

Chapter 102 Pennsylvania Natural Diversity Inventory (PNDI) Process

Frequently Asked Questions (FAQ) Final, September 22, 2026 Version 1.0

Background

According to the Department of Environmental Protection's (DEP's) regulations at 25 Pa. Code § 102.6(a)(2), those proposing or conducting an earth disturbance activity that requires a Chapter 102 permit shall "Provide proof of consultation with the Pennsylvania Natural Heritage Program (PNHP) regarding the presence of a State or Federal threatened or endangered species on the project site." If a proposed project may adversely impact a threatened or endangered (T&E) species or critical habitat, the applicant must coordinate with DEP and/or a delegated county conservation district (CCD) to avoid, prevent, or minimize potential impacts.

Since a wide range of state regulations and permitting programs require some level of T&E species investigation, DEP's [Policy for Pennsylvania Natural Diversity Inventory \(PNDI\) Coordination During Permit Review and Evaluation](#) (PNDI Policy) was developed to provide a consistent framework for identifying and evaluating potential impacts to T&E species, special concern species where applicable, and rare ecological features during DEP permit reviews. The policy establishes procedures for permit applicants, consultants, and DEP/CCD staff to utilize the PNHP's [Pennsylvania Conservation Explorer](#) to obtain a "PNDI Receipt" as part of the permit application process. The policy emphasizes early coordination with jurisdictional agencies to help avoid project delays, minimize environmental impacts, and support informed decision-making while ensuring compliance with applicable state and federal environmental laws and regulations.

DEP's PNDI Policy indicates that DEP retains independent authority for permit decisions and impact evaluations. Documentation from jurisdictional agencies helps inform DEP's review, but DEP remains responsible for determining whether permit requirements have been adequately satisfied under applicable DEP regulations and statutes.

This FAQ document is intended to provide general guidance and clarification regarding common questions associated with the PNDI review and coordination process for Chapter 102 permits, including the U.S. Fish & Wildlife Service (USFWS) Information for Planning and Consultation (IPaC Tool); however, it does not supersede applicable statutes, regulations, permit requirements, or DEP policy. *This FAQ document addresses the PNDI process for Chapter 102 permits only.* [Attachment A](#) includes PNDI scenarios and recommended procedures.

General

FAQ #1: What is the purpose of the PNDI process?

The PNDI process helps identify potential impacts to T&E species, special concern species, and rare ecological features as part of the DEP permit application process. The process supports biodiversity conservation and compliance with the federal Endangered Species Act (16 U.S.C. §§ 1531 *et seq.*) while helping applicants comply with DEP regulatory requirements.

FAQ #2: What agencies are involved in PNDI coordination?

The jurisdictional agencies are:

- Pennsylvania Department of Conservation and Natural Resources (DCNR);
- Pennsylvania Fish and Boat Commission (PFBC);
- Pennsylvania Game Commission (PGC); and
- USFWS.

The Western Pennsylvania Conservancy (WPC) is also part of the PNHP partnership.

FAQ #3: What is the Pennsylvania Conservation Explorer Tool?

The [Pennsylvania Conservation Explorer Tool](#) is an online conservation planning and environmental review tool maintained through the PNHP in coordination with DCNR, DEP, PGC, PFBC, USFWS and other conservation partners. The Conservation Explorer allows users to conduct a PNDI environmental review to identify potential impacts to T&E species, special concern species, and rare and significant ecological features. The tool also provides conservation planning information and may generate project-specific avoidance measures, conservation measures, information requests, or recommendations for further coordination with jurisdictional agencies.

FAQ #4: What is the difference between T&E species and species of special concern?

T&E species are plants and animals that have been formally designated as threatened or endangered under applicable state or federal laws. These species receive specific legal protections, and DEP permit reviews must consider potential impacts to them where required by law.

Species of special concern are plants and animals that may be rare, declining, vulnerable, or otherwise of conservation interest, but are not currently listed as threatened or endangered. Special concern species may also sometimes be labeled as “Proposed Threatened” or “Proposed Endangered”.

For Chapter 102 permits, the primary focus is on identifying and addressing potential impacts to

T&E species. However, species of special concern may also be identified during the review process and may require consideration under other DEP permit programs or when required by applicable regulations.

Both T&E species and species of special concern may appear in the Pennsylvania Conservation Explorer review results and may result in recommendations for avoidance, conservation measures, or further coordination.

FAQ #5: Who must complete a PNDI review, and are any projects exempt?

Applicants seeking applicable DEP permits (e.g., Chapter 102 permits) or authorizations must complete a PNDI search and submit the PNDI Receipt with their application or Notice of Intent (NOI).

