

Commonwealth of Pennsylvania  
Department of Conservation and Natural Resources  
Bureau of Forestry, Minerals Division  
P.O. Box 8552  
Harrisburg, PA 17105-8552

**STREAMBED TRACT NO. 2019**

CONTRACT NO.  
M-2102019-08

**FIRST AMENDMENT TO  
OIL AND GAS LEASE FOR PUBLICLY-OWNED STREAMBEDS**

This First Amendment To Oil and Gas Lease For Publicly-Owned Streambeds (“First Amendment”), is made this 3<sup>rd</sup> day of November, 2022, with an effective date of 9<sup>th</sup> day of January, 2023 (“Effective Date”), is entered into by and between the Commonwealth of Pennsylvania (“Commonwealth”), acting through the Department of Conservation and Natural Resources (“Department” or “Lessor”), with a business address of 400 Market Street, 6<sup>th</sup> Floor, Rachel Carson State Office Building, Harrisburg, PA 17105, and PennEnergy Resources, LLC, (“Lessee”), with its principal place of business at 1000 Commerce Dr. #400, Pittsburgh, PA 15275.

**WITNESSETH:**

**WHEREAS**, the Department is authorized, pursuant to Section 302(a)(13) of the Conservation and Natural Resources Act, Act of June 28, 1995, P.L. 89, No. 18 (71 P.S. § 1340.302(a)(13)), to enter into agreements with owners or lessees of property or property rights located in the same area as land owned or leased by the Commonwealth for the protection, preservation or recovery of fuel, oil, natural gas or any other mineral deposits owned by the Commonwealth underlying those lands;

**WHEREAS**, the Department and R.E. Gas Development, LLC entered into an Oil and Gas Lease for Publicly-Owned Streambeds, made effective on April 13, 2013, for Tract 2019 containing approximately 138 acres along Connoquenessing Creek, Contract No. M-2102019-08 (“Original Lease”);

**WHEREAS**, R.E. Gas Development, LLC assigned the oil and gas leasehold rights to PennEnergy Resources, LLC, effective on June 29, 2022; and

**WHEREAS**, Lessee desires to amend the Original Lease to include an additional 11.27 acres underlying the streambed of Connoquenessing Creek.

**NOW THEREFORE**, the Department and Lessee agree to amend the Original Lease in the following manner:

**FIRST**, Section 1.01 of the Original Lease and the Exhibits shall be removed and replaced with the following language and updated Exhibits:

**1.01** The Department hereby leases to Lessee all that certain tract of land known as Tract No. 2019, containing approximately 149.27 acres, as approximately shown on the maps in “First Amendment Exhibit A-1”, “First Amendment Exhibit A-2”, First Amendment Exhibit A-3”, First Amendment Exhibit A-4”, First Amendment Exhibit A-5”, and “First Amendment Exhibit A-6”, and more particularly described in “First Amendment Exhibit B”, all of which are attached hereto and made a part hereof, and referred to hereinafter as the “Leased Premises” for the sole purpose of directionally drilling wells for the production and removal of oil, gas and liquid hydrocarbons beneath the Leased Premises. This lease does

not grant any right to withdraw water from or otherwise use the surface of the leased premises; nor does this lease grant any natural gas storage rights, or rights to minerals other than the oil, gas and liquid hydrocarbons encountered.

**SECOND**, Section 2.02 and 2.03 of the Original Lease shall be removed and replaced with the following language:

**2.02** For purposes of this Lease, the phrase “paying quantities” shall be defined as a well associated with the Leased Premises which produces an annual average of at least one (1) thousand cubic feet per day (Mcf/day), which shall be calculated by dividing the well’s total annual calendar year production in Mcf by 365 days. Paying quantities shall be satisfied as long as a minimum of one well associated with the Leased Premises meets the average production of one (1) Mcf/day criteria.

**2.03** In the event that oil or gas is not being produced in paying quantities after the primary term of five (5) years from the Effective Date, this Lease shall automatically terminate in its entirety. The Lessee may seek a one-year extension of the Lease term by submitting a written request for an extension to the Department at least 180 days prior to the fifth anniversary date of this Lease. The Lease term will only be extended if the Department provides the Lessee with written notice of an extension prior to the fifth anniversary date of this Lease. An extension may be granted at the sole discretion of the Department. As consideration for granting an extension, the Department may, in its sole discretion, modify any term of this Lease, including the royalty rate, and require the execution of a Replacement Lease.

**THIRD**, Section 4.01 of the Original Lease shall be removed and replaced with the following language:

**4.01** Lessee shall pay to the Department a bonus rental payment of Four Thousand Dollars (\$4,000.00) per acre for the leased premises for the primary five-year term, for a total payment of Five Hundred Ninety-Seven Thousand Eighty Dollars (\$597,080.00). The Department acknowledges receipt of a bonus rental payment of Four Thousand Dollars (\$4,000.00) per acre on the original 138 leased acres, for a total of Five Hundred Fifty-Two Thousand Dollars (\$552,000.00). Lessee shall pay to the Department an additional bonus rental payment of Four Thousand Dollars (\$4,000.00) per acre for the additional 11.27 acres, for an additional payment of Forty-Five Thousand Eighty Dollars (\$45,080.00). Lessee shall remit the additional bonus rental payment at the time Lessee delivers to the Department signature pages of this lease amendment duly executed by Lessee. The Department shall not deposit this payment until the Lease Amendment has been fully executed.

**FOURTH**, Section 5 of the Original Lease shall be removed and replaced with the following language:

## **5. NATURAL GAS ROYALTY**

**5.01** The Lessee shall install a discrete well meter for each well unitized with the Leased Premises to measure all natural gas, casinghead gas, or other gaseous substances (referred to collectively for purposes of this Lease as Natural Gas”), produced by the Lessee for purposes of calculating the Department’s royalty pursuant to Paragraph 5.04. The Department will use this discrete well meter measurement for auditing purposes pursuant to Section 10 (AUDITS) of this Lease. The Lessee shall ensure that all meters are maintained according to industry standards. Comingled metering is expressly prohibited without the express written permission of the Department.

**5.02** For purposes of this Lease, the term “fair market value” shall be defined as the first point of sale where the natural gas is transferred from the Lessee to a nonaffiliated third-party purchaser in an arms-length, commercially reasonable transaction, where the only relationship is contractual. Any sales of natural gas to any related parties, evidenced by, but not limited to: stock ownership, affiliation, internal division, subsidiary, or any other common ownership, shall be considered for the purposes of royalty payments as if they were also the Lessee and those related parties sales to a nonaffiliated third-party or parties shall provide the pricing basis for the royalty calculation. The price used to calculate royalties due to the Department pursuant to this Lease shall be the fair market value received.

**5.03** All royalty payments to the Department pursuant to this Lease shall be free and clear of all taxes, fees, charges, costs, and expenses for production and post-production that are incurred up to and including at the point of sale where fair market value is received. For purposes of this Lease, taxes, fees, charges, costs, and expenses for production and post-production include, but are not limited to: exploration, development, extraction, handling, compression, gathering, transportation, dehydration, sweetening, processing, conditioning, and fuel use.

**5.04** The Lessee shall pay to the Department a natural gas royalty of Thirty-Five Cents (\$0.35) per thousand cubic feet (Mcf) of natural gas produced or Twenty Percent (20%) of the monthly weighted average fair market value of natural gas produced, whichever is higher. The natural gas royalty payment shall be calculated by multiplying the higher amount of Thirty-Five Cents (\$0.35) per Mcf or Twenty Percent (20%) of the monthly weighted average sales price that represents the fair market value by the Department’s fractional interest for all natural gas produced, as measured from each natural gas well drilled on the Leased Premises. The natural gas royalty paid to the Department shall be consistent with Paragraph 5.03 of this Lease. The Lessee’s obligation to pay natural gas royalties to the Department shall commence upon the date a well is placed into production, regardless of the Effective Date of this Lease.

**5.05** The Department may, at its option, however, demand that the Lessee deliver to the credit of the Department, as natural gas royalty, free and clear of all costs as set forth in Paragraph 5.03 of this Lease, in the pipeline to which the Lessee may connect its wells, the equal Twenty Percent (20%) part of all natural gas produced from the Leased Premises; the amount to be delivered to the Department will be the equal Twenty Percent (20%) part of the natural gas produced multiplied by the Department’s fractional interest for all natural gas produced. The Lessee shall calculate and deliver a gas balancing statement on a quarterly basis to the Department in order to ensure that the Department receives its equal Twenty Percent (20%) share of all natural gas produced. Adjustments for overages or shortages in the delivery of the Department’s Twenty Percent (20%) royalty share shall be made by reducing or increasing future delivery gas volumes to the Department’s account.

