

CEE: Analysis of Required Clearance Level

Task 3 - McDade Trail Ped Bridge over the Bushkill Creek

BACKGROUND: The recommended alternative for the pedestrian/ bicycle crossing of the McDade Trail over the Bushkill Creek is a new prefabricated structure fully spanning the Creek and located approximately 50' east (immediately downstream) of the existing US 209 vehicular bridge first constructed in 1939 and reconstructed in 1956 following the destruction of the original structure in a hurricane. Project also includes streambank stabilization of estimated areas immediately upstream and downstream of the proposed bridge location.

ASSUMPTIONS: Lehman Township will seek funding for this project as a local sponsor in partnership with significant stakeholders such as the NPS (DEWA), Monroe County, Pike County, Middle Smithfield Township, PennDOT 4-0 and PennDOT 5-0.

This investigation investigates the extent of the documentation effort required for the project compliance with the National Environmental Policy Act (NEPA).

No Scoping Field View activities have been initiated for this project.

As the proposed improvement (a new pedestrian/bicycle bridge) is a transportation improvement that is located in Federal lands and will be owned and operated by the National Park Service, full compliance with NEPA shall be determined in the subsequent stages of engineering and design.

While unknown at this time, this investigation assumes that both Federal and State of PA monies may be used in combination for the execution of this project. FHWA (as owner and operator of federal transportation facilities within Federal lands) may choose to partner with PennDOT in the management of this project. For this reason, this investigation has followed the recommended procedures for NEPA compliance outlined in PennDOT Publication 740 *Local Project Delivery Manual* (which was developed by both PennDOT and the FHWA to assist local project sponsors and stakeholders successfully deliver local-sponsored transportation projects) and Publication 10B *Post-TIP NEPA Procedures*.

Based on the analysis of both documents---Publication 740 and Publication 10B---the level of environmental documentation will be determined by the more conservative approach.

Determination of Level of Environmental Impact

1. PennDOT Publication 740 Chapter 4 (Federal Funded Project Procedure) Section A.4.3 Environmental Clearance (Figure 4-1: Generalized Environmental Flowchart)

o *Analysis*

Flowchart Assumptions about the project:

- i. Wetlands: Proposed bridge structure is intended to span the waterway with minimal disruption of streambank (logical location of wetlands). Pier construction assumed to disrupt less than 0.05 acres

(2,175 SF). However, streambank stabilization efforts proposed are assumed to exceed this threshold.

❖ Minimum CEE 1B expected.

ii. Farmland: No Impacts Expected.

iii. Section 4(f)/ Section 2002 (US DOT Act of 1966): Project exists within a National Recreation Area. The purpose of this section was to account for the consideration of park and recreational lands, wildlife and historic sites in transportation project development.

❖ Minimum CEE 1B (if 'de minimus' effects are proved)

❖ Probable: CEE 2

▪ Section 106/ Historic: Any identified historic resources close to the watercourse are intended to be resolved by agreement or treatment.

❖ Minimum CEE 1B expected.

▪ Section 106/ Archaeology: The proposed project location exists within the same envelope of disturbance that has occurred for the construction of the original US 209 vehicular bridge. Over the six decades of its existence, maintenance projects have used the same area for staging and maintenance operations---thus having cleared previous archaeology investigations.

❖ Minimum CEE 1B expected.

▪ Threatened & Endangered Species: Initial Pennsylvania Natural Diversity Inventory (PNDI) search receipt indicates the possibility of affected state and federal species. While the small disturbance anticipated with the pier construction could be mitigated, the larger area anticipated for streambank stabilization efforts could have a larger impact. Further documentation and study will be required to clear this threshold.

❖ Minimum CEE 1B (if 'de minimus' effects are proved)

❖ Probable: CEE 2

Publication 740 Criteria: CEE Level 2

2. PennDOT Publication 10B Categorical Exclusion Evaluations: Figure 3.1 CE Level/ Determination Flowchart

- *Does the proposed project meet the activities and stipulations of the Bridge and Roadway Programmatic Agreement (BRPA)*?*

** For projects that do not normally result in significant environmental impact and are classified as 'Categorical Exclusions' (CE), this BRPA exists to authorize PennDOT to give NEPA approval without requiring submission of further documentation. Projects must meet all stipulations of the agreement.*

○ Analysis

Stipulation 1 of Part C (Non-Complex Projects). Meets item 7 : “Transportation Enhancement Projects designed to address pedestrian and bicycle facilities.”.

