

Save Ridge Road  
125 Commons Court  
Chadds Ford, PA 19317  
support@save-ridge.org

Nov 21, 2025

**To: Pennsylvania Department of Environmental Protection**

Attn: Environmental Review & Permitting  
2 East Main Street  
Norristown, PA 19401

CC: PA Dept of Conservation and Natural Resources  
CC: PA Fish and Boat Commission  
CC: US Fish and Wildlife Services, Endangered Species Section  
CC: PA Game Commission, Bureau of Wildlife Management

**Re: Request for DEP Intervention and Enforcement—Misrepresentation of Tree Impacts & Potential Harm to the Endangered Indiana Bat at Ridge Road & U.S. Route 202, Concord Township (Shops at Ridge Road Project; PNDI-815665)**

Dear Pennsylvania DEP Officials,

We are writing to formally request that the Department of Environmental Protection **investigate, intervene, and require corrective action** related to the proposed “Shops at Ridge Road” development at Ridge Road and U.S. Route 202 in Concord Township, Delaware County (**PNDI-815665**). Based on recently obtained documents, it appears that the developer submitted **inaccurate and materially misleading information** in the Pennsylvania Natural Diversity Inventory (PNDI) review—particularly in response to Question 4 concerning impacts to Indiana bat (*Myotis sodalis*) habitat (Exhibit 1).

A review of the developer’s PNDI submission shows that they answered:

**“Q4: 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.”**

However, the developer’s own consultant—**Rockwell Urban Forestry (Rockwell Associates)**—issued a detailed **Tree Assessment Report dated May 8, 2025 (Exhibit 2)**, documenting:

- **139 trees greater than 12 inches DBH** located within the project footprint,

- **100+ trees rated as poor, declining, or dead,**
- **35.3% classified as dead snags,**

And species including tulip poplar, black walnut, red maple, wild cherry, elm, and white ash—many of which are **recognized by the U.S. Fish & Wildlife Service (USFWS) as suitable or preferred roost trees for the federally endangered Indiana bat (Exhibit 3).**

These facts directly contradict the developer’s sworn PNDI response stating that **no trees will be affected**. Under DEP rules, any change in project footprint, features, impacts, or accuracy of responses requires that the PNDI review be **invalidated and re-submitted**. The inaccurate Q4 response alone is sufficient to void the existing environmental review and require new agency coordination.

### **Significant Potential Impact to Indiana Bat Habitat**

The Indiana bat is a **federally endangered species**, and federal guidance emphasizes that even small or degraded woodlots may provide essential summer roost habitat, especially where:

- Snags or declining trees are present,
- Exfoliating bark, cavities, or structural defects provide roosting surfaces,
- Species such as tulip poplar, black walnut, wild cherry, ash, and red maple occur—**all documented on this site**.

Rockwell’s report shows that this property contains:

- **49 dead trees,**
- **77 trees in poor condition,**
- Extensive structural defects (stem decay, unbalanced crowns, dying tops, storm damage),
- Numerous mature trees between 20–45 inches DBH.

These exact conditions—dead or declining trees with loose bark—are listed by USFWS as **ideal summer maternity and night roost habitat** for Indiana bats.

Thus, contrary to the developer’s PNDI claim, the site almost certainly contains habitat features requiring seasonal limitations, survey coordination, or additional consultation with USFWS and the Pennsylvania Game Commission.

By reporting “no trees will be affected,” the applicant avoided triggering these required reviews.

### **Impact of Misrepresentation**

Because the PNDI tool is the basis for state and federal coordination, any misstatement:

- **Invalidates the PNDI determination,**
- **Undermines endangered species review,**
- May place DEP in the position of inadvertently approving a project that risks a “take” under the Endangered Species Act,
- Prevents required mitigation measures (such as winter-only clearing),
- And exposes the Commonwealth to legal and environmental consequences.

DEP guidance states clearly that a PNDI review is **only valid if all answers accurately reflect project impacts**. The developer’s own vegetation report shows unequivocally that the Q4 response was false.