As outlined in DEP's PNDI Policy, the following activities are generally exempt from the requirement to conduct a PNDI review:

- Modifications to the operation or management of existing facilities that do not involve new activities with the potential to impact threatened and endangered species or, where applicable, special concern species.
- Permit renewals that do not involve any changes to the original approved permit, unless otherwise noted in the permit application or NOI instructions.

FAQ #6: How long is a PNDI Receipt valid?

PNDI Receipts are generally valid for two years from the date of the screening, or the issuance of a consistency letter or resolution; whichever is later.

FAQ #7: When is a new PNDI search required following the original search for a new application or NOI?

A new PNDI search is required if 1) more than two years have passed since the original screening or concurrent and a renewal application or NOI is being submitted for a project that has not commenced earth disturbance; 2) more than two years have passed since the original screening or concurrence and an application/NOI is being submitted due to changes in the area of earth disturbance that was not covered by the original search; 3) the project type changes (per the PNDI receipt); or 4) the information used to generate the original PNDI receipt was inaccurate or incomplete.

FAQ #8: What does a "Potential Impact" result mean?

A "Potential Impact" means the project is located near protected species or ecological resources

and requires further review by one or more jurisdictional agencies (see Figure 8.1).

Figure 8.1 – Example PNDI Receipt with “Potential Impact”

2. SEARCH RESULTS

Agency	Results	Response
PA Game Commission	Conservation Measure	No Further Review Required, See Agency Comments
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	FURTHER REVIEW IS REQUIRED, See Agency Response

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
Carex aurea	Golden-fruited Sedge	Endangered	Endangered	Fruits mid-May - June
Carex limosa	Mud Sedge	Special Concern Species*	Threatened	Flowers / fruits June - August
Carex sterilis	Sterile Sedge	Endangered	Endangered	Fruits early June - late July
Eleocharis elliptica	Slender Spike-rush	Endangered	Endangered	Fruits July - mid-October

FAQ #9: Does a “Potential Impact” response mean a permit application will be denied?

No. A “Potential Impact” response triggers further coordination and review. Impacts may often be resolved through surveys, avoidance measures, mitigation, redesign, or agency consultation.

FAQ #10: What is a consistency/determination letter?

A consistency/determination letter is a document generated through certain jurisdictional agencies indicating that the project, as described by the applicant and based on the information provided, is consistent with an established consultation framework or conservation measures and therefore does not require additional project-specific coordination.

Historically, applicants and reviewers often referred to PNDI agency responses as providing project “clearance”, and such letters are still described as “clearance letters” in DEP’s PNDI Policy. However, since the USFWS Pennsylvania Field Office began using USFWS’s IPaC tool in June 2025, they have shifted to using terms that accurately reflect USFWS authority. USFWS

does not provide “clearance” but instead provides technical assistance for applicants or coordinates with Federal action agencies to make effect determinations.

For Chapter 102 permit reviews, DEP/CCD staff evaluate the documentation submitted by the applicant in accordance with DEP’s PNDI Policy. While the terminology has changed, applicants are still responsible for obtaining and submitting sufficient documentation to demonstrate that potential impacts to listed T&E species have been appropriately evaluated and addressed.

FAQ #11: Is a Chapter 102 application or NOI incomplete if the PNDI receipt indicates “Potential Impact” for one or more species and consistency/determination letter(s) are not included?

In general, no. Unless otherwise specified in a Chapter 102 permit application, an application or NOI that does not include consistency/determination letter(s) where needed is not considered incomplete because DEP allows for concurrent review for most Chapter 102 permits (i.e., the letter(s) may be submitted during review of the application or NOI). DEP/CCD may note in an incompleteness or technical deficiency letter that a permit may not be issued until such letter(s) are received.

FAQ #12: Does a “No Known Impact” response guarantee species are absent?

No. A “No Known Impact” (See **Figure 16.1** below for an example) result from the Pennsylvania Conservation Explorer means that the PNDI review did not identify any known records or other triggers requiring further coordination within the project area at the time the review was conducted. However, it does not guarantee that T&E species, special concern species, or rare and significant ecological features are absent from the project site.

The PNDI database contains known occurrence records and other ecological information, but it is not a complete inventory of all species or habitats within Pennsylvania. Species may be present at a project site even if no records exist in the database, and new information may become available after a PNDI review is completed.

As a result, a “No Known Impact” receipt does not relieve applicants of their responsibility to comply with applicable permit requirements. DEP may consider other credible information regarding the presence of protected species or habitats during the permit review process, including recent field observations, surveys, agency information, or site-specific data that was not reflected in the PNDI review results.

FAQ #13: Can DEP/CCDs require additional information or coordination even if the applicant receives a “No Impact” receipt or favorable species determination?

