 12, 2021. By unanimous vote, the Commissioners voted to approve the use of the restricted revenue account for the above-described purposes.

Action: This is an informational item only; therefore, no action is required.

OIL/GAS & MINERALS

D. Non-Surface Use Oil and Gas Cooperative Agreement Tract 66A-21, State Game Land No. 66, Sullivan County

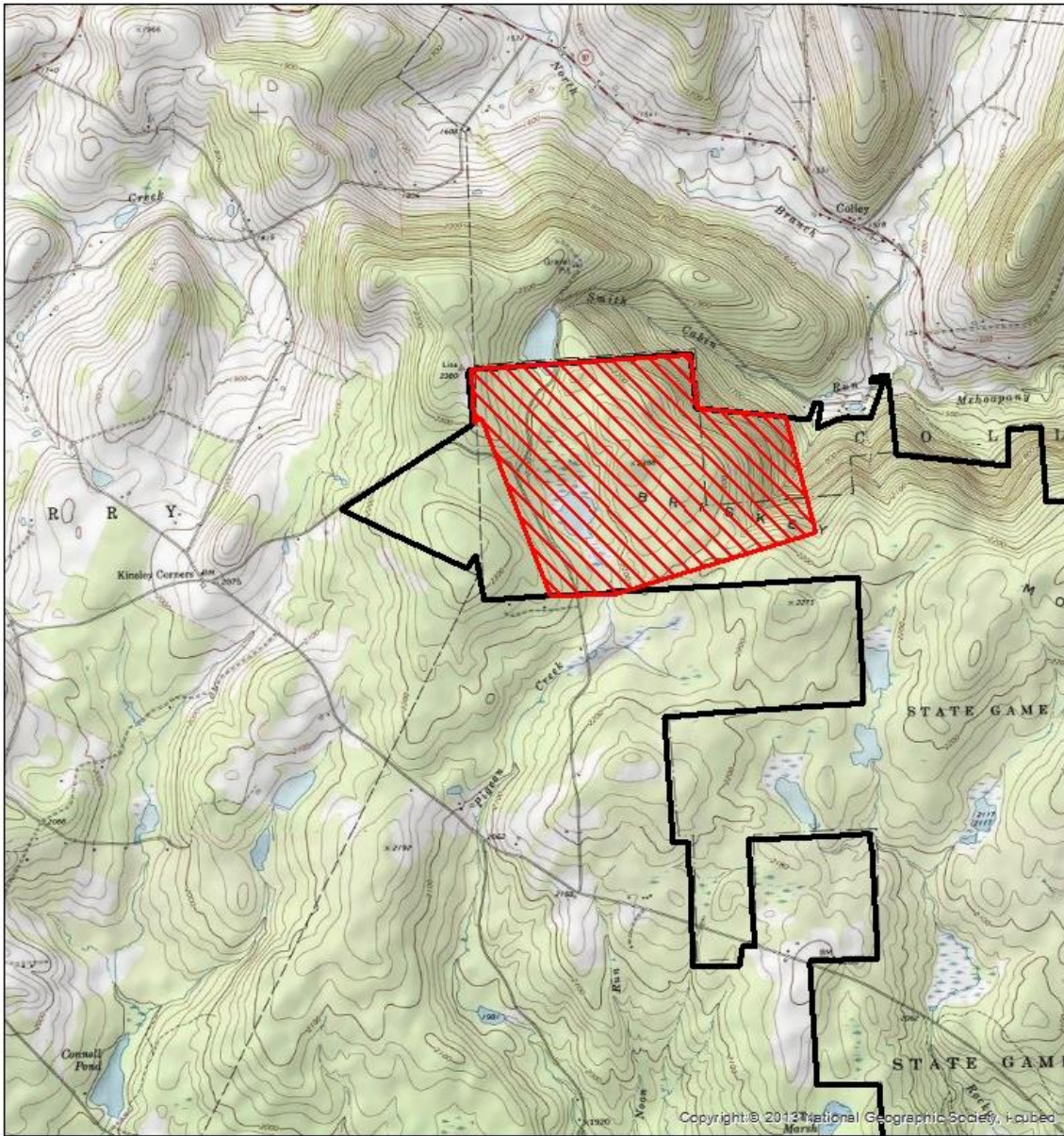
Commentary:

Chesapeake Appalachia, L.L.C. of Oklahoma City, OK requested the Commission offer its oil and gas ownership under a portion of State Game Land No. 66 for oil and gas development. The proposed tract, containing approximately 600+- acres, is located in Colley Township, Sullivan County (Exhibit OGM-1).