Stipulation 2 of Part C (Non-Complex Projects): Must meet all four (4) criteria of Stipulation 2.

Does not meet Stipulation 2-Item #2 (All work shall occur within the existing right-of-way.)

Therefore, project does NOT meet criteria for the BRPA.

- *Is the project a roadway, safety or bridge project matching items #26, #27 or #28 in Table 3.1A (Level 1a CE)?*

○ Analysis

TABLE 3.1A
LEVEL 1a CATEGORICAL EXCLUSION ACTIONS¹
APPROVED BY DISTRICT ENVIRONMENTAL MANAGER

- 26. Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (including parking, weaving, turning, and climbing lanes), if the action meets the constraints in 23 CFR 771.117(e).
- 27. Highway safety or traffic operations improvement projects, including the installation of ramp metering control devices and lighting, if the project meets the constraints in 23 CFR 771.117(e).
- 28. Bridge rehabilitation, reconstruction, or replacement or the construction of grade separation to replace existing at-grade railroad crossings, if the actions meet the constraints in 23 CFR 771.117(e).

NO.

- *Determine applicable item number from Table 3.1A or Table 3.2*

TABLE 3.1A
LEVEL 1a CATEGORICAL EXCLUSION ACTIONS¹
APPROVED BY DISTRICT ENVIRONMENTAL MANAGER

- 3. Construction of bicycle and pedestrian lanes, paths, and facilities.
- 23. Federally-funded projects:
 - (i) That receive less than \$5,000,000 of Federal funds; or

APPLICABLE ITEM NUMBERS 3. AND 23i.

Publication 10B Criteria: CEE Level 1A

Conclusion: A Categorical Exclusion Evaluation (CEE) Level 2 can be expected for this project.

Anticipated Effort for Level 2 CE Approval

Analysis of Alternatives

- Impact Summary Table: A comparison of the following 'Environmental Resource Categories' will be evaluated for two alternatives in the next phase of pre-construction activity: a 'No-Build' Alternative and the proposed pedestrian/bicycle bridge.

Based on an initial site history investigation, a review of planning documents, historical input from stakeholders, the following opinions of further study required for the proposed pedestrian bridge are noted:

Environmental Resource Category	No-Build Alternative	Proposed Ped/Bicycle Bridge	Proposed Mitigation Summary
Streams, Rivers & Watercourses	No Impact	X	Design guidance determined by H&H study and acceptable post-construction stream profile.
Wild and Scenic Rivers & Streams	No Impact		
Navigable Waterways	No Impact		
Groundwater	No Impact		
Wetlands	No Impact	X	Minimization of structural support elements; location.
Soil & Erosion Control	No Impact	X	Application of Federal, State and local E&SC mitigation measures.
Agricultural Resources	No Impact		
Vegetation	No Impact		
Geologic Resources	No Impact		
Parks & Recreation Facilities	No Impact	X	Coordination of construction activities based on predominant usage of DEWA
State Forest & Game lands	No Impact		

Wilderness, Natural & Wild Areas	No Impact		
Hazardous or Residual Waste	No Impact		
Wildlife Refuges & Critical Habitat	No Impact	X	Full compliance with Federal lands guidelines for habitat preservation and mitigation.
Threatened & Endangered Species	No Impact	X	Full compliance with Federal lands guidelines for endangered species habitat preservation and mitigation.
Archaeological Resources	No Impact	X	Full compliance with Federal lands guidelines for archaeological clearances.
Historic Resources	No Impact		
Section 4(f) Resources	No Impact		
Air Quality	No Impact		
Noise	No Impact		
Regional & Community Growth	No Impact		
Public Facilities & Services	No Impact		
Community Cohesion	No Impact		
ROW Acquisitions	No Impact		
Displacements	No Impact		
Aesthetics	No Impact		
Environmental Justice	No Impact		

Affected Environment & Consequences

Significant interaction will be required for the completion of the required documentation for the eight (8) affected resources between the local sponsor, the NPS (DEWA) and local and county partners.

