

**COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA GAME COMMISSION**



**AGENDA  
HARRISBURG, PENNSYLVANIA  
September 26, 2020**

*Bryan Burhans*  
Bryan Burhans  
Executive Director

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Commonwealth of Pennsylvania  
Pennsylvania Game Commission

Agenda

The Commission Meeting of the Pennsylvania Game Commission will be held virtually on Saturday, September 26, 2020, beginning at approximately 10:00 a.m.

Call to Order

Pledge of Allegiance

Roll Call of Commissioners

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

Approval of Minutes of Commission Meeting held July 25, 2020.

## BUREAU OF WILDLIFE MANAGEMENT

### PROPOSED RULE MAKING

A. Amend 58 Pa. Code §§ 137.34 and 137.35.

Commentary:

Section 137.34 (relating to Chronic Wasting Disease and emergency authority of Director) currently addresses only the emergency authority of the PA Game Commission Executive Director as it pertains to chronic wasting disease (CWD). This section does not address matters of any other diseases or the impacts of these diseases on other species of wildlife. The Commission has determined that a more comprehensive regulation capable of application to any number of wildlife diseases would provide the Executive Director with the necessary authority and flexibility to respond to additional wildlife diseases other than CWD that threaten human, domestic and wild animal, or environmental health and safety within the Commonwealth. The need for expanding existing regulatory language was recently recognized as a result of the ongoing rabbit hemorrhagic disease (RHD) outbreak in the Southwestern United States. The Commission is proposing to amend §§ 137.34 and 137.35 to expand the authority of the Executive Director to issue executive orders to address additional diseases and species of wildlife other than only Chronic Wasting Disease as it relates to only cervids. The Commission is also proposing to amend § 137.35 to define the term 'Established Area,' restrict the movement of high risk parts outside from Established Areas and further expand the ban on importation of high risk parts to all areas outside the Commonwealth. These changes reflect the strategies described in the recently accepted CWD Response Plan.

#### CHAPTER 137. WILDLIFE

§ 137.34. [~~Chronic Wasting Disease~~] Wildlife disease and emergency authority of Director.

(a) The Director has emergency authority to take actions to mitigate risk factors and to determine the prevalence and geographic distribution of [~~Chronic Wasting Disease (CWD)] wildlife diseases, if the Director concludes that the introduction or spread of such diseases [CWD] poses a threat to human, [~~farm animals, pets or other cervids~~] domestic and wild animal, and environmental health and safety within or adjacent to this Commonwealth.~~

(1) The Director has emergency authority to:

(i) [~~Prohibit the importation of high risk cervid parts from areas that are known to harbor CWD~~] Institute importation and exportation restrictions to mitigate disease transmission risk factors.

(ii) Define and designate Disease Management Areas (DMAs) in this Commonwealth.

(2) The Director has emergency authority within designated DMAs to:

(i) Allow the taking of [~~eervids~~] wildlife without regard to established seasons and bag limits and methods of take.

(ii) Require mandatory [~~checking of hunter killed cervids~~] disease testing or disposal of wildlife or wildlife parts.

(iii) Prohibit the [~~removal~~] movement of [~~high risk cervid~~] high-risk wildlife parts.

(iv) Prohibit the rehabilitation of [~~eervids~~] wildlife.

(v) Prohibit the use and possession of [~~eervid urine based attractants~~] wildlife products.

(vi) Prohibit the feeding of [~~eervids~~] wildlife.

(vii) Prohibit [~~any~~] the issuance of new permits and allow the suspension or modification of existing permits to possess or transport live [~~eervids~~] wildlife.

(3) Notwithstanding paragraphs (1) and (2), the emergency authority of the Director will not be construed to extend to:

(i) [~~the~~] The regulation of captive [~~eervids~~] wildlife held under 3 Pa.C.S. Chapter [~~27~~] 23 (relating to [~~Domestic Animal Law~~] domestic animals) or the requirements of a lawful quarantine order issued by the Department of Agriculture.

(ii) The unilateral regulation of wildlife concurrently managed by the Commonwealth and the Federal government.

(b) It is unlawful for a person to violate a provision of an Executive Order issued by the Director under the authority of this section. A person violating this section will, upon conviction, be sentenced to pay the fine prescribed in the act.

§ 137.35. Chronic Wasting Disease restrictions.