### **Requested DEP Actions**

Given these discrepancies and the serious consequences of inaccurate PNDI submissions, I respectfully request that DEP:

1. **Invalidate the existing PNDI review** for the Shops at Ridge Road project based on inaccurate responses.
2. **Require the applicant to re-submit the PNDI review** with accurate disclosures of tree impacts.
3. **Require the applicant to consult with USFWS and the Pennsylvania Game Commission** on potential impacts to the Indiana bat.
4. **Suspend any DEP permits or authorizations currently under review** until the corrected endangered species review is completed.
5. **Require full disclosure of the Rockwell Urban Forestry report** as part of any future submissions.
6. **Ensure that tree clearing does not occur between April 1 and November 15,** unless USFWS confirms in writing that the habitat is not suitable and surveys are not required.

### **Conclusion**

The Shops at Ridge Road project appears to have moved forward based on **incomplete and inaccurate environmental disclosures**, particularly concerning tree impacts and Indiana bat habitat. The developer’s Q4 PNDI response directly contradicts the findings of their own forester, which document significant tree removal within the project area.

Given the endangered status of the Indiana bat and the legal obligations of the Endangered Species Act, I urge DEP to take corrective action to ensure compliance and protect sensitive species and habitats.

Please confirm receipt of this letter and advise what steps DEP will take in response.

Thank you for your attention to this serious matter.

Respectfully,

**The Board of Directors, Save Ridge Road**

125 Commons Court

Chadds Ford, PA 19317

[support@save-ridge.org](mailto:support@save-ridge.org)

## Exhibit 1 – Developer Response to PNDI Q4

Pennsylvania Department of Conservation and Natural Resources  
PNDI Receipt: project\_receipt\_ridge\_road\_commercial\_815665\_FINAL\_1.pdf

Project Search ID: PNDI-815665

### RESPONSE TO QUESTION(S) ASKED

**Q1:** Which of the following closest describes the proposed project?

**Your answer is:** The proposed project will be connected to, and entirely serviced by, an existing, off-site water delivery and supply line (e.g., operated by a municipality or water company).

**Q2:** Describe how wastewater (effluent) will be handled (select one). For the purpose of this question, wastewater/effluent does not include stormwater runoff. If the project involves solely the renewal or modification of an existing discharge permit (e.g., NPDES permit), select from options 3, 4, 5, or 6 below.

**Your answer is:** All wastewater/effluent from this project/activity will be routed to an existing municipal wastewater treatment plant.

**Q3:** 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:** Someone qualified to identify and delineate wetlands (holding a natural resource degree or equivalent work experience) has investigated the site, and determined that wetlands ARE located in or within 300 feet of the project area. (A written report from the wetland specialist, and detailed project maps should document this.)

**Q4:** 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.

**Q5:** 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

## Exhibit 2 – Rockwell Report on Tree Impact from the Shops at Concord



Urban Foresters - Natural Resource Consultants  
Planners - Forensic Arborists – Silviculture  
610-731-7969 – john@rockwellurbanforestry.com

### Shops at Ridge Road - Concord Township

Date: May 8, 2025  
To: Mr. Travis North, RLA, LLA  
BOHLER  
Sr. Project Manager, Landscape Architecture & Planning  
From: John Rockwell Hosbach  
Reference: Shops at Ridge Road

Dear Mr. North

As per our agreement, I have been commissioned to provide an unbiased review of the subject project and its relation to the trees that inhabit the property of the proposed Ridge Road project.

#### Assignment

We completed an inspection and evaluation for trees greater than twelve-inches at the proposed site on May 1st, 2025. The inspection encompassed a study of all trees greater than twelve inches in diameter within areas designated within the survey dated 10/18/2024.

#### Methodologies


The assessment is a detailed visual assessment of all trees twelve-inches and larger at 4.5feet above grade. The assessment is limited to what can be visually observed from the ground within four areas defined within the plan for inspection and evaluation. The assessment consists of 360-degree inspection at above ground conditions for each tree within the property.