Yes. DEP/CCDs are responsible for evaluating permit applications/NOIs and ensuring applicable regulatory requirements are met. While a PNDI receipt, IPaC determination, consistency letter, or

other species review documentation may help demonstrate compliance, DEP/CCDs may request additional information or coordination if there is a reason to believe the project information is inaccurate, incomplete, has changed since the review was conducted, or if other credible information indicates the potential presence of species or habitats.

DEP retains independent authority to make permit decisions and to determine whether the information submitted adequately addresses potential impacts to T&E species and, where applicable, special concern species.

FAQ #14: Does DEP have any recommendations for applicants on the PNDI process?

DEP strongly encourages applicants to complete the PNDI process and resolve any identified species coordination needs as early as possible during project planning, and preferably before submitting a Chapter 102 permit application or NOI.

Early coordination can help applicants identify T&E species concerns, avoidance measures, conservation recommendations, seasonal survey requirements, construction schedule impacts and potential project modifications before the permit review begins. For Chapter 102 projects, resolving these issues early can reduce the likelihood of permit processing delays, changes to construction sequencing and timing, and changes to erosion and sediment control (E&S) best management practices (BMPs) or post-construction stormwater management (PCSM) stormwater control measures (SCMs).

Applicants are encouraged to review PNDI screening results during project design and, when necessary, coordinate with the applicable jurisdictional agencies before submitting permit applications/NOIs. Early coordination is particularly important when projects may affect wetlands, streams, forested habitats, or other areas that could support protected species.

USFWS and IPaC

FAQ #15: What changes have USFWS made with respect to the PNDI process?

In June 2025, the USFWS Pennsylvania Field Office implemented changes to ESA consultation to align with nationwide USFWS efforts. The PNDI Receipt is no longer the sole source for T&E consultation and determination within Pennsylvania. Obtaining a PNDI Receipt is now the first step, which may then direct the applicant to complete USFWS's [Information for Planning and Consultation \(IPaC\) Tool](#). USFWS provides a variety of trainings on the use of the IPaC Tool, found on the [IPaC website](#), and in February 2026, the USFWS Pennsylvania Field Office released [Guidance for Completing Project Reviews for Endangered Species Act Compliance in Pennsylvania](#).

NOTE 15.1 – If a PNDI receipt identifies “No Known Impact” for the USFWS and does not direct the applicant to use the IPaC Tool, then no additional USFWS coordination is required.

FAQ #16: What are Avoidance Measures and how are they used?

Avoidance Measures are project-specific protective measures often generated through the Pennsylvania Conservation Explorer to avoid impacts to T&E species (see example in Figure 16.1). When Avoidance Measures are identified, applicants may resolve the potential impact by committing to implement the measures exactly as described.

If the applicant agrees to implement all required Avoidance Measures, additional coordination with the applicable agency is generally not required. However, if the applicant chooses not to implement the Avoidance Measures, or proposes modifications to them, further coordination with the applicable agency is generally necessary.

Applicants should clearly document their commitment to implement Avoidance Measures in the permit application/NOI, project plans, and other supporting documents, as appropriate. DEP may also incorporate the Avoidance Measures into the conditions of an individual permit. Applicants are responsible for implementing the measures as documented and approved.

Applicants and permit reviewers should be aware that Avoidance Measures may not always appear directly on a PNDI receipt. For some federally listed species, avoidance and conservation measures are now incorporated into IPaC Determination Key (DKey) letters, consistency letters, or other supporting documentation. Applicants and permit reviewers should carefully review all species documentation to identify and implement any applicable measures.

Figure 16.1 – Example PNDI Receipt with “Avoidance Measures”

2. SEARCH RESULTS

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

U.S. Fish and Wildlife Service

RESPONSE:

Avoidance Measure: Conduct any tree cutting, tree inundation (flooding), and prescribed burning between November 15 and March 31. ALSO, when conducting timber harvesting (rather than land clearing for development), implement the Fish and Wildlife Service's Forest Management Guidelines for Indiana Bat Swarming Habitat found at <https://www.fws.gov/northeast/pafo/endangered/forestry.html>.

As the project proponent or applicant, I certify that I will implement the above Avoidance Measure:

(Signature)

SPECIAL NOTE: If you agree to implement the above Avoidance Measure, no further coordination with this agency regarding threatened and endangered species and/or special concern species and resources is required. If you are not able to comply with the Avoidance Measures, you are required to coordinate with this agency - please send project information to this agency for review (see "What to Send" section).

* 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.

FAQ #17: How are Avoidance and Conservation Measures addressed under the current PNDI/IPaC process, and are they mandatory?