(a) *Importation.*

(1) It is unlawful to import any high-risk parts or materials from cervids harvested, taken or killed [~~within any CWD endemic state or Canadian province~~] outside of this Commonwealth.

(2) This subsection may not be construed to limit the importation of non-high-risk parts or materials from cervids harvested, taken or killed [~~within any CWD-endemic state or Canadian province~~] outside of this Commonwealth.

(b) *Exportation.*

(1) It is unlawful to remove or export any high-risk parts or materials from cervids harvested, taken or killed, including by vehicular accident, within any Disease Management or Established Area established within this Commonwealth.

(2) This subsection may not be construed to limit the removal or exportation of non-high-risk parts or materials from cervids harvested, taken or killed within any Disease Management or Established Area established within this Commonwealth.

(3) This subsection may not be construed to limit the removal or exportation of high-risk parts or materials from cervids harvested, taken or killed in any Disease Management or Established Area established within this Commonwealth if the parts or materials are transported directly to any location or facility designated and approved in advance by the Commission to receive high-risk cervid parts for waste disposal, taxidermy or butchering purposes. Locations or facilities designated and approved to receive high-risk cervid parts for waste disposal, taxidermy or butchering purposes will be made known through public announcement, web site and other means reasonably intended to reach the widest audience.

(4) All cervids harvested, taken or killed within any Disease Management or Established Area established within this Commonwealth are subject to disease testing. This testing may require hunters to present cervids, or cervid parts, for checking and sampling at prescribed locations under conditions in a forthcoming notice. The submission process, if any, will be made known through public announcement, web site and other means reasonably intended to reach the widest audience. The cost of testing, sampling and analysis will be borne by the Commission.

(5) It is unlawful to rehabilitate wild, free-ranging cervids within any Disease Management or Established Area established within this Commonwealth.

(6) It is unlawful to use or possess cervid urine-based attractants in any outdoor setting within any Disease Management or Established Area established within this Commonwealth.

(7) It is unlawful to directly or indirectly feed wild, free-ranging cervids within any Disease Management or Established Area established within this Commonwealth. This prohibition may not be construed to apply to normal or accepted agricultural, habitat management, oil and gas drilling, mining, forest management, or other legitimate commercial or industrial practices. If otherwise lawful feeding is attracting cervids, the Commission may provide written notice prohibiting this activity. Failure to discontinue this activity is a violation of this section.

(8) The Commission will not issue any new permit to possess or transport live cervids within any Disease Management or Established Area established within this Commonwealth.

(c) *Nonapplicability.*

(1) Nothing in this section shall be construed to extend to the regulation of captive cervids held under 3 Pa.C.S. Chapter 23 (relating to Domestic Animal Law) or the requirements of a lawful quarantine order issued by the Department of Agriculture.

(2) Nothing in this section shall be construed to limit the Commission's authority to establish or enforce additional importation, exportation, possession, transportation, or testing requirements or restrictions on cervid parts or materials under the authority of § 137.34 (relating to ~~[Chronic Wasting Disease]~~ wildlife disease and emergency authority of Director).

(d) *Authority to designate.* The Executive Director has the authority to designate and publish ~~[a list of current CWD endemic states and Canadian provinces and]~~ Disease Management and Established Areas established within this Commonwealth. The Executive Director will publish this list and any updates in the Pennsylvania Bulletin.

(e) *Definitions.* The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

*CWD*—Chronic Wasting Disease—The transmissible spongiform encephalopathy of cervids.

~~[CWD endemic state or Canadian province—States or Canadian provinces where CWD has been detected in wild or captive cervid populations.]~~

*Cervid*--Any member of the family Cervidae (deer), specifically including, but not limited to, the following species: black-tailed deer; caribou; elk; fallow deer; moose; mule deer; red deer; sika deer; white-tailed deer; and any hybrids thereof.

*Disease Management Area*--Any geographic area of this Commonwealth influenced by a positive case of CWD and targeted by the Commission for CWD management activities.

*Established Area*--Any geographic area of this Commonwealth that is within a Disease Management Area and has a higher concentration of disease prevalence that is targeted by the Commission for enhanced CWD management activities.

*Feeding*--The act of placing any artificial or natural substance for the use or consumption of wild, free-ranging cervids on an annual, seasonal or emergency basis.