**5.06** The Lessee shall pay to the Department a flaring royalty for any Natural Gas that is flared from a well which is planned to produce gas from the Leased Premises. The flaring royalty payment shall be made for any gas flared beyond the initial twenty-four (24) hour period of flaring following well completion, and during any other time periods, unless the gas is flared in the case of an emergency. Gas volume shall be metered or determined by a method acceptable to the Department, as approved in express writing. The Natural Gas price to be used for the flaring royalty payment shall be based on the nearest published pricing point in Platt’s Gas Daily publication for Natural Gas for the month and year in which the well is flared.

**FIFTH**, Section 6 of the Original Lease shall be removed and replaced with the following language:

**6. ROYALTY ON OTHER WELL PRODUCTS - OIL, CONDENSATE, AND OTHER LIQUID HYDROCARBON PRODUCTS**

**6.01** If oil, condensate, and other liquid hydrocarbon products, each in paying quantities, should be produced from any natural gas well drilled on the Leased Premises, then said oil, condensate, and other liquid hydrocarbon products shall be saved, and royalty shall be paid on said products, as described below.

**6.02** The Lessee shall provide tanks for accurately measuring and storing any oil and condensate produced in paying quantities from the Leased Premises when it is standard industry practice to tank the product at the well site. The Lessee shall gauge, measure, sample, and test all petroleum and petroleum products in accordance with API Standard 2500, "Measuring, Sampling, and Testing Crude Oil," Second Edition, March 1961, as amended or updated, or another method consistent with industry standards prescribed, or approved, in writing by the Department. Observed gravity at the observed temperature shall be corrected to (API) gravity and volume at sixty degrees Fahrenheit (60° F) as per the American Society for Testing Materials and the Institute of Petroleum, "ASTM-IP petroleum measurement tables" (ASTM designation No. 1250; IP designation 200), as amended or updated, or another method consistent with industry standards prescribed, or approved, in writing by the Department.

**6.03** The Lessee shall pay an oil and condensate royalty to the Department of Twenty Percent (20%) of the field price per barrel (42 U.S. Gallons) at 60° F for all oil and condensate of like grade and gravity that prevails at the fair market value, as defined in Paragraph 5.02 of this Lease, in the area of the Leased Premises on the day such oil and condensate produced in paying quantities from the Leased Premises are run into a pipeline or into storage tanks. The amount to be paid to the Department will be the Twenty Percent (20%) royalty multiplied by the Department's fractional interest for all oil and condensate produced in paying quantities. The royalty paid to the Department shall be consistent with Paragraph 5.03 of this Lease.

**6.04** If the natural gas is processed for the extraction of natural gas liquids, including but not limited to ethane, propane, butane, iso-butane, and pentane, by a third-party under a percentage of proceeds contract, the Lessee shall pay to the Department, as royalty, Twenty Percent (20%) multiplied by the fractional interest held by the Department, times the natural gas liquid volumes attributable to each well's production pursuant to standard industry component based allocation methodology, regardless of the gallons of each product actually received by the Lessee or retained by the gas plant/processor, times the price that represents the fair market value, as defined by Paragraph 5.02 of this Lease, received by the Lessee for each natural gas liquid processed. The royalty paid to the Department shall be consistent with Paragraph 5.03 of this Lease.

**6.05** The Lessee shall pay a residue gas royalty of Twenty Percent (20%) on all residue gas produced from the Lease Premises. The residue gas royalty shall be computed by multiplying the Twenty Percent (20%) royalty times the residue gas volume attributable to each wells production pursuant to standard industry component based allocation methodology, regardless of the natural gas, oil, condensate, and other liquid hydrocarbon products received by the Lessee or retained by the gas plant/processor, times the price received by the Lessee from the gas plant/processor that represents the fair market value received by the Lessee, as defined in Paragraph 5.02 of the Lease. If the Lessee takes in kind possession of its residue gas and sells it, the royalty shall be calculated as set forth in Paragraph 5.04 of this Lease.

**SIXTH**, Section 7 of the Original Lease shall be removed and replaced with the following language:

**7. PAYMENTS**

**7.01** The Lessee shall be held responsible for the payment of all monies owed in accordance with this Lease. Payments shall be mailed to:

Commonwealth of Pennsylvania  
Department of Conservation and Natural Resources  
Bureau of Forestry - Minerals Division  
P.O. Box 8552  
Harrisburg, PA 17105-8552

All checks shall be made payable to the Commonwealth of Pennsylvania. Payments of royalties shall be made monthly within ninety (90) days after the end of each monthly sales period.

**7.02** Within ninety (90) calendar days after the end of each monthly sales period, the Lessee shall submit, in both hardcopy and electronic format deemed acceptable by the Department, a statement to the Department detailing the production and sale of oil, natural gas and liquid products for each individual well associated with the Leased Premises. Such statements shall include, for each well, the gross wellhead volume as metered at the wellhead, the net royalty interest in the natural gas or liquid product attributable from the Leased Premises or any unit which includes a part of the Leased Premises, the weighted average monthly sales price received for the natural gas and liquid products produced, the applicable royalty (*i.e.*, royalty rate or minimum price per Mcf) as established by this Lease, and the royalty amount paid on each well. A statement with attached payment and a digital version in format acceptable to the Department shall be required monthly.

**7.03** When the Lessee has failed to make any payment due under this Lease, the Lessee shall pay an additional Twelve Percent (12%) annual interest on the overdue amount calculated from the date the payment was originally due. Payment of such interest shall not waive the Lessee's duty to make timely payment under this Lease or limit the Department's remedies for Lessee's failure to pay on time.

**7.04** Notwithstanding any joint venture or other similar type of agreement that the Lessee may have with third parties for the exploration and development of natural gas and liquid products, including the natural gas and liquid products granted under this Lease, the Lessee shall remain solely responsible for submitting payment to the Department pursuant to this Lease. Fractional payment by multiple parties shall not occur unless the Department, in its sole discretion, approves such payment in writing prior to the submission of any fractional payment. Acceptance by the Department of any such payment by other parties shall not waive the Lessee's duty to make timely payments under this Lease or limit the Department's remedies for the Lessee's failure to pay on time.

**SEVENTH**, Section 11 of the Original Lease shall be removed and replaced with the following language:

**11. RELATED AGREEMENTS**

**11.01** Upon request by the Department for its own records and to protect its own interests, the Lessee shall furnish to the Department, within thirty (30) days of the written request, a copy of all

agreements made, contracts entered into, and all letters or other memoranda made by or provided to the Lessee, including, but not limited to, any agreements, contracts, letters or other memoranda that in any way concern the development, operation, sale of lease interests and/or sale of products related to this Lease.

**11.02** The Lessee shall retain and furnish to the Department, upon written request, all related documents, including, but not limited to, the following:

- (a) the Lessee and third-party statements related to the Commonwealth's royalty volumes and payments
- (b) internal account statements of the Lessee, or third party, related to the Commonwealth's royalty volumes and payments
- (c) business books of the Lessee, or third party, provided to the Commonwealth to substantiate the Commonwealth's royalty volumes and payments
- (d) the Lessee and third-party contracts related to the Commonwealth's royalty volumes and payments
- (e) production agreements between the Lessee and third parties related to the Commonwealth's royalty volumes and payments
- (f) farmout agreements between the Lessee and third parties related to the Commonwealth's royalty volumes and payments
- (g) purchase and sale agreements between the Lessee and potential purchaser of the Leased Premises
- (h) agreements providing for areas of mutual interest between the Lessee and third parties
- (i) and other business documents and agreements provided to the Commonwealth that the Lessee or a third party consider confidential trade secrets.

**11.03** Records that the Lessee provides to the Department may be subject to public disclosure under the Pennsylvania Right-To-Know Law, Act of February 14, 2008, P.L. 6, No. 3, 65 P.S. § 67.101 et seq. ("Right-To-Know Law"). Any trade secrets or confidential proprietary information contained in records submitted to the Department pursuant to this Lease shall be so identified in writing by the Lessee. The Department shall notify the Lessee of any request received for such records in accordance with the Right-To-Know Law, as set forth in "Exhibit C", Section 7.

**EIGHTH**, Section 12 of the Original Lease shall be removed and replaced with the following language:

## **12. LIMITATION ON WARRANTY OF TITLE**

**12.01** The Commonwealth makes no warranty as to the presence of oil, gas, or liquid hydrocarbons, nor as to its ownership thereof. In the event of a determination by compromise, settlement or by a final judgment of a court of competent jurisdiction that the Commonwealth does not own all or a portion of the Leased Premises, any sums of money previously paid pursuant to the terms of the Lease, including, but not limited to bonus rental payments under Section 4 (RENTAL) and royalties under Section 5 (NATURAL GAS ROYALTY) and Section 6 (ROYALTY ON OTHER WELL PRODUCTS – OIL, CONDENSATE, AND OTHER LIQUID HYDROCARBON PRODUCTS), shall not be reimbursable to the Lessee, except as hereinafter provided in this section.