Avoidance and conservation measures remain an important component of the PNDI review process. Historically, these measures were often summarized directly on PNDI receipts or agency correspondence. Avoidance measures were generally required for agency clearance, while conservation measures were recommended. Today these measures may be presented in a variety of formats depending on the jurisdictional agency review pathway.

For example, the USFWS often incorporates avoidance and conservation measures within IPaC DKey responses, consistency letters, species-specific guidance documents, or other supporting materials. Other jurisdictional agencies may include recommended or required measures within agency correspondence, consistency letters, technical guidance, biological opinions, or project-specific coordination documents.

Whether a measure is mandatory depends on the context in which it is provided. If an applicant relies on a measure to support an agency consistency letter, or conclusion that impacts to species or habitats will be avoided or minimized, then the measure should be implemented as described. Failure to implement such measures may invalidate the basis for the determination or require additional agency coordination.

In some cases, avoidance and conservation measures may also become enforceable when incorporated into permit conditions, approved plans, agency approvals, or other regulatory requirements.

Applicants are responsible for reviewing all documentation provided through the PNDI review process and any associated agency coordination to identify applicable avoidance and conservation measures. Permit reviewers should review all supporting materials submitted with the PNDI review, including agency correspondence, IPaC documentation, DKey responses, and other supporting documents, to ensure that any measures relied upon to support project conclusions have been appropriately incorporated into the project.

FAQ #18: Can PNDI results differ from USFWS's IPaC Tool?

Yes. DEP has learned that IPaC data is updated faster than the PNDI Conservation Explorer. This means that you may see a species on one list, but not the other. For example, there were some recent species range updates for the bog turtle. The IPaC was updated to reflect these changes, but the PNDI data required additional coordination before it was updated. If the IPaC species list varies from the PNDI results, the IPaC list should take precedent for USFWS species concerns.

FAQ #19: What does federal nexus mean and why does it matter during PNDI/IPaC reviews?

Federal nexus is one of the most important pieces of information identified during an IPaC review because it determines which Endangered Species Act (ESA) consultation process applies to a project and who is responsible for making the final determination. The presence or absence of a federal nexus can affect the documentation that is expected during permit review and who is responsible for coordinating with USFWS.

In practical terms, a federal nexus exists when a project requires a federal permit, receives federal funding, or is authorized, funded, or carried out by a federal agency. When a federal nexus exists, the project is subject to Section 7 of the ESA. Section 7 identifies the responsibilities of the USFWS and other federal agencies to use their authorities in furtherance of the purposes of the ESA. Section 7(a)(1) requires all federal agencies to carry out programs for the conservation of listed species, and section 7(a)(2) requires the agencies to ensure their activities are not likely to jeopardize the continued existence of federally listed species or destroy or adversely modify designated critical habitat. Section 7(a)(2) of the ESA applies to all actions federal agencies fund, authorize, permit, or carry out in which there is discretionary federal involvement or control. Therefore, the responsible federal agency must complete consultation and obtain the final determination for federally listed threatened and endangered species and designated critical habitat.

If there is no federal nexus, consultation may instead proceed under Section 10 of the ESA, which provides a permitting process for non-federal activities that may result in the incidental "take" of federally listed species. Applicants seeking an Incidental Take Permit must describe the anticipated impacts, measures to minimize and mitigate those impacts, and how these will be

implemented. When no federal nexus exists, USFWS may provide technical assistance to applicants but has indicated they will generally not provide a final effect determination. However, the lack of a federal nexus does not absolve applicants of state regulatory requirements.

FAQ #20: Is Chapter 102 permitting a trigger for a Federal Nexus project?

NPDES permits, including those regulated by Chapter 102, are not considered a federal nexus in Pennsylvania as they are state-issued permits, unless the project seeking an NPDES permit is sponsored or funded by the federal government (i.e., federal projects). For non-federal projects, other components of the project may trigger a federal nexus. For example, a non-federal project needing a Chapter 102 permit that includes water resource impacts under Chapter 105 may have a federal nexus and increased USFWS requirements for the Chapter 105 permit. It is the applicant's responsibility to identify when a federal nexus exists.

FAQ #21: Are the IPaC Species List and the DKeys different?

Yes. The IPaC species list is only the first part of the IPaC screening process; the DKeys are the second step. There are currently three DKeys being used by USFWS for Pennsylvania: the Northeast DKey, the Northern Long-eared Bat/Tri-colored Bat/Indiana Bat DKey, and the Federal Highways Administration (FHWA) DKey. This means that applicants may receive several DKey responses in order to provide determinations for all species on an IPaC species list.

FAQ #22: Are applicants required to use the DKeys?