*High-risk parts or materials*--Any parts or materials, derived from cervids, which are known to accumulate abnormal prions. This includes any of the following: head (including brain, tonsils, eyes and lymph nodes); spinal cord/backbone (vertebra); spleen; skull plate with attached antlers, if visible brain or spinal cord material is present; cape, if visible brain or spinal cord material is present; upper canine teeth, if root structure or other soft material is present; any object or article containing visible brain or spinal cord material; and brain-tanned hide.

*Non-high-risk parts or materials*—Any parts or materials, derived from cervids, which are not known to accumulate abnormal prions. This includes any of the following: meat, without the backbone; skull plate with attached antlers, if no visible brain or spinal cord material is present; tanned hide or rawhide with no visible brain or spinal cord material present; cape, if no visible brain or spinal cord material is present; upper canine teeth, if no root structure or other soft material is present; and taxidermy mounts, if no visible brain or spinal cord material is present.

(f) *Violations.* A person violating a requirement or restriction in this section may be prosecuted under section 2102 or 2307 of the act (relating to regulations; and unlawful taking or possession of game or wildlife) and, upon conviction, be sentenced to pay the fine prescribed in the act.

Action:



## **ADOPTED RULE MAKING**

B. Amend 58 Pa. Code § 147.746.

Commentary: To effectively manage the wildlife resources of this Commonwealth, the Commission proposed at its July 25, 2020, meeting to amend § 147.746 (relating to exceptions for resident Canada geese) to align state-level regulations with recent federal amendments to depredation orders. Depredation orders for resident Canada geese were established in federal and state regulations in 2006 and have been successful in providing affected individuals and businesses with methods to reduce goose-related damage and conflicts, especially in situations where recreational hunting is impractical or insufficient for population control.

Action:

## ANNEX “A”

### CHAPTER 147. SPECIAL PERMITS

#### Subchapter U. DEPREDATION

§ 147.746. Exceptions for resident Canada geese.

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

(1) Private landowners or managers of public land have registered with the United States Fish and Wildlife Service at <https://epermits.fws.gov/eRCGR/geSI.aspx>. Each person who will be conducting the activity shall be registered at this site prior to implementing control activities.

(i) Eggs may be addled by shaking, freezing with CO<sub>2</sub> or oiling. If addled by oil, only 100% corn oil may be used.

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

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

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

(b) *Agricultural facilities.*

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

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

(c) *Airports and military airfields.*

\* \* \* \* \*

**BUREAU OF WILDLIFE PROTECTION**

**ADOPTED RULE MAKING**

B. Amend 58 Pa. Code § 141.18.

Commentary: To effectively manage the wildlife resources of this Commonwealth, the Commission proposed at its July 25, 2020, meeting to amend § 141.18 (relating to permitted devices) to authorize the use of hand-held and firearm-mounted night-vision and infrared (thermal) optics used solely for furbearer hunting.

Action:

ANNEX “A”

CHAPTER 141. HUNTING AND TRAPPING

Subchapter A. GENERAL

§ 141.18. Permitted devices.

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

(1) Firearms that use an electronic impulse...

\* \* \* \* \*

(11) Electronic hand-held and firearm-mounted night-vision and infrared optics used solely for furbearer hunting.

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**BUREAU OF WILDLIFE HABITAT MANAGEMENT**