**12.02** In the event of an adverse claim affecting title to all or a portion of the oil and gas rights under the Leased Premises, notice and documentation of such claim shall be given to the Department. The

Lessee shall seek the approval of the Department to enter into an escrow arrangement for future royalties accruing to such disputed portion, which such approval shall not be unreasonably withheld. The Department may agree, by express writing, to enter into an interest-bearing escrow arrangement with the Lessee. In the event the Department agrees to the escrow arrangement, it shall be the duty of the Lessee to establish an escrow account with a licensed financial institution, which shall be approved by the Department in express writing; the interest shall be at prevailing market rates; the Department shall receive monthly escrow account statements; and the royalties, with interest, shall be disbursed in amounts proportionate to ownership.

**12.03** In the event an adverse claimant files suit against the Commonwealth or against the Lessee claiming title to all or a portion of the oil and gas rights under the Leased Premises, or if the Lessee, after receiving notice of an adverse claim, institutes litigation in a court of competent jurisdiction to secure an adjudication of the validity of the claim, all royalties accruing to the litigated portion of the Leased Premises shall be placed in an interest-bearing escrow account until such time as the ownership of the disputed oil and gas interest shall be determined by a final, non-appealable order of a court of competent jurisdiction. In the event of an adverse claim, it shall be the duty of the Lessee to establish an escrow account with a licensed financial institution, which shall be approved by the Department in express writing. The interest on the escrow account shall be at prevailing market rates; the Department shall receive monthly escrow account statements; and the royalties with interest, shall be disbursed at the direction of a court of competent jurisdiction or if settled, in amounts proportionate to ownership. In the event that any portion of the Leased Premises is determined to not belong to the Commonwealth, this Lease shall remain in effect and the Leased Premises shall then consist of the remaining portion of the original Leased Premises determined to belong to the Commonwealth; and royalties shall be due accordingly. In the event that it is determined that none of the Leased Premises belongs to the Commonwealth, this Lease shall terminate immediately.

**NINTH**, Section 19 of the Original Lease shall be removed and replaced with the following language:

## **19. UNITIZATION AND UNIT AGREEMENTS**

**19.01** The Lessee shall have the right to pool and consolidate this Lease, in whole or in part, or as to any subsurface geologic horizon, with leases located adjacent to or in the immediate vicinity of the Leased Premises, provided that the Lessee obtains written approval of the unit from the Department.

**19.02** An executed pooled unit agreement shall be submitted to the Department for approval prior to the production from any well associated with the Leased Premises. The Department will only consider units for approval that contain a proposed permitted well that traverses and develops the Leased Premises. The Lessee shall submit the following to the Department for its review and approval:

- (a) a declaration and notice of unit agreement;
- (b) a plat identifying the name of the unit, the boundaries of the unit, the well or wells planned to be included in the unit including a depiction of any wellbores, the API number of each well in the unit, and the boundaries of ownership for all other parties included in the unit agreement;
- (c) a division of interest table that includes the name of the unit, the total number of acres in the unit, the lease number, lessor name, lessee name (correlated to the ownership parcels shown on the plat), lease date, number of acres for each lessee in the unit, percentage of each lessee's acreage

based on the total unit acreage, tax parcel identification number, deed recording information for each lease that is a part of the unit;

(d) the county(ies) and township(s) within which the unit is located;

(e) the producing zone(s) covered by the unit;

(f) a calculation showing the Department's net royalty interest for each well in the unit, based on the royalty provision section(s) specified in this Lease; and

(g) a geographic information system (GIS) shapefile(s) of the unit boundary, all unit interest parcel boundaries, and as-drilled wellbores.

**19.03** Upon review and favorable consideration of the items listed in Paragraph 19.02, above, the Department shall provide written approval of the Lessee's pooled unit agreement. Should the Department disapprove the pooled unit agreement, the Lessee shall amend said pooled unit agreement and resubmit to the satisfaction of the Department. Lessee shall provide a recorded copy of the unit as it was approved by the Department.

**19.04** Failure to obtain the Department's written approval of pooled unit agreements, prior to production from any wells associated with the Leased Premises and included in said unit, the Lessee shall pay to the Department liquidated damages in the amount of one-thousand five-hundred dollars (\$1,500.00) to compensate for the Department's time and expense of identifying the failure to provide the unit agreement and correct the issue.

**19.05** Upon production from any part of any unit involving the Leased Premises, the Department shall be entitled to, and the Lessee shall pay, royalties calculated as follows: the number of acres involving the Leased Premises shall be divided by the total number of acres within the unit, multiplied by the Department's defined royalty rate as described in Sections 5 (NATURAL GAS ROYALTY) and/or Section 6 (ROYALTY ON OTHER WELL PRODUCTS – OIL, CONDENSATE, AND OTHER LIQUID HYDROCARBON PRODUCTS) above.

**19.06** The Lessee shall submit all amendments to approved pooled units to the Department for its review and approval, in accordance with the above paragraphs. Any amended pooled unit agreements not approved by the Department shall be null and void and of no force or effect. The royalty payment shall be calculated based on the approved amended pooled unit agreement from the date of such approval by the Department and applied thereafter to subsequent royalty payments.

**19.07** The Lessee's drilling or reworking operations upon a pooled unit agreement approved by the Department, or production of natural gas, oil, condensate, or other liquid hydrocarbon products from any part of a unit approved by the Department, shall be treated, for all purposes as operations upon or production from the Leased Premises, provided that the Lessee is the owner and/or operator of the unit.

**19.08** Should a unit be established pursuant to a valid spacing or integration order issued by the Pennsylvania Department of Environmental Protection ("DEP") or any other jurisdictional agency having such authority, the Department's approval shall not be required.



**19.09** The Lessee may establish cross-unit wells only with the express permission of the Department. The royalty for cross-unit wells shall be set forth in Paragraph 5.04 and calculated by measuring the length of the wellbore from the first perforation to the last perforation in each unit encompassing the cross-unit well, to allocate the fractional interest of the well volume to each unit that is part of the cross-unit well to allocate the fractional interest of the well volume to each unit that is part of the cross-unit well; unless an alternative method to allocate the production from the well is approved by the express written permission of the Department. Prior to beginning production, the Lessee shall submit to the Department for review and express written approval:

- a. A diagram of the as drilled wellbore identifying the first and last perforation in each unit traversed and the length between the perforation, also providing a shapefile for each;
- b. An executed pooled unit agreement for each unit encompassing the cross-unit well, including a diagram, and a breakdown of total acreage and attributed parcel acreages as well as a shapefile containing each unit boundary; and
- c. The calculation of the royalty allocation for the Department's net royalty interest.

**TENTH**, Section 20 of the Original Lease shall be removed and replaced with the following language:

## **20. ASSIGNMENT OF LEASE**

**20.01** The Lessee shall not use, or allow to be used, the Leased Premises for any other purpose than authorized by this instrument. The Lessee shall not assign, sublet, sell, or otherwise transfer any interest or partial interest in this Lease without the prior express written consent of the Department. The Lessee shall make written application to the Department to obtain consent to a proposed assignment. The request shall include sufficient detail to allow the Department to evaluate the viability of any party seeking to obtain an interest in the Lease, the interest to be transferred, and the relationship among the parties if more than one party will hold an interest in the Lease. Any assignment or transfer in violation hereof shall be null and void and of no force or effect.

**20.02** The Department's consent to a request for assignment shall be contingent upon the assignee agreeing, in writing, to be bound by all provisions of this Lease. This written agreement may require a multi-party document wherein the multiple interest holders verify that its interest will be subordinate to any public interest the Department maintains in its real property.

**20.03** When an assignment will result in multiple parties holding an interest in this Lease, all parties must identify the party that will be responsible for operational activities on the Leased Premises (the "Operator Lessee"). In the event an assignment of this Lease results in a geographic assignment of the Leased Premises with different parties holding interest in the geographic portions of the Leased Premises, an Operator Lessee must be identified for each geographic portion of the Leased Premises. The Operator Lessee shall make all payments to the Department under Section 7 (Payments) of this Lease and be the point of contact with the Department for purposes of notification and communication pursuant to this Lease. The Operator Lessee shall communicate with the other parties holding an interest in this Lease regarding any compliance matter raised by the Department.