Tools and equipment utilized in the inspection: I-pad portable computer, tree flagging, diameter tape, digital camera.

Priorities were established for this survey, as follows:

- 1) Tag Number.
- 2) Tree Species.
- 3) Tree Diameter.
- 4) Defect description.
- 5) Condition (good, fair, poor).
- 6) Eligibility for compensation

1



Urban Foresters - Natural Resource Consultants  
Planners - Forensic Arborists – Silviculture  
610-731-7969 – john@rockwellurbanforestry.com

### Observations

- Composed of four distinct vegetated areas. The entire survey consists of 139 trees (> 12 in. DBH).
- The understory consists of the following invasive species:
  - 1) Autumn Olive '*Elaeagnus umbellata*'
  - 2) Amur Honeysuckle '*Lonicera maackii*'
  - 3) Japanese Honeysuckle '*Lonicera japonica*'
  - 4) Multiflora Rose '*Rosa multiflora*'
  - 5) Barberry '*Berberis thunbergii*'
  - 6) Greenbriar '*Smilax rotundifolia*'
  - 7) Bittersweet vine '*Solanum dulcamara*'
  - 8) Wineberry '*Rubus phoenicolasius*'
- The three predominant species are:
  - Allanthus, '*Allanthus altissima*' 45 trees (32.4%).
  - Tulip Poplar, '*Liriodendron tulipifera*' 32 trees (23.0%).
  - Wild Cherry, '*Prunus serotina*' 23 trees, (16.5%).
- The largest area is inundated with invasive Allanthus. Prior to being populated with Allanthus, these vegetated areas would be classified as a Tuliptree-Maple Forest community.

Condition ratings:

- Seventy-seven trees (55.4%) are rated in poor condition.
- Forty-nine trees (35.3%) are dead.
- Thirteen trees (9.4%) are rated in fair condition.
- (126) trees are rated no compensation.
- Thirteen trees are rated to receive compensation.

2



**ROCKWELL  
ASSOCIATES**

Urban Foresters - Natural Resource Consultants  
Planners - Forensic Arborists – Silviculture  
610-731-7969 – john@rockwellurbanforestry.com

SUMMARY					
Species Detail:		%	Total Trees:		
Ailanthus	45	32.4%	All Species	139	
Tulip Poplar	32	23.0%			
Wild Cherry	23	16.5%	Condition:		
Red Maple	17	12.2%	Fair	13	9.4%
Black Walnut	9	6.5%	Poor	77	55.4%
White Ash	6	4.3%	Dead	49	35.3%
Boxelder	1	0.7%			
Butternut	1	0.7%	Condition (inches):		
Elm	1	0.7%	Fair	221	
Flowering Crabapple	1	0.7%	Poor	1,406	
Mulberry	1	0.7%	Dead	761	
Sassafras	1	0.7%			
Sycamore	1	0.7%			
Compensation:					
			Yes	13	
Defects Observed:			No	126	
Dead	49				
Decline	24				
Bifurcated	14				
None	13				
Structure	12				
Excessive lean	9				
Crook	8				
Stem decay	5				
Unbalanced crown	5				

I will be happy to meet onsite to review my findings.

John Rockwell Hosbach Jr., RCA, Urban Forester | Principal

## Exhibit 3 – Indiana Bat Habitat (US Fish and Wildlife Service)

### Indiana Bat (*Myotis sodalis*) – Documented Roost Tree Species One ■ Page Reference

Below is a consolidated list of 42 tree species documented by the U.S. Fish & Wildlife Service (USFWS) and USFWS ■ cited literature as potential or confirmed roost trees for the federally endangered Indiana bat. This reference sheet may be included in correspondence, comment letters, or technical submissions.