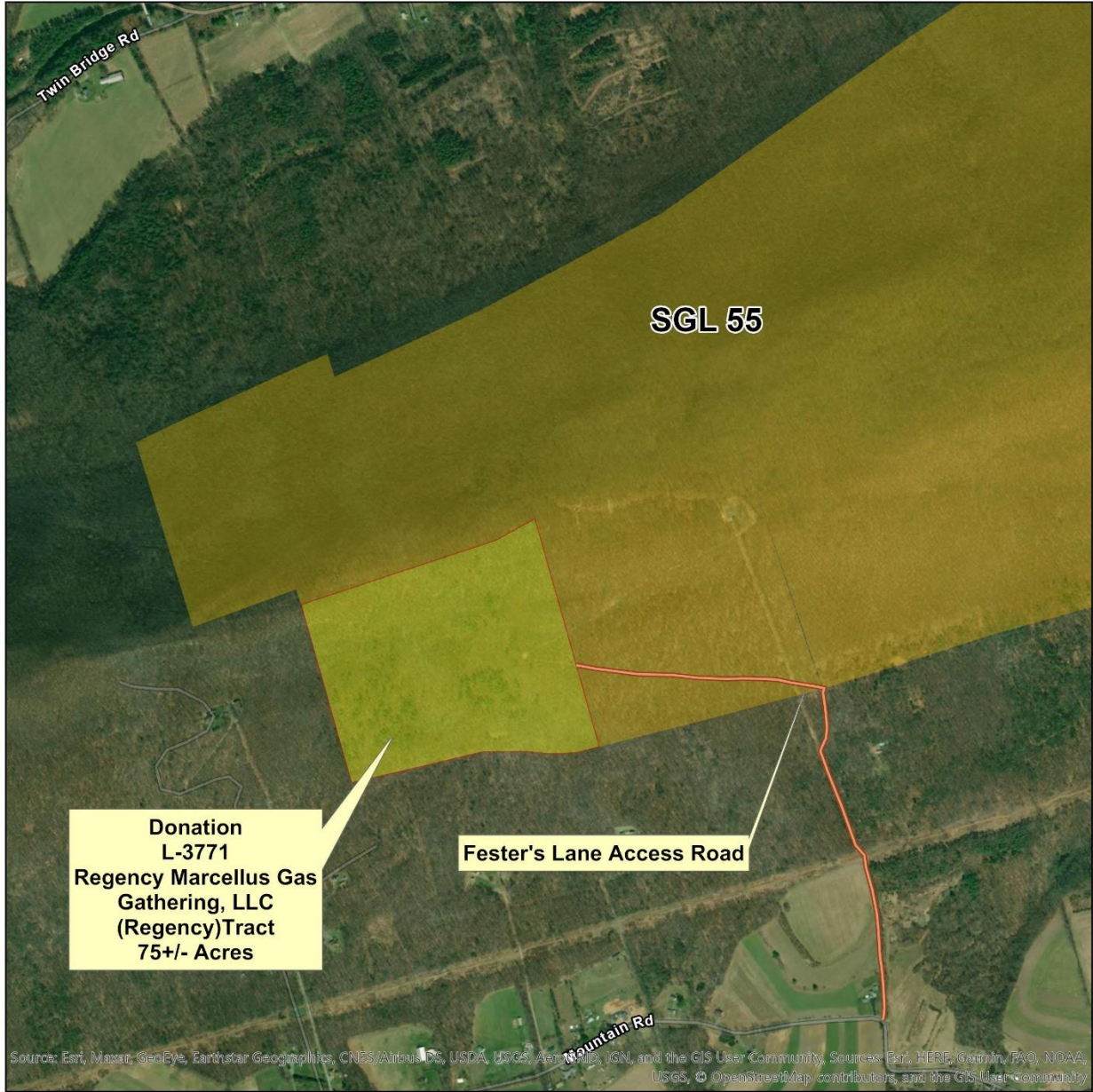
**REAL ESTATE**

A. Donation

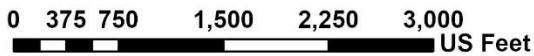
Contract No. L-3771, State Game Land No. 55, Columbia County

Commentary: Regency Marcellus Gas Gathering, LLC (Regency) is offering to donate 75+/- acres of land in North Centre Township, Columbia County, adjoining State Game Land No. 55 (Exhibit RED 1). Regency offered to donate the land as replacement habitat to mitigate for lost wildlife resources and recreational values associated with construction and maintenance activities associated with the issuance of Licenses for Right-of-Way for natural gas pipelines and appurtenances on State Game Land No.12 in Sullivan and Bradford Counties. Access is from Fester's Lane Access Road off S.R. 1012, Mountain Road.

Action:



**Exhibit RED 1**  
**State Game Land No. 55**  
 Donation  
 L-3771  
 Regency Marcellus Gas Gathering, LLC  
 (Regency)Tract  
 75+/- Acres  
 North Centre Township  
 Columbia County  
 Northeast Region