**20.04** In the event that the Lessee wishes to enter into a "Farmout Agreement" with a third party for the purpose of allowing a "Farmee" to explore, develop, or produce oil and/or gas from the Leased Premises, or any portion thereof, the Lessee shall first notify the Department in writing and shall also be

liable for enforcing all the provisions of this Lease, including the posting of the required plugging sureties for each and every well drilled and operated by the Farmee. Although the Department recognizes a right of the Lessee to farmout its Leased Premises or portions thereof from time-to-time, the Department will hold the Lessee solely responsible for the enforcement of all the provisions of this Lease.

**20.05** All lessees of record holding an interest in this Lease shall be responsible for providing the full performance security required by Section 15 (FINANCIAL SECURITY) of this Lease.

**20.06** In the event more than one party holds an interest under this Lease in and to the same geographic and/or stratigraphic portion of the Leased Premises and a party defaults on any of the covenants, conditions, or obligations of this Lease, the Department, in its sole discretion, may hold all parties jointly liable for the default concerning the shared geographic and/or stratigraphic portion of the Leased Premises. Upon default, the Department may take action pursuant to this Lease against all parties in the geographic and/or stratigraphic portion of the Leased Premises, including termination of the Lease as to such shared geographic and/or stratigraphic portion of the Leased Premises. In the alternative, the Department, in its sole discretion, may hold one party severally liable for a default and take action against only that party while allowing the other parties to continue to operate in the geographic and/or stratigraphic portion of the Leased Premises under the Lease. Notwithstanding anything set forth in this Lease to the contrary, in the event an assignment results or has resulted in a geographic and/or stratigraphic portion of the Leased Premises being held by different parties, the default by a party of any of the covenants, conditions, or obligations of this Lease on its geographic and/or stratigraphic portion of the Leased Premises will not affect the interests of another party(ies) on other geographic and/or stratigraphic portions of the Leased Premises unless that other party(ies) also holds an interest in the portion of the Leased Premises where the default occurred.

**20.07** The Department will release a lessee from responsibility and liability under this Lease upon the completion of the following: (1) approval by the Department of the assignment of all of the Lessee's interest in the Lease, (2) verification by the Department that the Lessee has fully complied with the Lease as of the date of release; and (3) assumption by the assignee(s) of responsibility for all the covenants, conditions, and obligations of this Lease, as modified by the Department's consent to assignment.

**ELEVENTH**, Sections 14, 31, and 32 of the Original Lease shall be removed in their entirety replaced with the following language:

### **31. COMMONWEALTH CONTRACT TERMS AND CONDITIONS**

**31.01** The Lessee agrees to comply with the Commonwealth Contract Terms and Conditions, attached hereto in Exhibit C, and made a part hereof.

**TWELFTH**, Section 35 shall be added to the Original Lease:

### **35. AMENDMENTS AND MODIFICATIONS**

**35.01** No alterations or variations to this Lease shall be valid unless made in writing and signed by the parties. Amendments to this Lease shall be accomplished through a formal written document signed by the parties with the same formality as the original Lease.

**THIRTEENTH**, Section 36 shall be added to the Original Lease:

**36. SEVERABILITY**

**36.01** The provisions of this Lease shall be severable. If any phrase, clause, sentence or provision of this Lease is declared to be contrary to the Constitution of Pennsylvania or of the United States or of the laws of the Commonwealth or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Lease and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby.

**FOURTEENTH**, Section 37 shall be added to the Original Lease:

**37. NO WAIVER**

**37.01** Either party may elect not to enforce its rights and remedies under this Lease in the event of a breach by other parties of any term or condition of this Lease. In any event, the failure by either party to enforce its rights and remedies under this Lease shall not be construed as a waiver of any subsequent breach of the same or any other term or condition of this Lease.

**FIFTEENTH**, Section 38 shall be added to the Original Lease:

**38. INDEPENDENCE OF THE PARTIES**

**38.01** It is understood by and between the parties that nothing contained herein is intended to be construed to, in any respect, create or establish the relationship of partners between the Lessee and the Department, or as constituting the Department as the representative or general agent of the Lessee for any purpose whatsoever.

**SIXTEENTH**, Section 39 shall be added to the Original Lease:

**39. NOTICES**

**39.01** All notices and reports arising out of, or from, the provisions of this Lease shall be in writing, unless otherwise provided in a provision of this Lease, and given to the parties at the address provided under this Lease, either by regular mail, facsimile, e-mail or delivery in person.

**SEVENTEENTH**, Section 40 shall be added to the Original Lease:

**40. INTEGRATION AND MERGER**

**40.01** This Lease, when executed, approved and delivered, shall constitute the final, complete and exclusive Lease between the parties containing all the terms and conditions agreed on by the parties. All representations, understandings, promises and agreements pertaining to the subject matter of this Lease made prior to or at the time this Lease is executed are superseded by this Lease unless specifically accepted by any other term or provision of this Lease. There are no conditions precedent to the performance of this Lease except as expressly set forth herein.

**EIGHTEENTH, Except as explicitly provided by this Amendment, the other provisions of the Original Lease shall remain in full force and effect.**

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK]

**IN WITNESS WHEREOF**, the parties have caused this Lease to be duly executed by their proper officers, all hereunto duly authorized, on the date first above written.

ATTEST:

**PENNENERGY Resources, LLC**  
(Principal Name)

By: *Kevin D. Coleman*  
(Signature)

Federal Identification No.: \_\_\_\_\_  
By: *[Signature]*  
(Signature)

Name: Kevin D. Coleman  
(Print or Typed)

Name: S. Casey Bowers  
(Print or Typed)

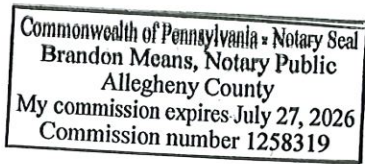
Title: Sr. Vice President  
(Member or Manager)

**ACKNOWLEDGMENT**

STATE OF Pennsylvania, :  
 :  
COUNTY OF Allegheny : **ss.**

On this, the 3rd day of November, 2022 before me, the undersigned officer, personally appeared S. Casey Bowers, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, acknowledged that s/he, being authorized to do so, executed this instrument in her/his capacity as Sr. Vice President of PennEnergy Resources, LLC, and that the same was executed for the purposes contained therein as the act and deed of said company.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

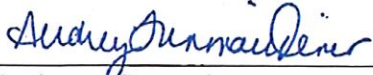


*Brandon Means*  
Notary Public

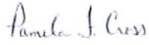
My Commission Expires: 7-27-2026



APPROVED AS TO LEGALITY AND FORM:

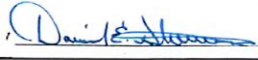


Chief/Assistant Counsel  
Department of Conservation and Natural Resources



2022.12.09 17:04:46  
-05'00'

Office of General Counsel



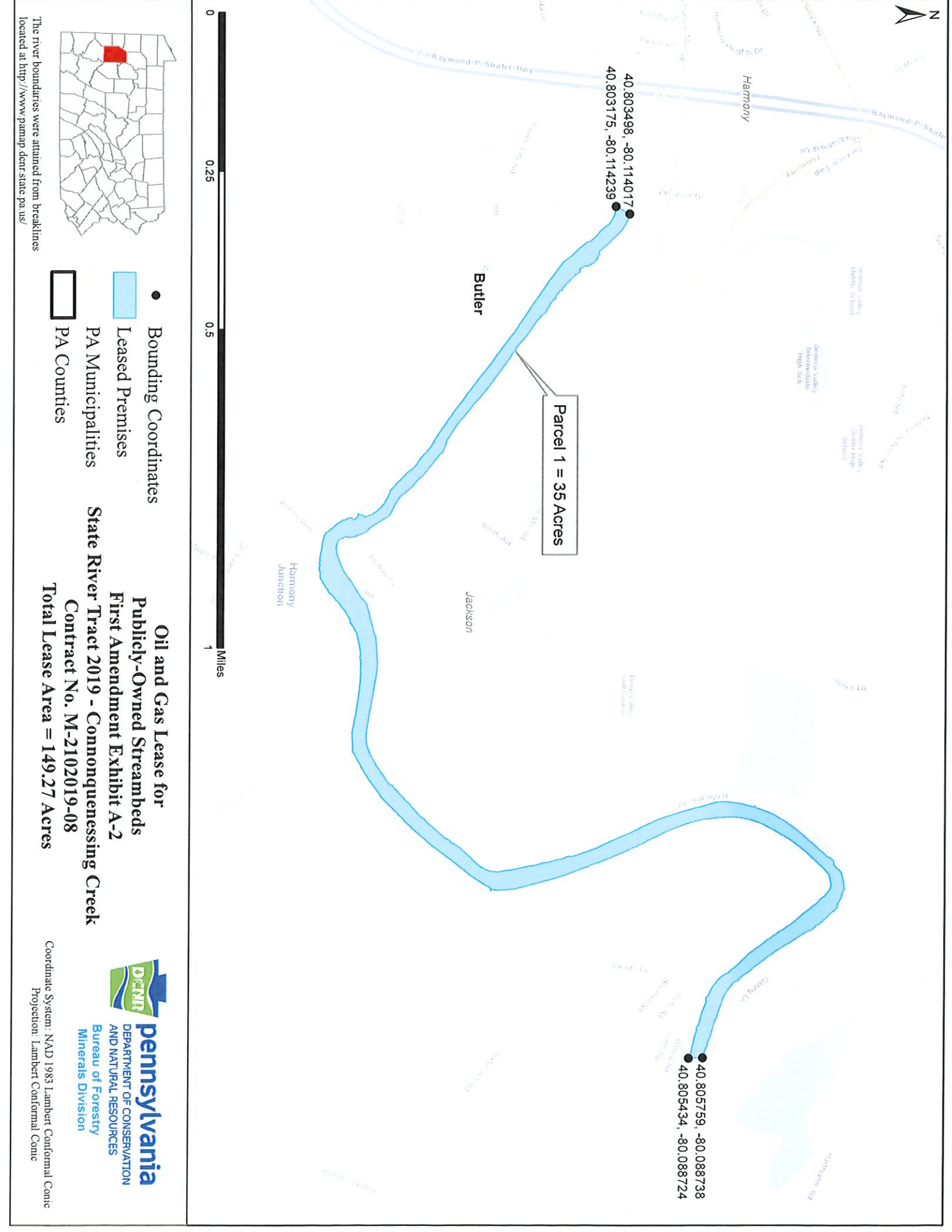
Digitally signed by David E. Stover,  
Senior Deputy Attorney General  
Date: 2023.01.09 14:16:53 -05'00'