A preliminary outline of information and mitigation efforts required to complete the documentation for Level 2 CE is below:

- a) Streams, Rivers and Watercourses: Perennial; wild/stocked trout streams. Permanent impacts to streambanks for the proposed stabilization area.
 - *Stream classification: High Quality-Cold Water Fishery*
 - *Hydrologic and Hydraulic Study: **Completed with this project.***
- b) Wetlands: Greater than 0.05 acres (2,500 SF) impact anticipated.
 - *Delineation of wetlands required in next phase.*
- c) Erosion & Sediment Control: Evaluation of construction disturbance for bridge pier construction and streambank stabilization limits.
 - *Full determination of limit of disturbance required for determination of NPDES permit requirements needed in next phase.*
- d) Parks & Recreation Facilities: Project exists within the Delaware Water Gap National Recreation Area (DEWA).
 - *Full determination of impacts to recreational components of DEWA during construction needed in next phase.*
- e) State Forest & Game lands: Project exists within DEWA and is not considered part of the PA State Forest system or State Game lands.
 - *Any cooperative interactions between DEWA and PA DCNR for state forest or game lands management must be determined and documented in next phase.*
- f) Wildlife Refuges & Critical Habitats: Project exists within DEWA.
 - *Cooperative investigation of DEWA established habitats and refuges required in next phase.*
- g) Threatened & Endangered Species: Preliminary PA Natural Diversity Inventory (PNDI) search indicates three (3) species of concern for the proposed project.
 - *Biological and ecological study required to complete required documentation to PA Dept. of Conservation and Natural Resources (DCNR), PA Fish and Boat Commission, and US Fish & Wildlife Service to document 'alewife floater' species, 'white-water crowfoot' species and bog turtle habitat, respectively in the next phase.*
- h) Archaeological Resources: As noted previously, the recommended location for the pedestrian bridge was determined based, in part, on the previous disturbance undertaken for the construction of the US 209 vehicular bridge over the Bushkill Creek and its regular maintenance activities.
 - *Verification of previous archaeological clearances in this location and documentation of the areas included in those clearances will be required in the next phase.*

1. PROJECT INFORMATION

Project Name: **Bushkill Gateway Transportation Improvement Project**
Date of Review: **2/27/2023 05:01:04 PM**
Project Category: **Transportation, Structures and Bridges, New Bridge construction on new alignment**
Project Area: **6.10 acres**
County(s): **Monroe; Pike**
Township/Municipality(s): **LEHMAN TOWNSHIP; MIDDLE SMITHFIELD TOWNSHIP**
ZIP Code:
Quadrangle Name(s): **BUSHKILL**
Watersheds HUC 8: **Middle Delaware-Mongaup-Brodhead**
Watersheds HUC 12: **Little Bush Kill; Lower Bush Kill**
Decimal Degrees: **41.091571, -75.003069**
Degrees Minutes Seconds: **41° 5' 29.6547" N, 75° 0' 11.483" W**

This is a draft receipt for information only. It has not been submitted to jurisdictional agencies for review.



2. SEARCH RESULTS

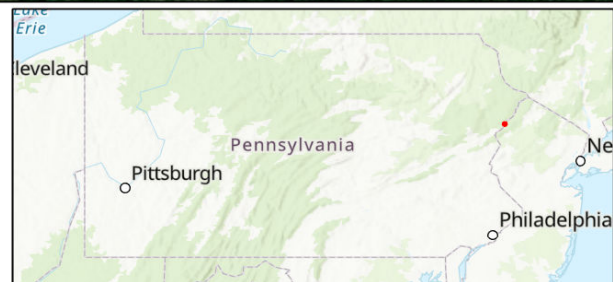
Agency	Results	Response
PA Game Commission	No Known Impact	No Further Review Required
PA Department of Conservation and Natural Resources	Potential Impact	FURTHER REVIEW IS REQUIRED, See Agency Response
PA Fish and Boat Commission	Potential Impact	FURTHER REVIEW IS REQUIRED, See Agency Response
U.S. Fish and Wildlife Service	Potential Impact	MORE INFORMATION REQUIRED, See Agency Response

As summarized above, Pennsylvania Natural Diversity Inventory (PNDI) records indicate there may be potential impacts to threatened and endangered and/or special concern species and resources within the project area. If the response above indicates "No Further Review Required" no additional communication with the respective agency is required. If the response is "Further Review Required" or "See Agency Response," refer to the appropriate agency comments below. Please see the DEP Information Section of this receipt if a PA Department of Environmental Protection Permit is required.