1. Shagbark hickory (*Carya ovata*)
2. Bitternut hickory (*Carya cordiformis*)
3. Mockernut hickory (*Carya tomentosa*)
4. Pignut hickory (*Carya glabra*)
5. White oak (*Quercus alba*)
6. Northern red oak (*Quercus rubra*)
7. Black oak (*Quercus velutina*)
8. Pin oak (*Quercus palustris*)
9. Scarlet oak (*Quercus coccinea*)
10. Post oak (*Quercus stellata*)
11. Shingle oak (*Quercus imbricaria*)
12. Bur oak (*Quercus macrocarpa*)
13. Silver maple (*Acer saccharinum*)
14. Red maple (*Acer rubrum*)
15. Sugar maple (*Acer saccharum*)
16. Green ash (*Fraxinus pennsylvanica*)
17. White ash (*Fraxinus americana*)
18. American elm (*Ulmus americana*)
19. Slippery elm (*Ulmus rubra*)
20. Black walnut (*Juglans nigra*)
21. Tulip poplar / Yellow poplar (*Liriodendron tulipifera*)
22. Eastern cottonwood (*Populus deltoides*)
23. Black cherry / Wild cherry (*Prunus serotina*)
24. American sycamore (*Platanus occidentalis*)
25. Sassafras (*Sassafras albidum*)
26. Honey locust (*Gleditsia triacanthos*)
27. Black locust (*Robinia pseudoacacia*)

28. Virginia pine (*Pinus virginiana*)
29. Eastern white pine (*Pinus strobus*)
30. Hackberry (*Celtis occidentalis*)
31. Eastern redcedar (*Juniperus virginiana*)
32. American basswood (*Tilia americana*)
33. Serviceberry (*Amelanchier* spp.)
34. Willow species (*Salix* spp.)
35. Black gum / Tupelo (*Nyssa sylvatica*)
36. Black willow (*Salix nigra*)
37. Boxelder (*Acer negundo*)
38. Hackmatack / Tamarack (*Larix laricina*)
39. American beech (*Fagus grandifolia*)
40. Sweetgum (*Liquidambar styraciflua*)
41. Red mulberry (*Morus rubra*)
42. Additional hickory species (*Carya* spp.)

#### Primary References:

- U.S. Fish & Wildlife Service. *Appendix III: Potential Indiana bat roost trees*. USFWS document (PDF).
- U.S. Fish & Wildlife Service. *Indiana Bat (*Myotis sodalis*) Draft Recovery Plan*. USFWS Recovery Program.
- U.S. Forest Service literature summaries on Indiana bat roost ■ tree use.

1 of 1

**APPENDIX III**  
**Potential Indiana bat roost trees**

The Service defines suitable Indiana bat roost tree as any tree  $\geq 5$  inches in diameter (at breast height) with cracks, crevices and/or exfoliating bark that is within 1000 feet of forested/wooded habitat.

Although live trees may be used, Indiana bat roosts are most typically snags in early to mid-decay stages. When healthy live trees are used, they tend to be species with naturally sloughing bark, such as shagbark hickory (*Carya ovata*). While over 40 Indiana bat roost tree species have been documented, including coniferous species, deciduous trees are most frequently used, and all the Indiana bat roosts reported in Michigan have been deciduous species. Generally, roost quality improves with tree height, diameter, amount of peeling bark, and solar exposure. Maternity roosts (roost trees used by reproductive female bats and their young) are typically high-quality roosts (i.e., large, tall trees with peeling bark and/or large cracks/crevices that receive a high degree of solar radiation).

Examples of Indiana bat roost trees:



December 3, 2025

**VIA EMAIL & CERTIFIED MAIL**

Karen Wilwol, District Manager

[WilwolK@co.delaware.pa.us](mailto:WilwolK@co.delaware.pa.us)

Michelle Wheeler, Permitting Manager

[WheelerM@co.delaware.pa.us](mailto:WheelerM@co.delaware.pa.us)

Delaware County Conservation District

1521 N. Providence Road

Media, PA 19063

**Re: Inaccurate PNDI Responses and Related Permit Concerns – Concord Acquisitions Project  
NPDES Permit Application No. PAC230114 A-1**

Dear Ms. Wilwol and Ms. Wheeler:

We are writing to bring to your attention several significant discrepancies and omissions identified in the applicant's Pennsylvania Natural Diversity Inventory (PNDI) submissions for the Concord Acquisitions project, as well as related concerns regarding the Joint Chapter 105 Permit issued by PA DEP.