Office of Attorney General

APPROVED:



GOVERNOR OF PENNSYLVANIA



Parcel 1 = 35 Acres

40.803498, -80.114017  
40.803175, -80.114239

40.805759, -80.088738  
40.805434, -80.088724



● Bounding Coordinates

■ Leased Premises

■ PA Municipalities

□ PA Counties

**Oil and Gas Lease for**

**Publicly-Owned Streambeds**

**First Amendment Exhibit A-2**

**State River Tract 2019 - Connonquenessing Creek**

**Contract No. M-2102019-08**

**Total Lease Area = 149.27 Acres**

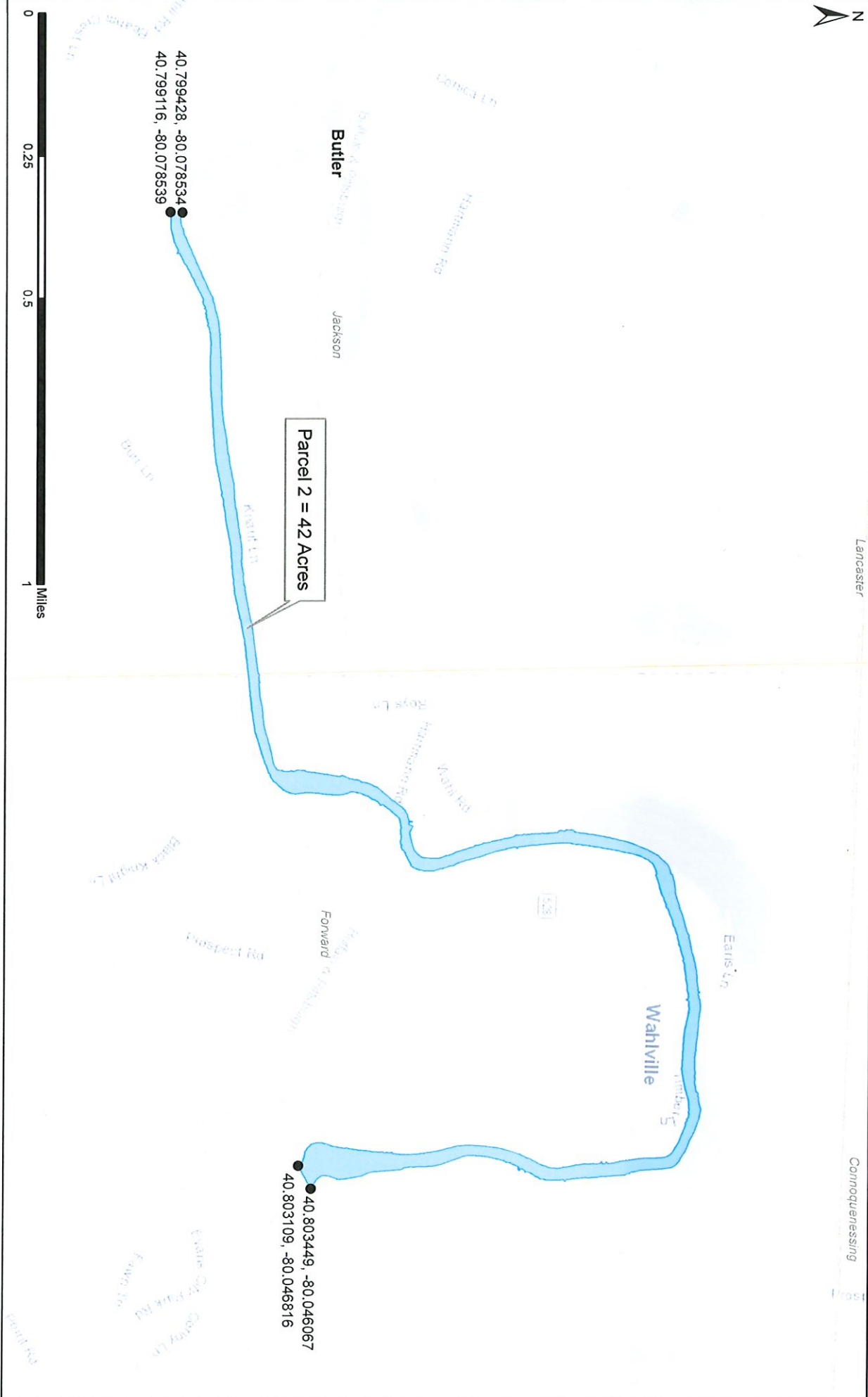


Bureau of Forestry  
Minerals Division

The river boundaries were attained from breaklines located at <http://www.pamap.dcnr.state.pa.us/>

Coordinate System: NAD 1983 Lambert Conformal Conic  
Projection: Lambert Conformal Conic





The river boundaries were attained from breaklines located at <http://www.panmap.deer.state.pa.us/>