Bushkill Gateway Transportation Improvement Project

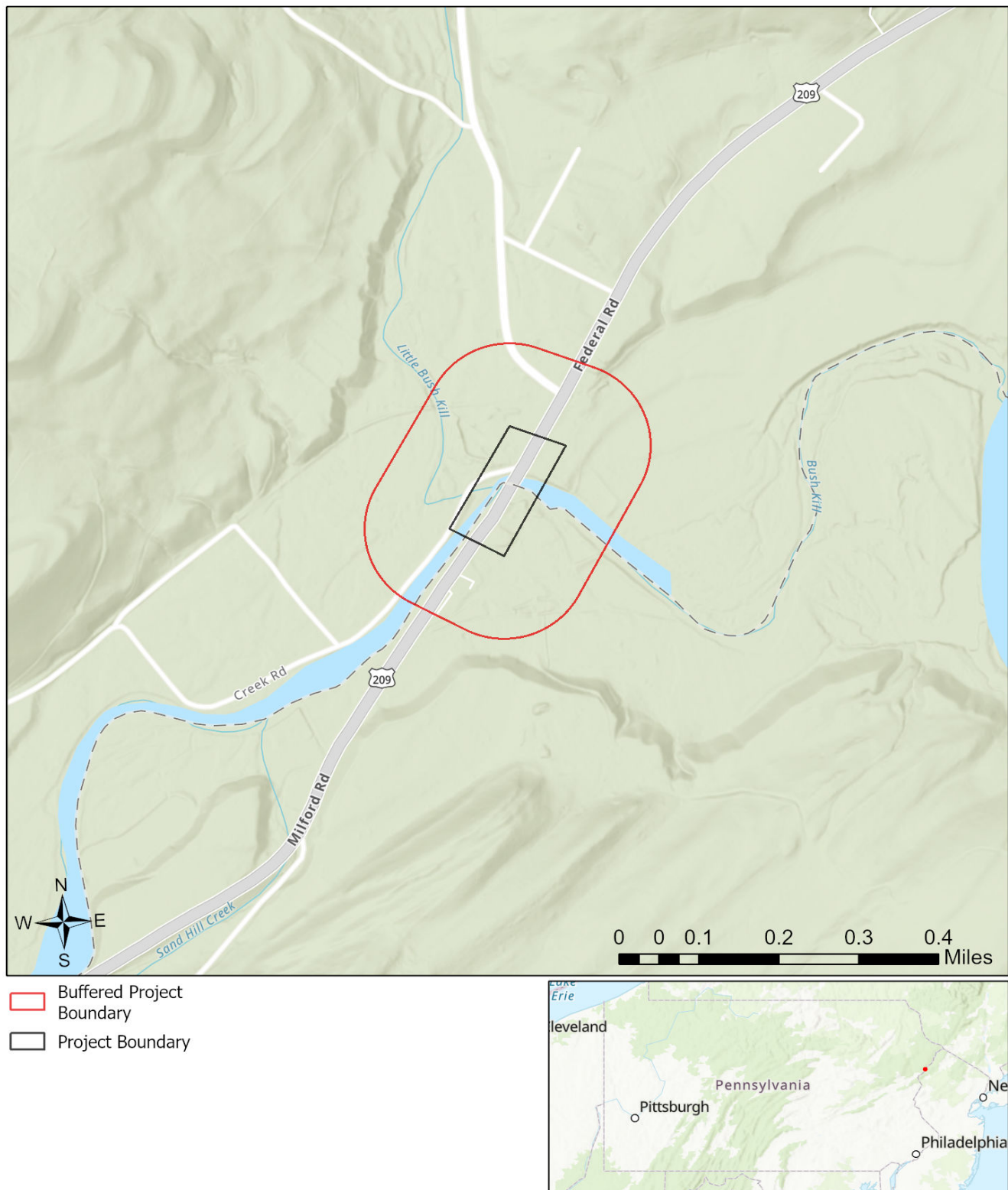


-  Buffered Project Boundary
-  Project Boundary



Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community

Bushkill Gateway Transportation Improvement Project



Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community

RESPONSE TO QUESTION(S) ASKED

Q1: Accurately describe what is known about wetland presence in the project area or on the land parcel by selecting ONE of the following. "Project" includes all features of the project (including buildings, roads, utility lines, outfall and intake structures, wells, stormwater retention/detention basins, parking lots, driveways, lawns, etc.), as well as all associated impacts (e.g., temporary staging areas, work areas, temporary road crossings, areas subject to grading or clearing, etc.). Include all areas that will be permanently or temporarily affected -- either directly or indirectly -- by any type of disturbance (e.g., land clearing, grading, tree removal, flooding, etc.). Land parcel = the lot(s) on which some type of project(s) or activity(s) are proposed to occur.