Yes, if any T&E species are identified on the IPaC species list (see Figure 22.1). Chapter 102 requires PNDI consultation, which in turn points to USFWS's IPaC tool. In order to determine species impacts or effects as required by Chapter 102, the applicant must have consultation documentation from the USFWS IPaC tool and its DKeys as well as technical assistance from USFWS or the lead federal agency, when applicable.

NOTE 22.1 – For Chapter 102 permits, if the IPaC species list includes only proposed species (species of concern), completion of the DKeys is not required.

Figure 22.1 – Example IPaC Species List with Proposed Species

MAMMALS

NAME	STATUS
Indiana Bat <i>Myotis sodalis</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5949	Endangered
Tricolored Bat <i>Perimyotis subflavus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/10515	Proposed Endangered

INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> There is proposed critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/9743	Proposed Threatened

FAQ #23: Do all three DKeys need to be used?

USFWS has indicated they are working on combining the Northeast and the Northern Long-eared Bat/Tricolored Bat DKeys into one DKey for Pennsylvania. Once the DKeys are combined, USFWS also intends to make the associated consultation documentation clearer. The FHWA DKey will continue to remain separate.

FAQ #24: Is DEP/CCD expected to review the DKey responses to ensure accuracy?

It is the applicant's responsibility to ensure they are answering both PNDI and IPaC questions accurately. DEP/CCD staff are not expected to read through every DKey question to determine whether they think a Chapter 102 applicant answered them appropriately. However, DEP/CCD staff must ensure that the answers to the questions are consistent with the application/NOI materials. If the project includes avoidance measures, DEP/CCD staff may use their discretion to either review the DKey questions in detail or request through a deficiency letter that the avoidance measures be provided if they are not clearly indicated in the application/NOI materials. DEP/CCD staff should also ensure the DKey response letter is provided. If an IPaC DKey results in a "May Affect" and/or the permit reviewer has concerns that something is unclear or incomplete, a deeper review of the DKey responses and follow-up is recommended.

FAQ #25: What do the IPaC results mean for permit review and issuance?

If the IPaC DKey results in either a "No Effect", or "Not Likely to Adversely Affect (NLAA)", the applicant should clearly indicate for DEP/CCD any avoidance measures that were agreed to,

but otherwise no further action is required of the applicant for Chapter 102 permitting (see example in Figure 25.1). A “May Affect” result indicates there may be potential impacts to listed species and additional coordination should occur; see **FAQ #26**.

Figure 25.1 – Example “NLAA” DKey Response

Species	Listing Status	Determination
Indiana Bat (<i>Myotis sodalis</i>)	Endangered	NLAA

Conclusion

Coordination with the Service is complete. This letter serves as technical assistance. All conservation measures should be implemented as proposed. Thank you for considering federally listed species during your project planning.

If no changes occur with the Project or there are no updates on listed species, no further consultation/coordination for this project is required for the species identified above. However,

FAQ #26: My IPaC DKey letter came back with a “May Affect” response. What do I do next?

A “May Affect” result (see example in Figure 26.1) indicates that the proposed project has the potential to affect one or more federally listed T&E species and/or critical habitat. In these situations, the applicant should attempt to coordinate with USFWS. Even when there is not a federal nexus requiring USFWS to provide a project-specific determination, applicants should still contact USFWS for technical assistance regarding potential species impacts, avoidance and minimization measures, project modifications, or other recommendations that may help reduce impacts to federally listed species or critical habitat.

If USFWS does not respond within 30 days of the applicant’s request, the applicant should provide documentation demonstrating that coordination was initiated (such as emails, correspondence, or other proof of attempted coordination) and describe any avoidance, minimization, or conservation measures that will be implemented to reduce potential impacts to the applicable species or habitat. If USFWS responds to DEP/CCD rather than to the applicant, DEP/CCD will notify the applicant.

Permit reviewers should evaluate the available documentation in accordance with DEP’s PNDI Policy and determine whether sufficient information has been provided to assess potential impacts to T&E species, thus supporting permit review and issuance. A lack of response from USFWS does not mean review of an application cannot proceed and that a final decision cannot be made. If the applicant has demonstrated a good faith effort to coordinate and has supplied sufficient supporting information for DEP/CCD’s evaluation, review and a final decision can proceed.

NOTE 26.1 – Making a determination that a permit can be issued under DEP’s PNDI Policy is not the same as DEP/CCD making an effect determination on behalf of USFWS and should not be misconstrued as such.

NOTE 26.2 – If the applicant receives a USFWS response after 30 days but before permit issuance, the applicant should immediately notify DEP/CCD to discuss any potential project changes based on the response.