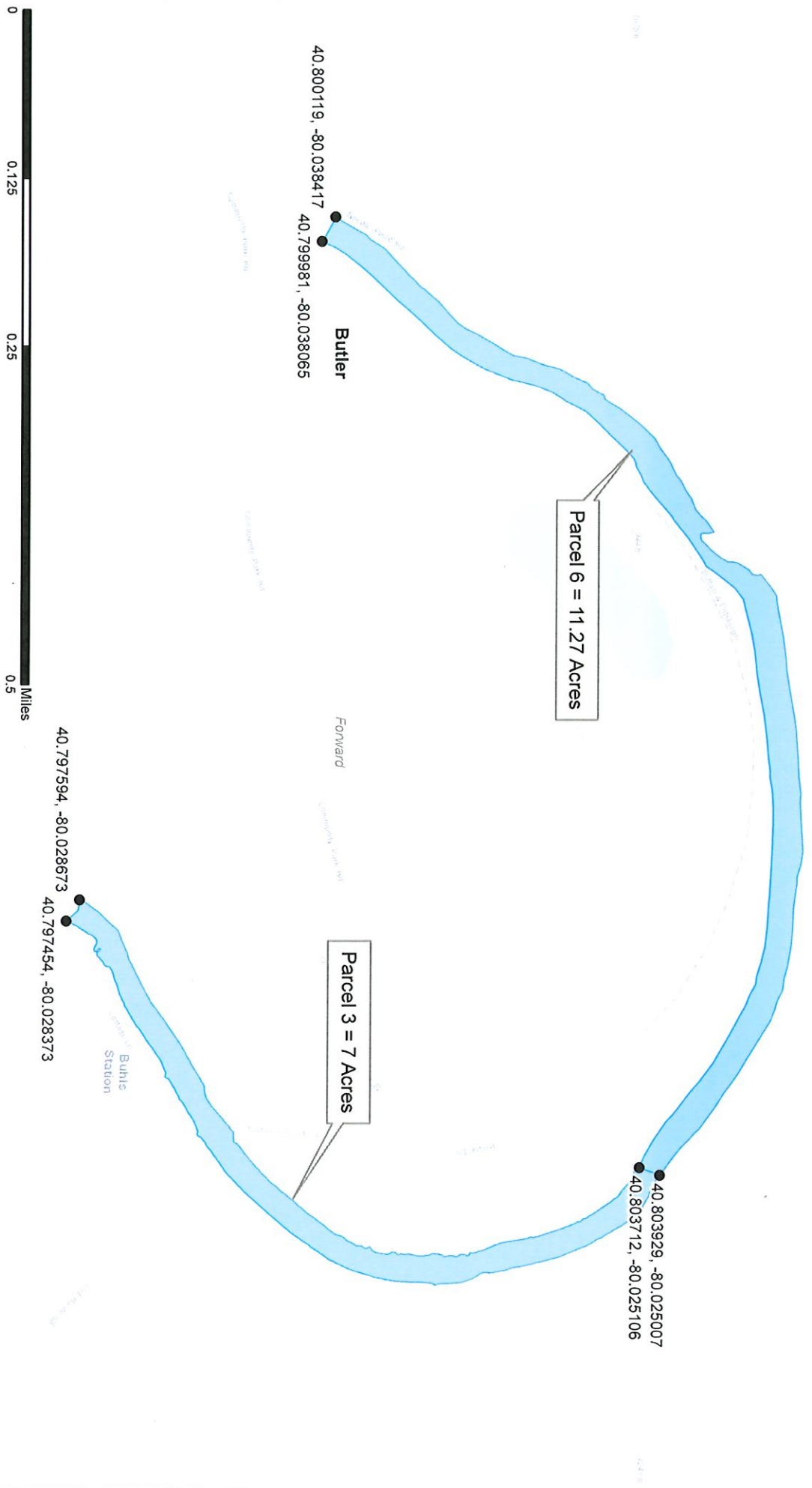
- Bounding Coordinates
- Leased Premises
- PA Municipalities
- PA Counties

**Oil and Gas Lease for Publicly-Owned Streambeds**  
**First Amendment Exhibit A-3**  
**State River Tract 2019 - Connoquenessing Creek**  
**Contract No. M-2102019-08**  
**Total Lease Area = 149.27 Acres**



**pennsylvania**  
 DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
 Bureau of Forestry  
 Minerals Division

Coordinate System: NAD 1983 Lambert Conformal Conic  
 Projection: Lambert Conformal Conic



The river boundaries were attained from breaklines located at <http://www.pamap.deer.state.pa.us/>

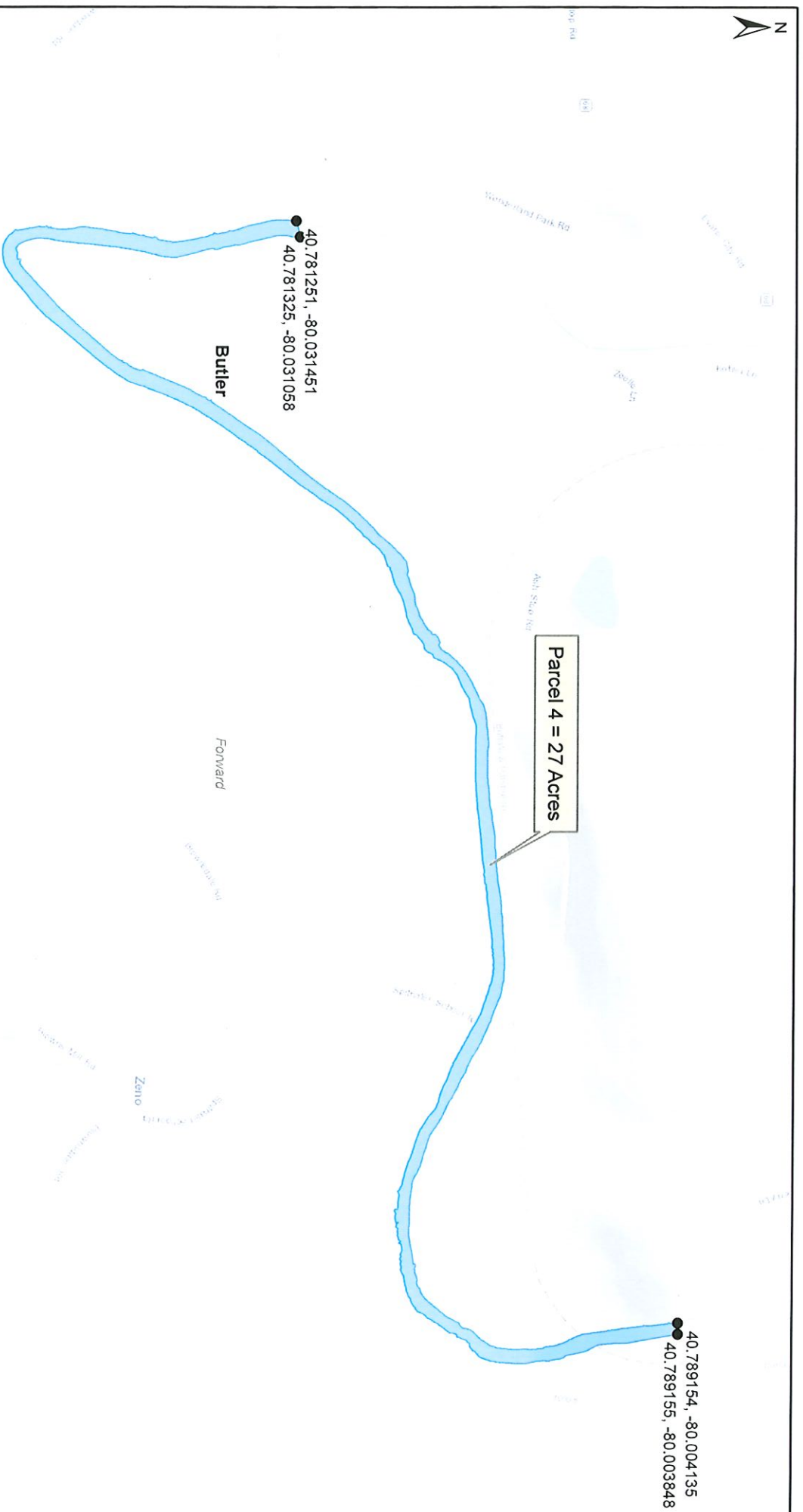
- Bounding Coordinates
- Leased Premises
- PA Municipalities
- PA Counties

**Oil and Gas Lease for Publicly-Owned Streambeds**  
**First Amendment Exhibit A-4**  
**State River Tract 2019 - Connonquenessing Creek**  
**Contract No. M-2102019-08**  
**Total Lease Area = 149.27 Acres**



**pennsylvania**  
 DEPARTMENT OF CONSERVATION  
 AND NATURAL RESOURCES  
 Bureau of Forestry  
 Minerals Division

Coordinate System: NAD 1983 Lambert Conformal Conic  
 Projection: Lambert Conformal Conic



The river boundaries were attained from breaklines located at <http://www.pamap.deer.state.pa.us/>