Your answer is: The project area (or land parcel) has not been investigated by someone qualified to identify and delineate wetlands (holding a natural resource degree or equivalent work experience) or it is currently unknown if the project or project activities will affect wetlands.

Q2: The proposed project is in the range of the Indiana bat. Describe how the project will affect bat habitat (forests, woodlots and trees) and indicate what measures will be taken in consideration of this. Round acreages up to the nearest acre (e.g., 0.2 acres = 1 acre).

Your answer is: No forests, woodlots or trees will be affected by the project.

Q3: Is tree removal, tree cutting or forest clearing of 40 acres or more necessary to implement all aspects of this project?

Your answer is: No

3. AGENCY COMMENTS

Regardless of whether a DEP permit is necessary for this proposed project, any potential impacts to threatened and endangered species and/or special concern species and resources must be resolved with the appropriate jurisdictional agency. In some cases, a permit or authorization from the jurisdictional agency may be needed if adverse impacts to these species and habitats cannot be avoided.

These agency determinations and responses are **valid for two years** (from the date of the review), and are based on the project information that was provided, including the exact project location; the project type, description, and features; and any responses to questions that were generated during this search. If any of the following change: 1) project location, 2) project size or configuration, 3) project type, or 4) responses to the questions that were asked during the online review, the results of this review are not valid, and the review must be searched again via the PNDI Environmental Review Tool and resubmitted to the jurisdictional agencies. The PNDI tool is a primary screening tool, and a desktop review may reveal more or fewer impacts than what is listed on this PNDI receipt. The jurisdictional agencies **strongly advise against** conducting surveys for the species listed on the receipt prior to consultation with the agencies.

PA Game Commission

RESPONSE:

No Impact is anticipated to threatened and endangered species and/or special concern species and resources.

PA Department of Conservation and Natural Resources

RESPONSE:

Further review of this project is necessary to resolve the potential impact(s). Please send project information to this agency for review (see WHAT TO SEND).

DCNR Species: (Note: The Pennsylvania Conservation Explorer tool is a primary screening tool, and a desktop review may reveal more or fewer species than what is listed below. After desktop review, if a botanical survey is required by DCNR, we recommend the DCNR Botanical Survey Protocols, available here:

<https://conservationexplorer.dcnr.pa.gov/content/survey-protocols>)

Scientific Name	Common Name	Current Status	Proposed Status	Survey Window
Ranunculus aquatilis var. diffusus	White Water-crowfoot	Special Concern Species*	Special Concern Species*	Flowers May - July

PA Fish and Boat Commission

RESPONSE:

Further review of this project is necessary to resolve the potential impact(s). Please send project information to this agency for review (see WHAT TO SEND).

PFBC Species: (Note: The Pennsylvania Conservation Explorer tool is a primary screening tool, and a desktop review may reveal more or fewer species than what is listed below.)

Scientific Name	Common Name	Current Status
Sensitive Species**		Endangered
Sensitive Species**		Endangered
Utterbackiana implicata	Alewife Floater	Special Concern Species*

U.S. Fish and Wildlife Service

RESPONSE:

Information Request: Conduct a Bog Turtle Habitat (Phase 1) Survey in accordance with USFWS Guidelines for Bog Turtle Surveys (April 2020). Evaluate all wetlands within 300 feet of the project area, which includes all areas that will be impacted by earth disturbance or project features (e.g., roads, structures, utility lines, lawns, detention basins, staging areas, etc.). IF THE PHASE 1 SURVEY IS DONE BY A QUALIFIED BOG TURTLE SURVEYOR (see [Pennsylvania Qualified Surveyors | FWS.gov](#)): 1) Send positive results to USFWS for concurrence, along with a project description documenting how impacts will be avoided. OR, conduct a Phase 2 survey and send Phase 1 and 2 results to USFWS for concurrence. 2) Send a courtesy copy of negative results to USFWS (label as "Negative Phase 1 Survey Results by Qualified Bog Turtle Surveyor: USFWS Courtesy Copy"). USFWS approval of negative results is not necessary when a qualified surveyor does the survey in full accordance with USFWS guidelines. IF THE PHASE 1 SURVEY IS NOT DONE BY A QUALIFIED SURVEYOR: Send ALL Phase 1 results to USFWS for concurrence, and if potential habitat is found, also send a project description documenting how impacts will be avoided.