Figure 26.1 – Example “May Affect” DKey Response

Determination for the Northern Long-Eared Bat and Tricolored Bat

Based on your IPaC submission and a standing analysis completed by the Service, you determined the proposed Project will have the following effect determinations:

Species	Listing Status	Determination
Northern Long-eared Bat (<i>Myotis septentrionalis</i>)	Endangered	May affect
Tricolored Bat (<i>Perimyotis subflavus</i>)	Proposed	May affect
	Endangered	

FAQ #27: The applicant stated in the application materials that verbal consultation with the jurisdictional agency, or other consultation that was not documented in writing or was not project-specific, determined that no impacts were anticipated or that only conservation measures were recommended. Is this sufficient?

No. Applicants should provide written, project-specific documentation supporting any conclusions or recommendations received from a jurisdictional agency regarding T&E species. Verbal conversations, undocumented discussions, generic correspondence, or documents that do not identify the project are generally not sufficient for permit review. DEP has discussed this with jurisdictional agencies, who have indicated they will generally provide written responses that reference the project that is under review and clearly document the outcome of their review or consultation.

Examples of acceptable documentation may include project-specific correspondence, consistency letters, concurrence letters, biological opinions, technical assistance responses, or other written communications from the jurisdictional agency that clearly identify the project and document the agency’s conclusions or recommendations.

FAQ #28: What is an “emergence study/survey” and when is it used?

According to USFWS, an emergence study/survey may be used when tree clearing cannot follow the recommended tree clearing seasonal restrictions. Typically, this only applies to projects with less than 10 trees. The applicant must confirm that bats are not present before clearing and the trees must be cut immediately after the survey is completed. This particular survey is a very limited, situational avoidance strategy and should not be the default option when tree clearing is required. Applicants looking to use this option should request technical assistance from USFWS and the related correspondence should be included with the application/NOI submission.

ATTACHMENT A: EXAMPLE SCENARIOS

Scenario 1 – PNDI Receipt indicates “No Potential Impact”.

A developer proposes construction of a small commercial building on a previously developed site. The Pennsylvania Conservation Explorer returns a “No Potential Impact” PNDI Receipt result for all jurisdictional agencies, and the IPaC species list is empty. The applicant includes the PNDI Receipt and IPaC species list with the Chapter 102 permit application/NOI. No additional species coordination is required, and permit application review proceeds as normal.

Applicant Actions:

1. Complete the Pennsylvania Conservation Explorer review to obtain the PNDI Receipt.
2. Use the IPaC tool to obtain a species list from USFWS.
3. Submit the PNDI Receipt and IPaC Species List with the permit application/NOI.
4. No additional coordination is generally required unless requested by DEP/CCD or another jurisdictional agency.

Reviewer Actions:

1. Verify the PNDI Receipt is current and project-specific.
2. Verify the project limits are consistent with the PNDI review area.
3. Verify the applicant included an IPaC species list.
4. Verify the IPaC species list does not identify federally listed T&E species requiring additional review.
5. If no additional species coordination is required, continue with the permit application review.

Scenario 2 – PNDI Receipt indicates “Potential Impact” from DCNR/PGC/PFBC.

A proposed residential subdivision is located near habitat for several T&E species identified by DCNR. The PNDI Receipt directs the applicant to coordinate with DCNR. The applicant conducts a field survey for the plants and their respective habitats. No evidence of the plants is found, and the survey determines that the project area does not contain suitable habitat for all but two of the species. The applicant agrees to follow avoidance/minimization measures for the two remaining plant species. After reviewing the project and survey documentation, DCNR recommends that no additional coordination is necessary if the avoidance/minimization measures are followed. The IPaC species list is empty. The applicant revises the construction sequence, documents the restrictions in the E&S and PCSM Plans, and submits the DCNR correspondence with the permit application/NOI.

Applicant Actions:

1. Obtain the PNDI Receipt and use the IPaC tool to obtain a species list from USFWS.
2. Review the agency recommendations on the PNDI Receipt.
3. Complete any requested surveys and coordination with the applicable agency, obtaining the

necessary agency response (consistency letter, concurrence, etc.).

4. Incorporate any required avoidance/minimization measures into the E&S and PCSM Plans and the construction sequence, as applicable.
5. Submit all documentation with the permit application/NOI.
6. Implement all required avoidance/minimization measures and permit conditions during construction.

Reviewer Actions:

1. Verify the PNDI Receipt identifies the appropriate jurisdictional agency.
2. Review all agency correspondence submitted by the applicant.
3. Verify the applicant obtained the required agency response (consistency letter, technical assistance, etc.).
4. Verify the required avoidance/minimization measures have been incorporated into the E&S and PCSM Plans and the construction sequence, as applicable.
5. Continue with the permit application review if sufficient documentation has been provided.