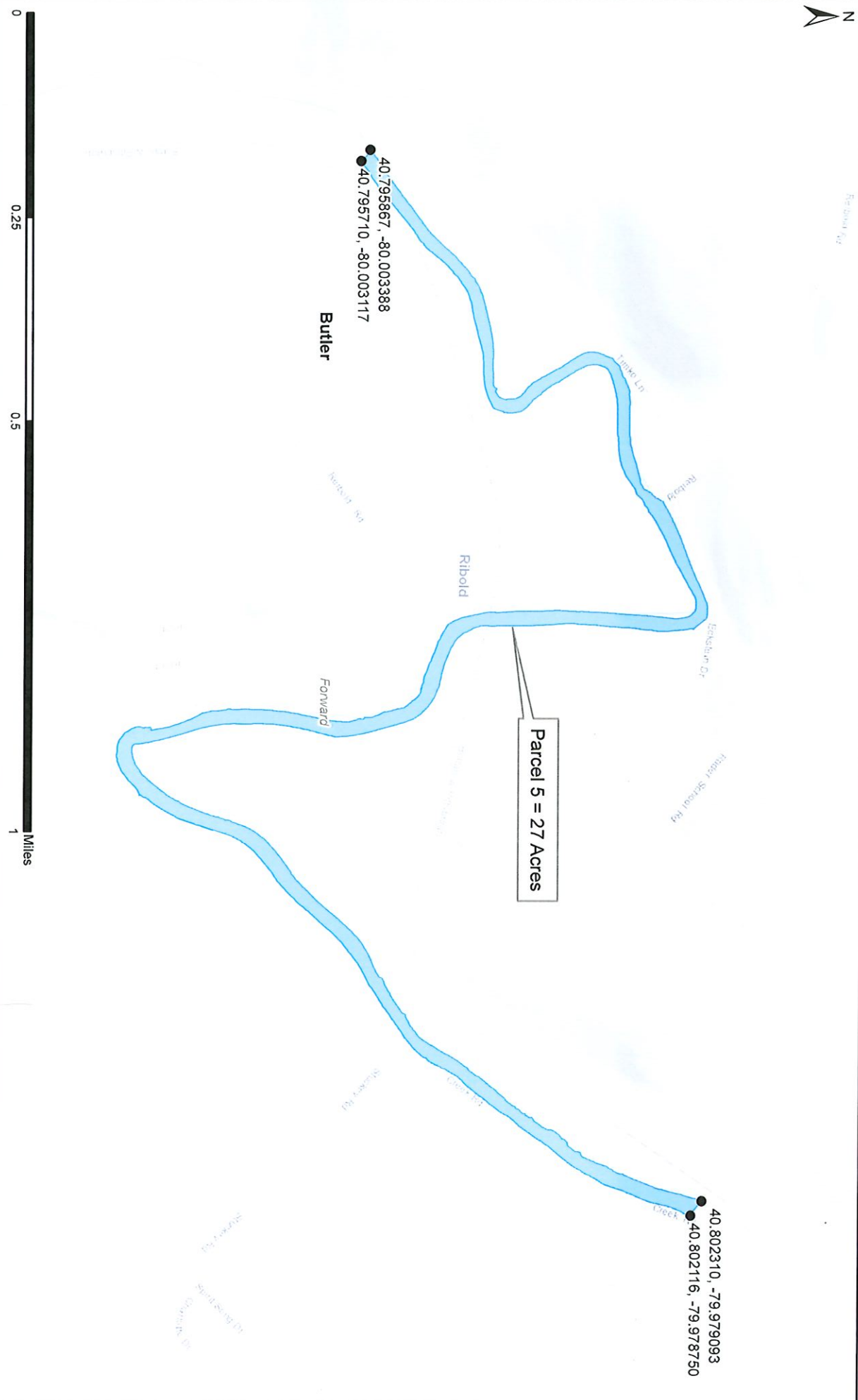
- Bounding Coordinates
- Leased Premises
- PA Municipalities
- PA Counties

**Oil and Gas Lease for Publicly-Owned Streambeds**  
**First Amendment Exhibit A-5**  
**State River Tract 2019 - Connonquenessing Creek**  
**Contract No. M-2102019-08**  
**Total Lease Area = 149.27 Acres**



**pennsylvania**  
 DEPARTMENT OF CONSERVATION  
 AND NATURAL RESOURCES  
 Bureau of Forestry  
 Minerals Division

Coordinate System: NAD 1983 Lambert Conformal Conic  
 Projection: Lambert Conformal Conic



Parcel 5 = 27 Acres

Butler



The river boundaries were attained from breaklines located at <http://www.pamap.dem.state.pa.us/>

- Bounding Coordinates
- Leased Premises
- PA Municipalities
- PA Counties

**Oil and Gas Lease for Publicly-Owned Streambeds First Amendment Exhibit A-6**  
**State River Tract 2019 - Connonquenessing Creek**  
**Contract No. M-2102019-08**  
**Total Lease Area = 149.27 Acres**



Coordinate System: NAD 1983 Lambert Conformal Conic  
 Projection: Lambert Conformal Conic

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES**

**FIRST AMENDMENT EXHIBIT "B"**

**DESCRIPTION OF LEASED PREMISES FOR TRACT 2019**

Attached to and made a part of that certain Oil and Gas Lease for Publicly-Owned Streambeds, Streambed Tract 2019, Contract No. M-2102019-08, by and between: **COMMONWEALTH OF PENNSYLVANIA**, Lessor, and **PENNENERGY RESOURCES, LLC**, Lessee.

The following leased premises contain approximately 149.27 acres of submerged lands lying within the bed of Connoquenessing Creek between the ordinary low water marks in Butler County, Pennsylvania bounded and described as follows:

Parcel 1

Beginning at a point on the north bank of Connoquenessing Creek located in Jackson Township, Butler County (latitude 40.803498, longitude -80.114017); thence crossing Connoquenessing Creek to a point on the south bank of Connoquenessing Creek located in Jackson Township, Butler County (latitude 40.803175, longitude -80.114239); thence continuing southeast along the south bank to a point in Jackson Township, Butler County (latitude 40.805434, longitude -80.088724); thence crossing Connoquenessing Creek to a point on the north bank of Connoquenessing Creek located in Jackson Township, Butler County (latitude 40.805759, longitude -80.088738); thence continuing west along the north bank of Connoquenessing Creek, to the place of beginning, containing approximately 35 acres.

Parcel 2

Beginning at a point on the north bank of Connoquenessing Creek located in Jackson Township, Butler County (latitude 40.799428, longitude -80.078534); thence crossing Connoquenessing Creek to a point on the south bank of Connoquenessing Creek located in Jackson Township, Butler County (latitude 40.799116, longitude -80.078539); thence continuing east along the south bank to a point in Forward Township, Butler County (latitude 40.803109, longitude -80.046816); thence crossing Connoquenessing Creek to a point on the north bank of Connoquenessing Creek located in Forward Township, Butler County (latitude 40.803449, longitude -80.046067); thence continuing north and west along the north bank of Connoquenessing Creek, to the place of beginning, containing approximately 42 acres.

Parcel 3

Beginning at a point on the north eastern bank of Connoquenessing Creek located in Forward Township, Butler County (latitude 40.803929, longitude -80.025007); thence crossing Connoquenessing Creek to a point on the south western bank of Connoquenessing Creek located in Forward Township, Butler County (latitude 40.803712, longitude -80.025106); thence

continuing south along the bank to a point in Forward Township, Butler County (latitude 40.797594, longitude -80.028673); thence crossing Connoquenessing Creek to a point on the western bank of Connoquenessing Creek located in Forward Township, Butler County (latitude 40.797454, longitude -80.028373); thence continuing north along the bank of Connoquenessing Creek, to the place of beginning, containing approximately 7 acres.

#### Parcel 4

Beginning at a point on the east bank of Connoquenessing Creek located in Forward Township, Butler County (latitude 40.781325, longitude -80.031058); thence crossing Connoquenessing Creek to a point on the west bank of Connoquenessing Creek located in Forward Township, Butler County (latitude 40.781251, longitude -80.031451); thence continuing south along the bank to a point in Forward Township, Butler County (latitude 40.789155, longitude -80.003848); thence crossing Connoquenessing Creek to a point on the west bank of Connoquenessing Creek located in Forward Township, Butler County (latitude 40.789154, longitude -80.004135); thence continuing south along the bank of Connoquenessing Creek, to the place of beginning, containing approximately 27 acres.

#### Parcel 5

Beginning at a point on the north bank of Connoquenessing Creek located in Forward Township, Butler County (latitude 40.795867, longitude -80.003388); thence crossing Connoquenessing Creek to a point on the south bank of Connoquenessing Creek located in Forward Township, Butler County (latitude 40.795710, longitude -80.003117); thence continuing east along the bank to a point in Forward Township, Butler County (latitude 40.802116, longitude -79.978750); thence crossing Connoquenessing Creek to a point on the north bank of Connoquenessing Creek located in Forward Township, Butler County (latitude 40.802310, longitude -79.979093); thence continuing west along the bank of Connoquenessing Creek, to the place of beginning, containing approximately 27 acres.

#### Parcel 6

Beginning at a point on the north bank of Connoquenessing Creek located in Forward Township, Butler County (latitude 40.800119, longitude -80.038417); thence crossing Connoquenessing Creek to a point on the south bank of Connoquenessing Creek located in Forward Township, Butler County (latitude 40.799981, longitude -80.038065); thence continuing northeast along the bank to a point in Forward Township, Butler County (latitude 40.803712, longitude -80.025106); thence crossing Connoquenessing Creek to a point on the north bank of Connoquenessing Creek located in Forward Township, Butler County (latitude 40.803929, longitude -80.025007); thence continuing west along the north bank of Connoquenessing Creek, to the place of beginning, containing approximately 11.27 acres.