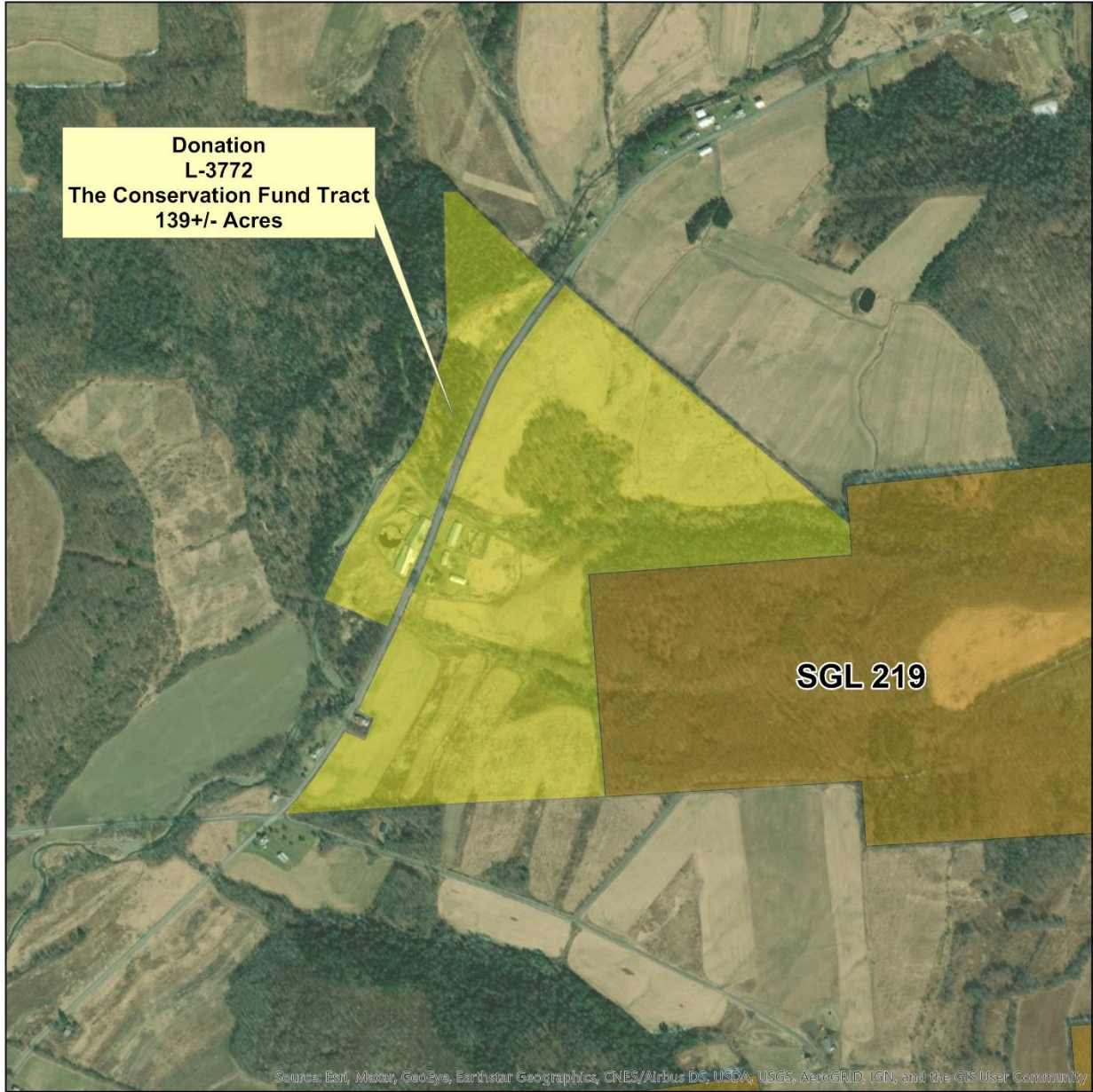




Contract No. L-3772, State Game Land No. 219, Bradford County

Commentary: The Conservation Fund is offering to donate 139+/- acres of land in Warren Township, Bradford County, adjoining State Game Land No. 219 (Exhibit RED 2). The Conservation Fund, acting as a conservation agent, is acquiring the property with funding provided by Williams Companies for voluntary mitigation as a result of impacts associated with the Constitution Pipeline project located in Susquehanna County. Access is from Cadis Road.

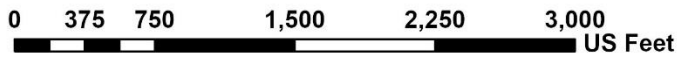
Action:



**Exhibit RED 2  
State Game Land No. 219**

**Donation  
L-3772  
The Conservation Fund Tract  
139+/- Acres**

**Warren Township  
Bradford County  
Northeast Region**



Contract No. L-3773, State Game Land No. 156, Lebanon County

Commentary: The Estate of Daniel R. Blouch is offering to donate 2.67+/- acres of land in South Lebanon Township, Lebanon County adjoining State Game Land No. 156 (Exhibit RED 3). Access is from existing State Game Land No. 156.