The terms of the agreement are a paid up, five-year, Non-Surface Use Oil and Gas Agreement, a \$1,500 per acre bonus payment and a 18% royalty. Chesapeake Appalachia, L.L.C. has a strong lease position surrounding this portion of State Game Land No. 66 and has initiated well drilling and development programs on adjacent private lands. Chesapeake Appalachia has the ability to unitize the Commission's oil and gas reserve by horizontal drilling with no disturbance to the game lands surface. PGC staff has negotiated with Chesapeake Appalachia, L.L.C. in an effort to ensure the prudent development of the Commission's oil/gas reserve and simultaneously protect the wildlife resources and recreational use of State Game Land No. 66.

The bonus payment of \$900,000 shall be directly deposited into the Game Fund. As additional compensation, Chesapeake will also convey a 0.39-acre interior parcel located on State Game Land No. 285 in Darlington Township, Beaver County to the Commission (Exhibit OGM-2). Future rentals and royalties shall be directly deposited into the Game Fund. Oil and Gas Development will be regulated by the Commonwealth's Oil and Gas Regulations and the Commission's Standard Non-Surface Use Oil and Gas Development Agreement.

Action:



Legend

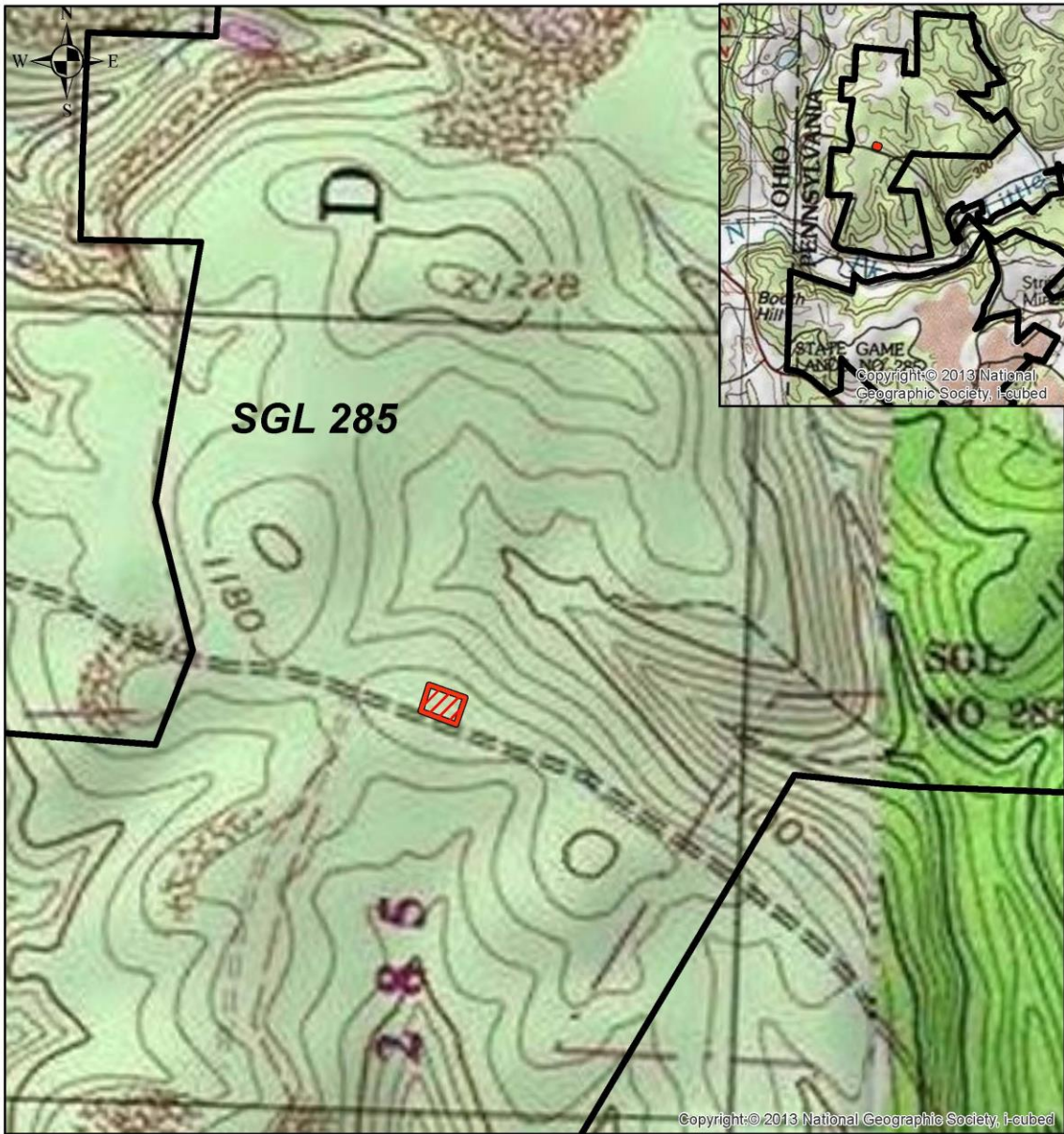
 Tract 66A-21 Agreement Area (600 +/- Acres)



