

DIRECTOR of PLANS, OPERATIONS, TRAINING & MILITARY SUPPORT
Pennsylvania Army National Guard

(717) 861-8504; Fax 8335

Thru: COL Eward, Chief of Staff

For: COL Eward
BG Klynoot
MG Mac Vay

From: COL von Trott

Subject: License to Fire Artillery over State Game Lands 211

Date: 18 July 1997



1. **Subject:** as above.
2. **References:** Attached License for Game Lands 211.
3. **Background/Discussion:** In the process of coordinating Range 27 screening with the State Game Commission, I was made aware of a land use agreement dating back to 1955 which licenses the Army to conduct indirect artillery firing over portions of State Game Lands 211 (Stoney Creek Valley, immediately north of post) during several months each year. It seems the license, which was routinely reviewed each year up through the 1980's, is still in effect. I rather imagine it was originally obtained to permit high angle firing from the old Cold Spring Military Reservation back onto post.

Although there is clearly no training need for this license, the PAARNG might want to take a look at it from the perspective of our future liability as the operators of Fort Indiantown Gap. The rather cursory walk through of Stoney Valley associated with the recent Range 27 AR 15-6 investigation found several live artillery and mortar rounds, including a rather old 8" HE shell. One has to wonder whether or not the "minute examination" for unexploded ordnance mentioned in the opening paragraph of the license was ever accomplished -- and wonder whether there might not be other old unexploded ordnance out there.

As a safeguard for both the PAARNG and the Game Commission, recommend that the Commonwealth request the Army (USAG FTIG) perform a *thorough* sweep of Stoney Creek Valley by EOD as a condition for terminating the license, and that we insist this be done prior to BRAC turn-over of the post to the PAARNG.

4. **Requested Action/Recommendation:** Concurrence.
5. **POC:** COL von Trott.

CF:
LTC Laneski
MAJ Kane
Mr. Daday

L I C E N S E

In consideration of the mutual promises herein set forth the PENNSYLVANIA GAME COMMISSION hereby grants to the DEPARTMENT OF THE ARMY, for the use of military units training at the Indiantown Gap Military Reservation, a license beginning June 1, 1955, to conduct artillery firing over approximately 264 acres of State Game Lands No. 211, in Dauphin and Lebanon Counties, Pennsylvania, cross-hatched in red on the attached print, from June 1 through August 31 of each year that the license remains in force and effect, with the right and duty to enter thereupon at the end of each training season to examine the terrain minutely and insure that no unexploded projectiles remain on the licensed area during the period of non-use by the licensee.

The license is granted subject to the following provisions and conditions:

1. At the option of the Commission this license may continue in full force and effect, upon the same terms and conditions, provided, however, that either party shall have the right to terminate the same by giving to the other ninety days previous notice in writing of such intention.
2. Artillery firing shall be conducted only during daylight hours and no firing shall be conducted on Sundays.
3. The licensee shall at its own cost and expense post, mark or guard the licensed area during the firing training seasons in such a manner and to such an extent as shall provide maximum protection and safety for all persons who may be on game lands in the vicinity of the licensed area. In the event the limits of the licensed area are posted or marked in any way during the firing training seasons, such posters or markers shall be removed at the end of each season and replaced prior to the beginning of the following firing training season.
4. The exercise of the privileges hereby granted shall be without cost or expense to the Pennsylvania Game Commission.

5. Nothing in this license shall be construed to impair or restrict in any degree or manner whatsoever the right of the Commission to use and authorize the use of the licensed area for any reasonable purpose in connection with the administration or utilization of said land deemed by the Commission to be not incompatible with the license hereby granted.

6. Nothing herein shall be in any way construed to impair the powers, privileges or duties of the Commission, or its representatives, in the execution of the laws of the Commonwealth, or the rules and regulations of the Commission, now in force or hereafter enacted or adopted, having reference to the use, control, protection, maintenance, utilization and development of the said State Game Lands.

7. Any property of the Commonwealth of Pennsylvania and/or the Pennsylvania Game Commission, including roads, ways, etc., damaged or destroyed by the licensee incident to its use and occupation of the licensed area shall be promptly repaired or replaced by the licensee to the satisfaction of the Commission's officer in charge of the lands, or in lieu of such repair or replacement the licensee shall, if so required, pay to the Commonwealth and/or the Commission money in an amount sufficient to compensate for the loss sustained by reason of damages to, forest fires in, or destruction of Commonwealth or Commission property; provided, however, that the provisions of this paragraph shall not be construed to include damage to or destruction of shrubs, bushes and other forest growth having no present commercial value.

8. The Commonwealth nor the Game Commission shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the use and occupation of the licensed area, nor for damages to the property of the licensee, nor for damages to the property of or injuries to the person of licensee's personnel, or others who may be on the licensed area by command or invitation of the licensee.

9. All property and equipment placed on the licensed area by the licensee shall remain its property and may be removed upon the termination

of this license.

10. This license is subject to existing licenses and easements.

11. Upon termination of its use at the end of each annual period the licensed area shall be restored as nearly as practicable to its original condition by the licensee, and left in a clean, sanitary and orderly condition.

Dated this 1st day of August, 1955.

PENNSYLVANIA GAME COMMISSION

Attest:

Logan Bennett
Executive Director

By Walter Kell
President

ACCEPTED, AUG 1 - 1955, 1955, for the Department of the Army

Frank H. Thomas

FRANK H. THOMAS
Contracting Officer
Corps of Engineers
Washington District

September 1, 1955, APPROVED
as to form, manner of execution
and legality.

John Sullivan
Deputy Attorney General

Sept. 1, 1955
APPROVED

George M. Leader
Governor