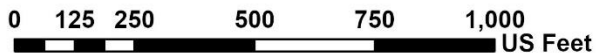
Action:



**Exhibit RED 3**  
**State Game Land No. 156**

**Donation**  
**L-3773**  
**Estate of Daniel R. Blouch Tract**  
**2.67+/- Acres**

**South Lebanon Township**  
**Lebanon County**  
**Southeast Region**



Contract No. L-3774, State Game Land No. 264, Dauphin County

Commentary: Dauphin County is offering to donate any and all of the interest they may have in 0.36+/- acres of land in Wiconisco Township, Dauphin County an interior within State Game Land No. 264 (Exhibit RED 4). This is the same tract of land that was offered as a donation from Ladnar, Inc. under contract L-3735. After an examination of Ladnar's title, it was determined that Dauphin County may also have an interest in the land. Access is from existing State Game Land No. 264.

Action:



Donation  
L-3774  
Dauphin County Tract  
0.36+/- Acres

SGL 264

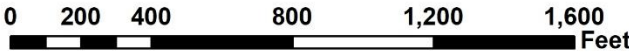


**Exhibit RED 4**

**State Game Land No. 264**

Donation  
L-3774  
Dauphin County Tract  
0.36+/- Acres

Wiconisco Township  
Dauphin County  
Southeast Region

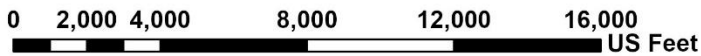
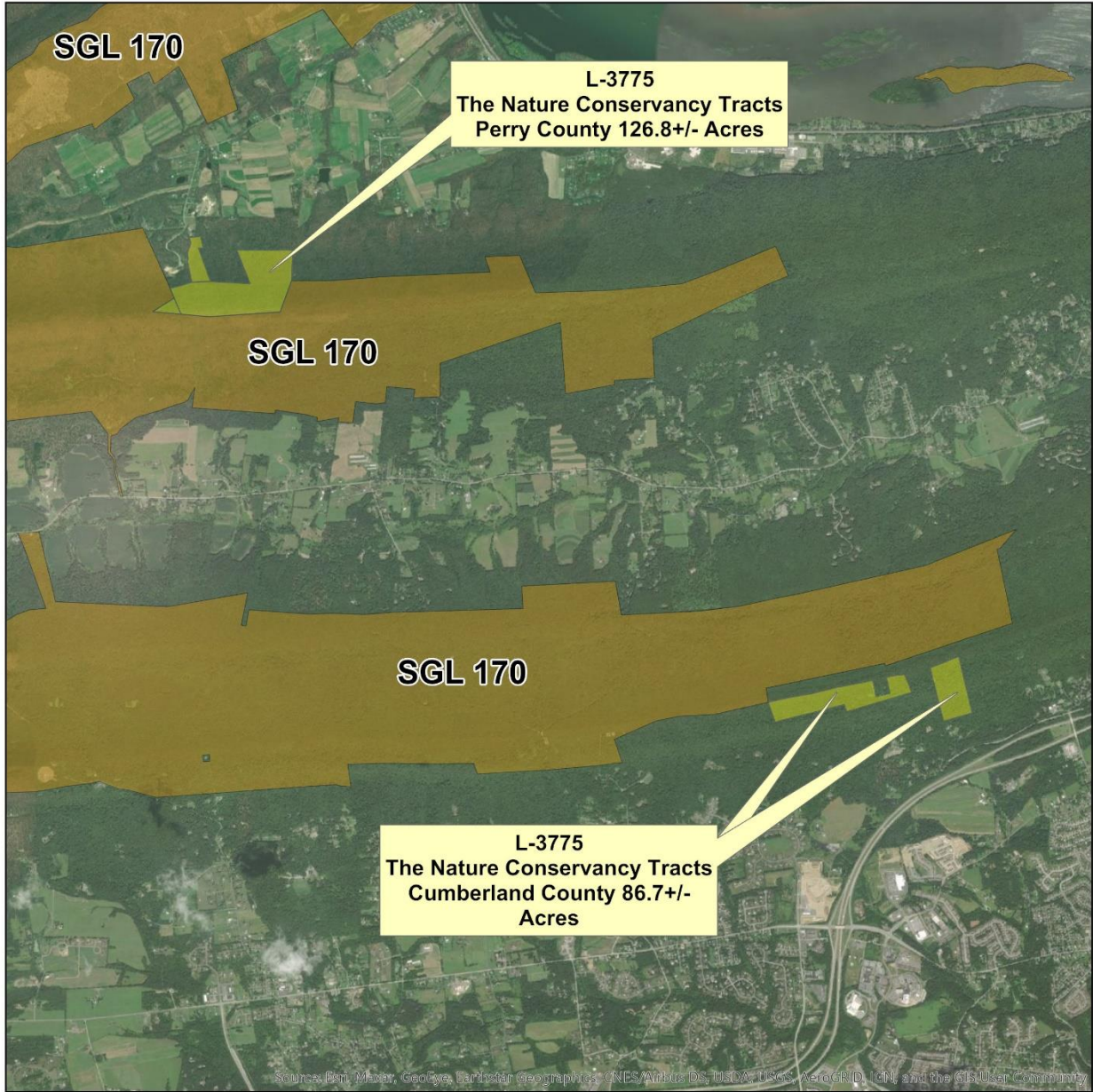