 Game Land No. 66 Boundary



EXHIBIT OGM 1
State Game Land No. 66
Non-Surface Use Oil & Gas
Cooperative Agreement
Chesapeake Appalachia, L.L.C.
Tract 66A-21
600 +/- Acres

Colley Township, Sullivan County
 Northeast Region



-  Land to be conveyed to PGC
0.39 +/- Acres
-  State Game Land

0 250 500 1,000
Feet

1 inch = 573 feet

EXHIBIT OGM-2
State Game Land No. 285
McMineral
to PGC
Portion of Tax Parcel
08-020-106
0.39 +/- Acres

Darlington Twp., Beaver County
 Southwest Region

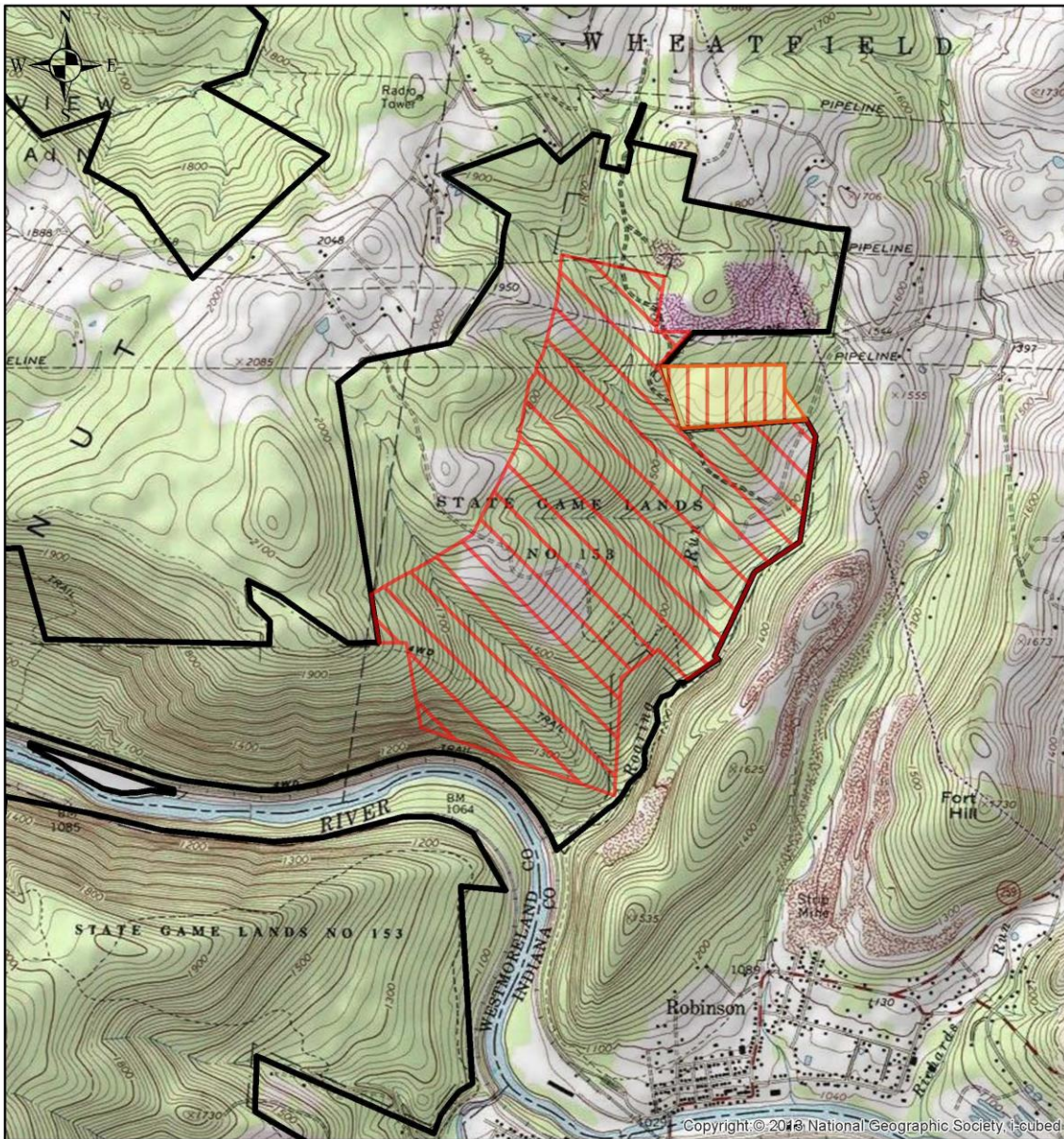
E. Underground Mining Mineral Agreement
Tract 153A-21, State Game Land No. 153, Indiana County