**1. Inaccurate Response to PNDI Question #4 Regarding Woodland Impacts**

In the DCCD's Incompleteness Letter dated October 28, 2025, your office correctly noted that Concord Acquisitions responded "NO" to PNDI question #4, indicating that **no woodlands or trees would be removed** as part of the project. This answer is factually incorrect.

As your office and others have since confirmed:

- **There is an area of woodland located along the southern boundary within the project's LOD (Limit of Disturbance).** Although the woodland area on the southern side may total **less than 0.25 acres**, it nonetheless constitutes a regulated natural resource, and its disturbance requires an updated and accurate PNDI submission.
- **Multiple specimen trees are identified for removal on the western boundary line, as well as additional trees in the mid-southern field area closer to Route 202.** These removals are clearly shown on the applicant's current plan set.
- **There are a couple of general notations on the plan that indicate "Wooded (TBR)" and "Edge of Woods (TBR)" but appears to be in an open field areas.** We feel that further field verification may be warranted. The applicant's Woodland Survey prepared by Rockwell Associates (dated May 8, 2025) further documents many of these woodland resources and contradicts the applicant's original PNDI response. Even where portions of the woodland lie outside the LOD, it is notable that many of the trees on-site are in **declining** or **poor** condition—precisely the type of lightly vegetated or dying trees often used by the **Indiana Bat (Myotis sodalis)**, a federally endangered species. Indiana Bats typically roost in exfoliating-bark trees between **April and August**, and may forage in the adjoining open field areas.

These ecological characteristics provide a reasonable basis for concern that tree removal—even of small areas—may require consultation with the **PA Game Commission** and/or **PA DCNR**, and potentially an

**Indiana Bat Conservation Plan (IBCP)** documenting avoidance, minimization, or habitat-enhancement measures.

## 2. Hydrologic Concerns Related to Changes in Stormwater Discharge

The project also proposes a **significant decrease in stormwater discharge** toward the tributary of Beaver Creek in the approximately **1.2-acre area behind the Nissan dealership**. Altering hydrologic inputs at this scale can adversely affect stream-valley ecological function and groundwater–surface-water interactions. This is relevant not only to the review of the current E&S and NPDES submissions but also to the integrity of the PNDI screening and aquatic habitat considerations.

## 3. PNDI Discrepancy Affects the Validity of the Joint Chapter 105 Permit (Applicant #2301224-005. Auth # 19282602)

A second and highly consequential issue is that the **same incorrect PNDI response regarding woodlands** appears to have been used by the former developer, Pettinaro, during the earlier Joint Chapter 105 permitting for the filling of **less than 5,000 sq. ft. of wetlands** in the northeast portion of the site. PA DEP issued this permit in **January 2025**, after receiving Pettinaro’s August 2024 response submission. However, several misstatements and omissions were included in that application:

- The applicant conveyed that **no woodlands would be impacted**, which was not accurate even at that time.
- The applicant represented that the **U.S. Army Corps of Engineers completed a full-site Jurisdictional Determination**, when in fact the Corps only investigated the **northeastern quadrant**.
- Wetlands that re-emerged on-site in August 2023 raise the possibility that **additional wetlands may have re-emerged elsewhere**—a possibility never evaluated due to the incomplete JD.
- While the previous final plan was recorded at the Delaware County Courthouse there was an **open final-plan condition # 4**, requiring **building pads 8–12** to undergo further Land Development review prior to construction—No record of such **submissions have yet occurred**. Refer to image:

4. Land development approval must be sought and obtained for each of the individual pad sites 8 through 12.

- In addition, The current applicant has revoked all previous Concord Township Approvals with a notation # 35 on their current pending conditional use application dated August 22, 2025. Refer to image:

35. **Prior Land Use Applications Superseded.** Applicant certifies that all pending applications by Applicant to the Township with respect to the Property, submitted pursuant to the Township’s Zoning Ordinance and/or the Township’s Subdivision and Land Development Ordinance, are hereby superseded and rendered void by this Application.