Scenario 3 – PNDI Receipt includes “Avoidance Measures”.

The PNDI Receipt identifies a potential impact to a state-listed amphibian and requires earth disturbance to occur outside its breeding season. The IPaC species list is empty. The applicant revises the construction schedule so all earth disturbance in the affected area occurs after the seasonal restriction ends, signs the PNDI Receipt agreeing to the avoidance measure, and documents this commitment in the permit application/NOI.

Applicant Actions:

1. Review each avoidance measure listed on the PNDI Receipt.
2. Determine whether the project can fully comply with every avoidance measure.
3. If yes:
 - a. Incorporate the measures into the E&S and PCSM Plans and the construction sequence, as applicable.
 - b. Clearly state that the measures will be implemented.
 - c. Sign and submit the PNDI Receipt with the permit application/NOI.
4. If no, refer to Scenario 4 below.
5. Implement the avoidance measures during construction.

Reviewer Actions:

1. Review each avoidance measure identified on the PNDI Receipt.
2. Verify the applicant committed to implementing the measures.
3. Verify the avoidance measures have been incorporated into the E&S and PCSM Plans and the construction sequence, as applicable.
4. Continue with the permit application review.

Scenario 4 – Avoidance Measures Cannot Be Implemented

A project requires tree clearing during the restricted bat season due to emergency utility work. The applicant contacts USFWS, discusses the circumstances, and receives project-specific technical assistance before submitting the permit application/NOI.

Applicant Actions:

1. Review each avoidance measure listed on the PNDI Receipt.
2. Determine why the avoidance measures cannot be implemented.
3. Coordinate with the applicable jurisdictional agency to discuss possible project modifications or alternative measures.
4. Incorporate the modifications or alternative measures into the E&S and PCSM Plans and the construction sequence, as applicable.
5. Submit all documentation with the permit application/NOI.

Reviewer Actions:

1. Review each avoidance measure identified on the PNDI Receipt.
2. Verify the applicant documented why the avoidance measures cannot be implemented.
3. Verify the applicant coordinated with the applicable jurisdictional agency.
4. Review the documentation for all correspondence and agency responses.
5. Verify any project modifications or alternative measures have been incorporated into the into the E&S and PCSM Plans and the construction sequence, as applicable.
6. Continue with the permit application review.

Scenario 5 – PNDI Receipt and/or IPaC DKey results include “Conservation Measures”.

The DKey results recommend installing wildlife escape ramps in temporary excavation trenches to reduce impacts to small animals. Although conservation measures are not required to be followed for Chapter 102 permits, the applicant voluntarily includes the ramp in the E&S and PCSM Plans.

Applicant Actions:

1. Review the conservation measures recommended.
2. Determine whether they can be voluntarily incorporated into the project to minimize overall species impacts.
3. If implementing the measures, incorporate them into the E&S and PCSM Plans and the construction sequence, as applicable.
4. If uncertain, contact the jurisdictional agency for clarification.

Reviewer Actions:

1. Recognize that conservation measures are generally recommendations unless incorporated into permit conditions, agency correspondence, approved plans, or other enforceable documentation.
2. Do not require applicants to implement voluntary conservation measures solely because they are listed on a PNDI Receipt or DKey response letter.
3. If the applicant states they will implement conservation measures, verify that commitment is reflected in the project documentation.
4. Request additional information only if the absence of the conservation measures creates uncertainty regarding the applicant's species impact evaluation.

Scenario 6 – PNDI Receipt indicates “Potential Impact” from USFWS. The IPaC DKey(s) results in “No Effect” or “Not Likely to Adversely Affect (NLAA)”.

A commercial building project is proposed on previously undeveloped agricultural land. The PNDI Receipt identifies a “Potential Impact” for USFWS species and directs the applicant to complete the IPaC review process. The applicant obtains an IPaC Species List, which includes the Indiana Bat (endangered) and Monarch Butterfly (proposed threatened). The applicant completes the Northern Long-Eared Bat/Tri-colored Bat/Indiana Bat DKey but does not need to complete the Northeast DKey for Chapter 102 purposes because the Monarch Butterfly is a proposed species. The applicant receives a “Not Likely to Adversely Affect (NLAA)” indication based on seasonal tree-clearing restrictions the applicant agreed to in the DKey. The applicant incorporates those restrictions into the project construction sequence and E&S and PCSM Plans, then submits the PNDI Receipt, IPaC species list, and DKey letter with the permit application/NOI.