Commentary:




Britt Energies, Inc. of Indiana, Pennsylvania, has requested a 25-year Agreement to deep mine and remove the Loyalhanna Limestone from beneath approximately 616+/- acre tract of State Game Land No. 153 (Exhibit OGM-3). The proposal entails developing an underground mine to access approximately 584 acres of Commission owned stone reserve through a mine portal and processing area located on the recently acquired 33-acre Stilley tract, portion of State Game Land No. 153. The Stilley tract was deeded to the Commission on February 18, 2021 after surface coal mine operations were completed. Surface impacts will be limited to the 33 acres Stilley tract. The proposed underground portion of the operation entails mining an estimated 149,140 tons of Loyalhanna Limestone per acre by removing approximately 60 feet of stone and leaving 50 foot by 50-foot pillars in place to ensure that no subsidence occurs as a result of the mining.

As compensation to the Commission, Britt Energies will pay a royalty rate of \$0.50 per ton of stone for years 1 to 10, \$0.60 per ton of stone for years 11-20 and \$0.70 per ton of stone for years 21 and beyond. As additional compensation and to offset the habitat loss and recreational use of the State Game Land from the portal and processing plant, Britt Energy through Mystic Development will convey a 190-acre tract of land in Brush Valley Township, Indiana County (Exhibit OGM-4). The Mystic Development tract is an indenture on State Game Land No. 273 with public road frontage that provides access to an area of the game land previously not readily accessible to the public. Mining will be regulated by the Commonwealth's Mining Regulations and the Commission's Standard Industrial Surface Mining Agreement.

Action:



Legend

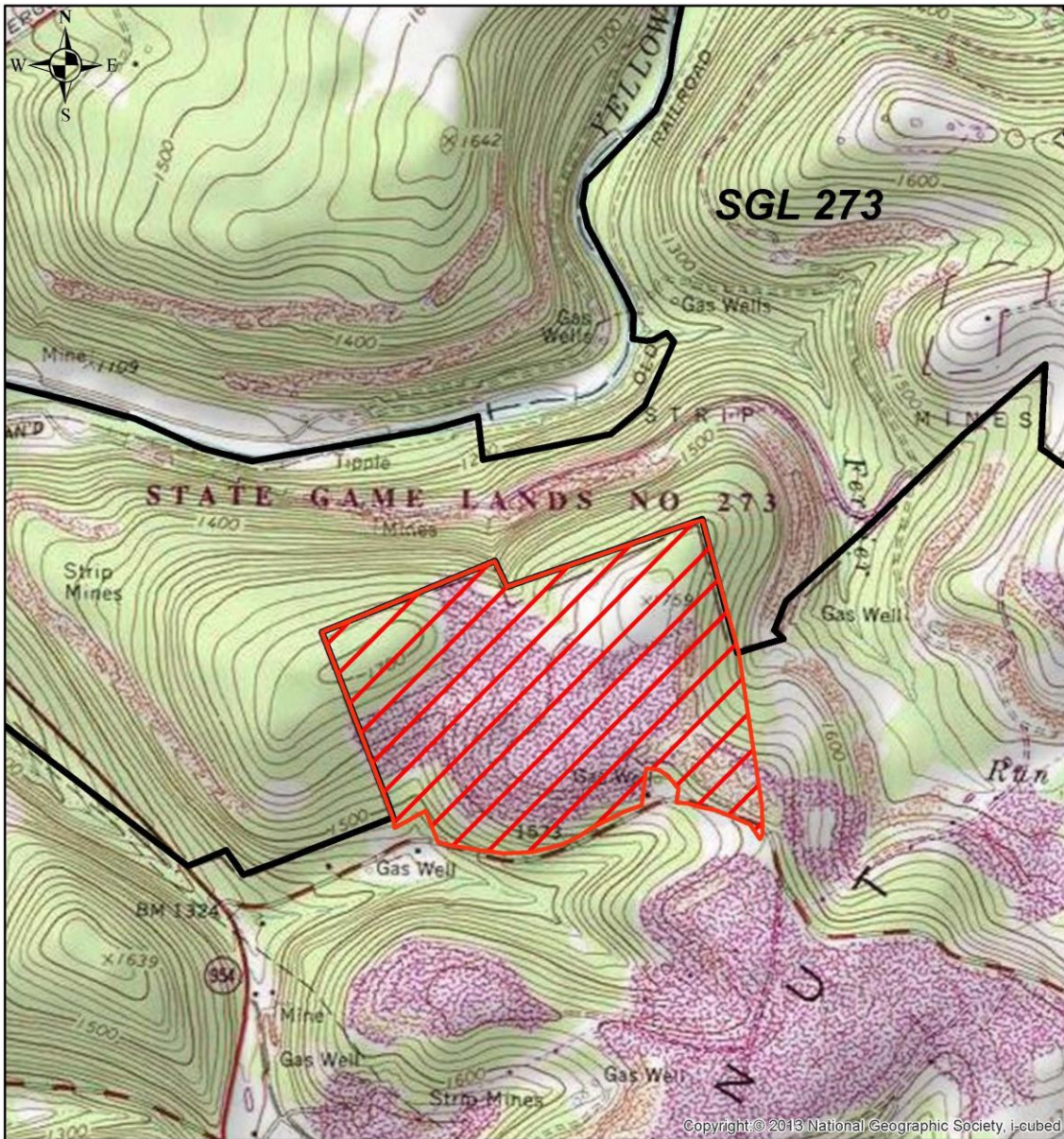
-  PORTAL AREA
-  UNDERGROUND MINE AREA
-  STATE GAME LAND



0 1,250 2,500 5,000 Feet

1 inch = 2,000 feet

EXHIBIT OGM-3
State Game Land No. 153
ROARING RUN MINE
 Underground Limestone Mine
 Britt Energies, Inc.
 Tract 153A-21
 600 +/- Acres

Burrell Twp., Indiana County
 Southwest Region



-  Land to be conveyed to PGC
190 +/- Acres
-  State Game Land



1 inch = 1,250 feet

EXHIBIT OGM-4
State Game Land No. 273
Mystic Brook Development, LP
to PGC
Portion of Tax Parcel
08-020-106
190 +/- Acres
 Brush Valley Twp., Indiana County
 Southwest Region