B. Acquisition

Contract No. L-3775, State Game Land No. 170, Perry and Cumberland Counties

Commentary: The Nature Conservancy is offering 213.5+/- acres of land in five tax parcels. The three northern tax parcels are located in Penn Township, Perry County, and adjoin State Game Land No. 170 (Exhibit RED 5). The two southern tax parcels are located south of State Game Land No. 170 in East Pennsboro and Hampden Townships, Cumberland County. The option price is \$213,000.00 lump sum to be paid with funds from third party commitments for compensation of habitat and recreational losses which occurred on State Game Lands from previously approved projects. The Nature Conservancy has applied for grant funding through the Department of Conservation and Natural Resources and if successfully awarded, covenants, conditions, and restrictions associated with this funding source will be required to accept the property. Access for the three northern parcels is from existing State Game Land No. 170. The two southern parcels are landlocked.

Action:



**Exhibit RED 5**  
**State Game Land No. 170**

**L-3775**  
**The Nature Conservancy Tracts**  
**Perry County 126.8+/- Acres**  
**Cumberland County 86.7+/- Acres**  
**Total Acres 213.5+/-**

**Penn Township, Perry County**  
**East Pennsboro & Hampden Townships**  
**Cumberland County**  
**Southcentral Region**



## OIL/GAS & MINERALS

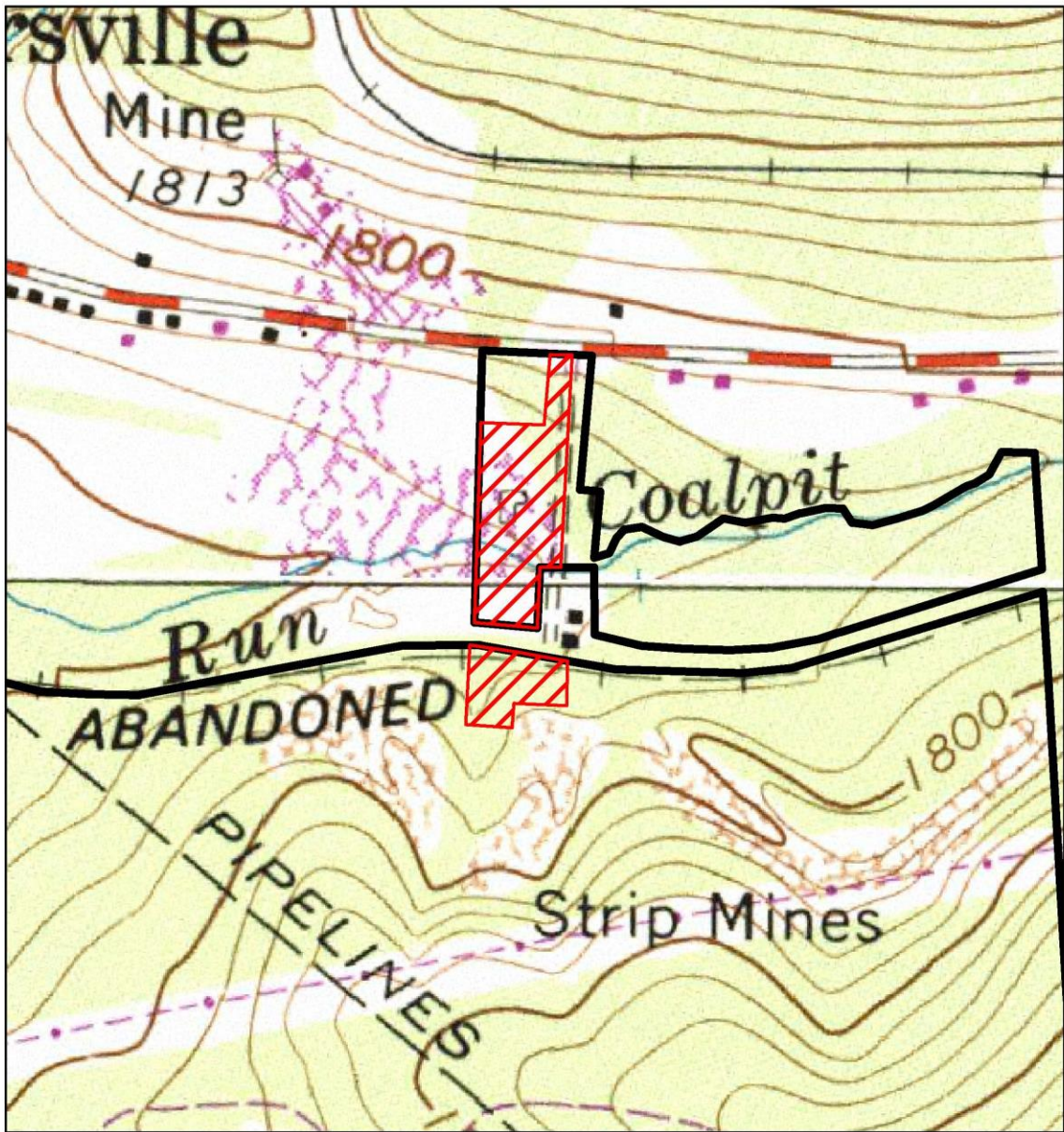
### C. Coal Refuse Reclamation Agreement



Tract 79A-20, Blacklick Township, Cambria County

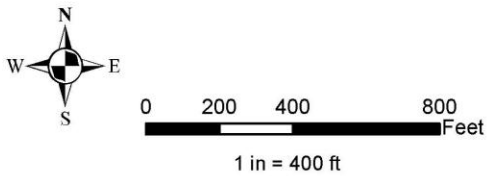