Applicant Actions:

1. Obtain the PNDI Receipt and IPaC species list.
2. Complete all applicable DKeys. Review all seasonal restrictions identified in the DKeys and incorporate them into the permit application/NOI.
3. Submit all documentation with the permit application/NOI.
4. Implement the seasonal restrictions during construction.

Reviewer Actions:

1. Verify the applicant submitted the PNDI Receipt, IPaC species list, and DKey results.
2. Verify all required DKeys were completed for federally listed T&E species.
3. Verify the assumptions used to generate the DKey results are generally consistent with the project. An in-depth review of each DKey question is not required unless there are concerns that something is unclear or incomplete.
4. Review the documentation for any avoidance/minimization measures or seasonal restrictions. If difficult to find, the reviewer may request that the applicant more clearly identify them through a deficiency letter.
5. Verify the required avoidance/minimization measures or restrictions have been incorporated into the E&S and PCSM Plans and the construction sequence, as applicable.
6. If sufficient documentation has been provided and the determination is “No Effect” or “Not

Likely to Adversely Affect (NLLA),” continue with the permit application review.

Scenario 7 – PNDI Receipt indicates “Potential Impact” from USFWS. The IPaC DKey results in “May Affect” and USFWS provides technical assistance within 30 days.

A stream restoration project proposes work within habitat used by a federally listed mussel species. The DKey returns a “May Affect” determination. The project does not have a federal nexus. The applicant contacts USFWS for technical assistance, provides project plans, and within 30 days receives recommendations to modify the construction sequence and implement additional BMPs. The correspondence and revised plans are submitted with the permit application/NOI.

Applicant Actions:

1. Review the PNDI Receipt, IPaC species list, and DKey response.
2. Contact USFWS to request project-specific technical assistance or an effect determination and wait at least 30 days for a response.
3. Once received, incorporate USFWS’s recommendations/determination into the E&S and PCSM Plans and the construction sequence, as applicable.
4. Submit all documentation and correspondence with the permit application/NOI, clearly identifying the avoidance/minimization measures that will be implemented.
5. Upon permit issuance, implement the avoidance/minimization measures during construction.

Reviewer Actions:

1. Review the PNDI Receipt, IPaC species list, and DKey response.
2. Verify that the applicant requested technical assistance or an effect determination from USFWS.
3. Review the USFWS correspondence and determine whether the applicant appropriately addressed any recommendations, requirements, or effect determination provided by USFWS.
4. Determine whether sufficient information has been submitted to evaluate and avoid/minimize potential impacts. Remember that determining that sufficient information exists for permit issuance is not the same as making an effect determination on behalf of USFWS.
5. Continue with the permit application review.

Scenario 8 – PNDI Receipt indicates “Potential Impact” from USFWS. The IPaC DKey results in “May Affect” and USFWS does not respond within 30 days.

A stream restoration project proposes work within habitat used by a federally listed mussel species. The DKey returns a “May Affect” determination. The project does not have a federal nexus. The applicant contacts USFWS for technical assistance but does not receive a response within 30 days. The applicant documents the coordination attempt and indicates avoidance/minimization measures that will be taken in lieu of USFWS recommendation/determination with the submitted permit application/NOI.

Applicant Actions:

1. Review the PNDI Receipt, IPaC species list, and DKey response.
2. Contact USFWS to request project-specific technical assistance or an effect determination and wait at least 30 days for a response.
3. If a response is not received, determine what avoidance/minimization measures will be taken and incorporate them into the permit application/NOI. If no avoidance/minimization measures are proposed, provide additional justification. This could include a study and associated report of the project area and species in question or other related documentation.
4. Submit proof of attempted USFWS coordination with the permit application/NOI, clearly identifying the avoidance/minimization measures that will be implemented, or justification for not implementing avoidance/minimization measures.
5. If a response is later received and the permit application is under review, immediately notify DEP/CCD to discuss any potential project changes based on the response.
6. Upon permit issuance, implement the avoidance/minimization measures during construction if applicable.

Reviewer Actions:

1. Review the PNDI Receipt, IPaC species list, and DKey response.
2. Verify that the applicant requested technical assistance or an effect determination from USFWS and that at least 30 days have elapsed without a response.
3. Review the permit application/NOI to determine whether the applicant has adequately addressed the potential impacts, including any project revisions or avoidance/minimization measures, if applicable.
4. If no project revisions or avoidance/minimization measures are proposed, determine whether the applicant has provided sufficient justification to explain why.
5. Remember that determining that sufficient information exists for permit issuance is not the same as making an effect determination on behalf of USFWS.
6. Continue with the permit application review.
7. If the applicant indicates that a later USFWS response is received during the permit review, discuss any potential project changes based on the response.

Version History

Date	Version	Revision Reason
9/22/2026	1.0	Original