## **EXHIBIT "C"**

### **COMMONWEALTH CONTRACT TERMS AND CONDITIONS**

#### **1. COMMONWEALTH HELD HARMLESS**

- a. The Contractor shall hold the Commonwealth harmless from and indemnify the Commonwealth against any and all third party claims, demands and actions based upon or arising out of any activities performed by the Contractor and its employees and agents under this Contract, provided the Commonwealth gives Contractor prompt notice of any such claim of which it learns. Pursuant to the Commonwealth Attorneys Act (71 P.S. Section 732-101, et seq.), the Office of Attorney General (OAG) has the sole authority to represent the Commonwealth in actions brought against the Commonwealth. The OAG may, however, in its sole discretion and under such terms as it deems appropriate, delegate its right of defense. If OAG delegates the defense to the Contractor, the Commonwealth will cooperate with all reasonable requests of Contractor made in the defense of such suits.
- b. Notwithstanding the above, neither party shall enter into any settlement without the other party's written consent, which shall not be unreasonably withheld. The Commonwealth may, in its sole discretion, allow the Contractor to control the defense and any related settlement negotiations.

#### **2. NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE**

The Contractor agrees:

- a. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the Pennsylvania Human Relations Act (PHRA) and applicable federal laws, against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
- b. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.
- c. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, in the provision of services under the contract.
- d. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against employees by reason of participation in or decision to refrain

from participating in labor activities protected under the Public Employee Relations Act, Pennsylvania Labor Relations Act or National Labor Relations Act, as applicable and to the extent determined by entities charged with such Acts' enforcement, and shall comply with any provision of law establishing organizations as employees' exclusive representatives.

- e. The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lit places customarily frequented by employees and at or near where the contracted services are performed shall satisfy this requirement for employees with an established work site.
- f. The Contractor and each subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
- g. The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws, regulations and policies relating to nondiscrimination and sexual harassment. The Contractor and each subcontractor further represents that it has filed a Standard Form 100 Employer Information Report ("EEO-1") with the U.S. Equal Employment Opportunity Commission ("EEOC") and shall file an annual EEO-1 report with the EEOC as required for employers' subject to Title VII of the Civil Rights Act of 1964, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Contractor and each subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the contracting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.
- h. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.
- i. The Contractor's and each subcontractor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor and each subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.



- j. The Commonwealth may cancel or terminate the contract and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

### 3. CONTRACTOR INTEGRITY PROVISIONS

It is essential that those who seek to contract with the Commonwealth of Pennsylvania (“Commonwealth”) observe high standards of honesty and integrity. They must conduct themselves in a manner that fosters public confidence in the integrity of the Commonwealth contracting and procurement process.

- a. **DEFINITIONS.** For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Section:
  - 1) **“Affiliate”** means two or more entities where (a) a parent entity owns more than fifty percent of the voting stock of each of the entities; or (b) a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.
  - 2) **“Consent”** means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of the execution of this contract.
  - 3) **“Contractor”** means the individual or entity that has entered into this contract with the Commonwealth.
  - 4) **“Contractor Related Parties”** means any affiliates of the Contractor and the Contractor’s executive officers, Pennsylvania officers and directors, or owners of 5 percent or more interest in the Contractor.
  - 5) **“Financial Interest”** means either:
    - a) Ownership of more than a five percent interest in any business; or
    - b) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
  - 6) **“Gratuity”** means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the [Governor’s Code of Conduct, Executive Order 1980-18](#), the 4 Pa. Code §7.153(b), shall apply.

7) **“Non-bid Basis”** means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.

b. In furtherance of this policy, Contractor agrees to the following:

- 1) Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting or procurement with the Commonwealth.
- 2) Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to the Contractor activity with the Commonwealth and Commonwealth employees and which is made known to all Contractor employees. Posting these Contractor Integrity Provisions conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contract services are performed shall satisfy this requirement.
- 3) Contractor, its affiliates, agents, employees and anyone in privity with Contractor shall not accept, agree to give, offer, confer, or agree to confer or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of any federal or state law, regulation, executive order of the Governor of Pennsylvania, statement of policy, management directive or any other published standard of the Commonwealth in connection with performance of work under this contract, except as provided in this contract.
- 4) Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material under this contract, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor’s financial interest prior to Commonwealth execution of the contract. Contractor shall disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor’s submission of the contract signed by Contractor.
- 5) Contractor certifies to the best of its knowledge and belief that within the last five (5) years Contractor or Contractor Related Parties have not:
  - a) been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;
  - b) been suspended, debarred or otherwise disqualified from entering into any contract with any governmental agency;
  - c) had any business license or professional license suspended or revoked;

- d) had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and
- e) been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

If Contractor cannot so certify to the above, then it must submit along with its bid, proposal or contract a written explanation of why such certification cannot be made and the Commonwealth will determine whether a contract may be entered into with the Contractor. The Contractor's obligation pursuant to this certification is ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to immediately notify the Commonwealth in writing if at any time during the term of the contract if becomes aware of any event which would cause the Contractor's certification or explanation to change. Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause if it learns that any of the certifications made herein are currently false due to intervening factual circumstances or were false or should have been known to be false when entering into the contract.

- 6) Contractor shall comply with the requirements of the *Lobbying Disclosure Act (65 Pa.C.S. §13A01 et seq.)* regardless of the method of award. If this contract was awarded on a Non-bid Basis, Contractor must also comply with the requirements of the *Section 1641 of the Pennsylvania Election Code (25 P.S. §3260a)*.
- 7) When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or these Contractor Integrity Provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or the Office of the State Inspector General in writing.
- 8) Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these Contractor Integrity Provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract, to include any extensions thereof. Contractor shall immediately notify the Commonwealth in writing of any actions for occurrences that would result in a violation of these Contractor Integrity Provisions. Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of the State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

- 9) Contractor shall cooperate with the Office of the State Inspector General in its investigation of any alleged Commonwealth agency or employee breach of ethical standards and any alleged Contractor non-compliance with these Contractor Integrity Provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of an Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Office of the State Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refer to or concern this contract. Contractor shall incorporate this paragraph in any agreement, contract or subcontract it enters into in the course of the performance of this contract/agreement solely for the purpose of obtaining subcontractor compliance with this provision. The incorporation of this provision in a subcontract shall not create privity of contract between the Commonwealth and any such subcontractor, and no third party beneficiaries shall be created thereby.
- 10) For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these Provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.

#### **4. CONTRACTOR RESPONSIBILITY PROVISIONS**

For the purpose of these provisions, the term Contractor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee or lessor, who has furnished or performed or seeks to furnish or perform, goods, supplies, services, leased space, construction or other activity, under a contract, grant, lease, purchase order or reimbursement agreement with the Commonwealth of Pennsylvania (Commonwealth). The term Contractor includes a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other public entity in the Commonwealth.

- a. The Contractor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid/Contract, a written explanation of why such certification cannot be made.
- b. The Contractor also certifies, in writing, that as of the date of its execution of this Bid/Contract it has no tax liabilities or other Commonwealth obligations, or has

filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.

- c. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.
- d. The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.
- e. The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- f. The Contractor may search the current list of suspended and debarred Commonwealth contractors by visiting the eMarketplace website at <http://www.emarketplace.state.pa.us> and clicking the Debarment List tab.

## **5. AMERICANS WITH DISABILITIES ACT**

- a. Pursuant to federal regulations promulgated under the authority of the Americans with Disabilities Act, 28 C.F.R. § 35.101 *et seq.*, the Contractor understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this Agreement or from activities provided for under this Agreement. As a condition of accepting and executing this Agreement, the Contractor agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. § 35.130, and all other regulations promulgated under Title II of the Americans with Disabilities Act which are applicable to the benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.
- b. The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth of

Pennsylvania as a result of the Contractor's failure to comply with the provisions of subparagraph a above.

**6. APPLICABLE LAW**

This Contract shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania (without regard to any conflict of laws provisions) and the decisions of the Pennsylvania courts. The Contractor consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania, waiving any claim or defense that such forum is not convenient or proper. The Contractor agrees that any such court shall have in personam jurisdiction over it, and consents to service of process in any manner authorized by Pennsylvania law.

**7. RIGHT TO KNOW LAW**

- a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, ("RTKL") applies to this Contract. For the purpose of these provisions, the term "the Commonwealth" shall refer to the contracting Commonwealth agency.
- b. If the Commonwealth needs the Contractor's assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.
- c. Upon written notification from the Commonwealth that it requires the Contractor's assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor's possession, constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information"), the Contractor shall:
  - 1) Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor's possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
  - 2) Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.
- d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.

- e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth's determination.
- f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth.
- g. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.
- h. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.
- i. The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

## **8. OFFSET PROVISION**

The Contractor agrees that the Commonwealth of Pennsylvania (Commonwealth) may set off the amount of any state tax liability or other obligation of the Contractor or its subsidiaries to the Commonwealth against any payments due the Contractor under any contract with the Commonwealth.