Commentary: Robindale Energy Services, Inc. (RES) of Armagh, Pennsylvania has requested an Agreement to mine and remove an estimated 10,000-15,000 tons of economically recoverable coal refuse material within approximately 4.6 acres of State Game Land No. 79 (Exhibit OGM 1). The Game Commission owns the surface and surface support rights, and coal refuse conveyed with the property. The coal refuse removal and reclamation would be part of an overall larger project involving coal refuse removal on adjacent private lands. The State Game Land portion of the project will include on-site demolition, burial, cover and grading of remnants of an existing abandoned mine-related building by RES. Removal of the coal refuse and elimination of the abandoned building structure will restore the area to a more natural state and result in improved water quality in Coal Pit Run and improved wildlife habitat.

The terms are a five-year agreement, and a royalty rate of twenty-five cents (\$0.25) per ton of coal refuse removed from the State Game Land. Additional value will be realized through reclaiming the abandoned building structure area and restoring to useful wildlife habitat. All coal refuse royalty payments will be deposited in the Game Fund. Mining will be regulated by the Commonwealth's Mining Regulations and the Commission's Standard Coal Refuse Reclamation Agreement.

Action:



-  Coal Refuse Reclamation Area 4.6 +/- Acres
-  State Game Land No. 79



**EXHIBIT OGM 1**  
**State Game Land No. 79**

**Coal Refuse Reclamation Agreement**  
**Robindale Energy Services, Inc.**  
**Tract 79A-20**  
**4.6 +/- Acres**

Blacklick Township, Cambria County  
 Southwest Region

**OTHER NEW BUSINESS**

Next Commission Meeting – January 22-23, 2021, in Harrisburg, PA

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

Adjournment