As a qualified bog turtle surveyor, I _____ (name) certify that I conducted a Phase 1 survey of all wetlands in and within 300 feet of the project area on _____ (date) and determined that bog turtle habitat is absent.

_____ (Signature)

* Special Concern Species or Resource - Plant or animal species classified as rare, tentatively undetermined or candidate as well as other taxa of conservation concern, significant natural communities, special concern populations (plants or animals) and unique geologic features.

** Sensitive Species - Species identified by the jurisdictional agency as collectible, having economic value, or being susceptible to decline as a result of visitation.

WHAT TO SEND TO JURISDICTIONAL AGENCIES

If project information was requested by one or more of the agencies above, upload* or email the following information to the agency(s) (see AGENCY CONTACT INFORMATION). Instructions for uploading project materials can be found [here](#). This option provides the applicant with the convenience of sending project materials to a single location accessible to all three state agencies (but not USFWS).

*If information was requested by USFWS, applicants must email, or mail, project information to IR1_ESPenn@fws.gov to initiate a review. USFWS will not accept uploaded project materials.

Check-list of Minimum Materials to be submitted:

____ Project narrative with a description of the overall project, the work to be performed, current physical characteristics of the site and acreage to be impacted.

____ A map with the project boundary and/or a basic site plan (particularly showing the relationship of the project to the physical features such as wetlands, streams, ponds, rock outcrops, etc.)

In addition to the materials listed above, USFWS REQUIRES the following

____ **SIGNED** copy of a Final Project Environmental Review Receipt

The inclusion of the following information may expedite the review process.

____ Color photos keyed to the basic site plan (i.e. showing on the site plan where and in what direction each photo was taken and the date of the photos)

____ Information about the presence and location of wetlands in the project area, and how this was determined (e.g., by a qualified wetlands biologist), if wetlands are present in the project area, provide project plans showing the location of all project features, as well as wetlands and streams.

4. DEP INFORMATION

The Pa Department of Environmental Protection (DEP) requires that a signed copy of this receipt, along with any required documentation from jurisdictional agencies concerning resolution of potential impacts, be submitted with applications for permits requiring PNDI review. Two review options are available to permit applicants for handling PNDI coordination in conjunction with DEP's permit review process involving either T&E Species or species of special concern. Under sequential review, the permit applicant performs a PNDI screening and completes all coordination with the appropriate jurisdictional agencies prior to submitting the permit application. The applicant will include with its application, both a PNDI receipt and/or a clearance letter from the jurisdictional agency if the PNDI Receipt shows a Potential Impact to a species or the applicant chooses to obtain letters directly from the jurisdictional agencies. Under concurrent review, DEP, where feasible, will allow technical review of the permit to occur concurrently with the T&E species consultation with the jurisdictional agency. The applicant must still supply a copy of the PNDI Receipt with its permit application. The PNDI Receipt should also be submitted to the appropriate agency according to directions on the PNDI Receipt. The applicant and the jurisdictional agency will work together to resolve the potential impact(s). See the DEP PNDI policy at <https://conservationexplorer.dcnr.pa.gov/content/resources>.

5. ADDITIONAL INFORMATION

The PNDI environmental review website is a preliminary screening tool. There are often delays in updating species status classifications. Because the proposed status represents the best available information regarding the conservation status of the species, state jurisdictional agency staff give the proposed statuses at least the same consideration as the current legal status. If surveys or further information reveal that a threatened and endangered and/or special concern species and resources exist in your project area, contact the appropriate jurisdictional agency/agencies immediately to identify and resolve any impacts.

For a list of species known to occur in the county where your project is located, please see the species lists by county found on the PA Natural Heritage Program (PNHP) home page (www.naturalheritage.state.pa.us). Also note that the PNDI Environmental Review Tool only contains information about species occurrences that have actually been reported to the PNHP.