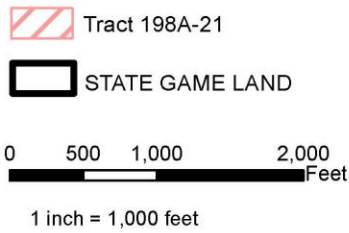
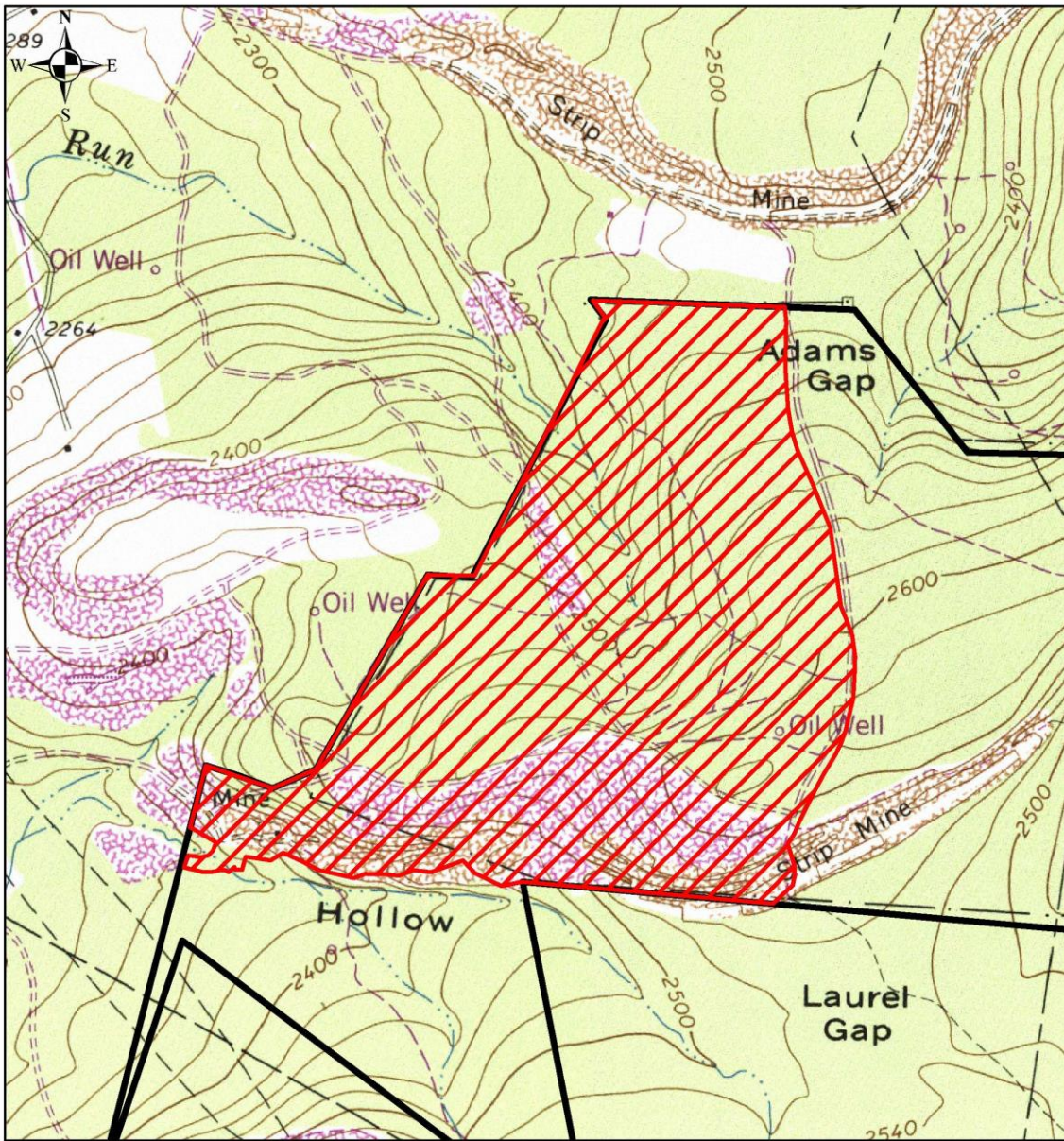
F. Bituminous Coal Surface Mining Agreement Transfer and Mine Expansion
Tract 198A-21, State Game Land No.198, Cresson Township, Blair County

Commentary:

RES Coal, LLC (RES) of Armagh, Pennsylvania has requested the Commission to authorize an additional 95 acres of surface coal mining to facilitate the transfer of the existing E.P. Bender Coal Co., Inc. Agreement and continue mining operations in a manner to ensure reclamation of the current Job 86 surface mine operation. The 273 acre Tract 198A-21 area will be comprised of the existing agreement of 178 acres and the expansion area of 95 acres. The 178-acre surface mining operation was approved by the by the Board in October 2003 and is currently operating under an approved Commission Bituminous Coal Surface Mining Agreement. The 178-acre lease agreement with E.P. Bender Coal Company will be transferred to RES and the mine would be expanded by an additional 95 acres, of which 84 acres would be new mining area (Exhibit OGM 5). Approximately 921,240 recoverable tons coal exist within the expansion area. The Commission does not own the coal rights on this property. RES will assume all reclamation responsibility of the existing permit/lease agreement area which includes backfilling, regrading and reclamation of an estimated 1.3 million cubic yards of the current open cut. The reclamation plan will be developed in coordination with the Commission's Harrisburg and regional habitat management staff.

The terms are a ten-year agreement, and a royalty rate of 5% FOB pit price per ton of coal removed from the State Game Land. 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 Bituminous Coal Surface Mining Agreement.

Action:



OGM Exhibit 5
State Game Land No. 198
Bender Job 86 Mine
Bituminous Surface Coal Mine
RES Coal LLC
Tract 198A-21
273 +/- Acres

Cresson Twp., Blair County
 Southcentral Region

OTHER NEW BUSINESS

Next Commission Meeting – September 10-11, 2021, in Harrisburg, PA

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

Adjournment

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