- The transfer of the 105 permit from Pettinaro to the new owner, Concord Acquisitions, in March 2025 **did not include the most updated plan revisions**, further calling into question the permit’s validity.

- Importantly, the wetlands proposed for filling are **downgradient of a planned underground gasoline storage tank**, increasing the risk associated with inaccurate or outdated data in the permit record. Given these cumulative issues, the inaccuracies in the PNDI submittals are not minor clerical errors—they are material defects that may have misled DEP during the permitting process.

#### 4. Request for Corrective Action

In light of the above, we respectfully request that the Delaware County Conservation District:

1. **Require the applicant to submit a corrected and updated PNDI determination**, reflecting all woodland areas and specimen trees proposed for removal.
2. **Refer the matter to PA DEP** for review of whether the inaccuracies in the PNDI and associated materials invalidate the Joint Chapter 105 Permit. Applicant #2301224-005. Auth # 19282602
3. Consult with **DEP to explore if revoking or suspending the Joint 105 Permit may be warranted** until an updated PNDI is completed and a current revised Final Land Development Plan is properly submitted to and approved by the Township and presented to DEP. (in addition to copying DEP with this letter, we will also be sending a letter directly to DEP and will cross copy DCCD on the same.)
4. Encourage agency consultation regarding potential **Indiana Bat habitat impacts** and, if necessary, require an **Indiana Bat Conservation Plan**.

Accurate environmental inventories are fundamental to responsible permitting. The record as it stands is incomplete and, in key respects, misleading. The public and the reviewing agencies cannot rely on a PNDI submission that incorrectly asserts there are **no woodland impacts** when multiple documents and plans show otherwise.

Thank you for your attention to these concerns. We appreciate the District's diligence and request that you include these matters in your ongoing review of the project. We are happy to provide any supporting documents referenced above.

Respectfully submitted,

*E. Spoehr, H. Sommer and L. McClure*

Concerned Chadds Ford Township Residents

Ellen Spoehr, Henry Sommer and Luci McClure

[ellenspoehr@comcast.net](mailto:ellenspoehr@comcast.net)

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CC: Pennsylvania Department of Environmental Protection, Southeast Regional Office  
Waterways & Wetlands Program  
2 East Main Street, Norristown, PA 19401  
[RA-EPWW-SERO@pa.gov](mailto:RA-EPWW-SERO@pa.gov)

CC: U.S. Army Corps of Engineers Philadelphia District  
100 Penn Square East Regulatory Branch, Philadelphia, Pennsylvania 19107-3390  
[PhiladelphiaDistrictRegulatory@usace.army.mil](mailto:PhiladelphiaDistrictRegulatory@usace.army.mil)

CC: U.S. Fish & Wildlife Service, Pennsylvania Ecological Services Field Office  
110 Radnor Road, Suite 101, State College, PA 16801  
[IR1\\_ESPenn@fws.gov](mailto:IR1_ESPenn@fws.gov)

CC: Concord Township Council, Zoning Hearing Board and Planning Commission

CC: Chadds Ford Township Board of Supervisors and Planning Commission

CC: Save Ridge Road [support@saveridge.org](mailto:support@saveridge.org)

December 4, 2025

**VIA EMAIL & CERTIFIED MAIL**

U.S. Fish & Wildlife Service  
Pennsylvania Field Office  
110 Radnor Road, Suite 101  
State College, PA 16801  
[IR1\\_ESPenn@fws.gov](mailto:IR1_ESPenn@fws.gov)

**Re:** Request for Enforcement of Bog Turtle Survey Protocol – Shoppes at Concord located at 0 Ridge Road, Concord Township, Delaware County, PA

**Parcel Nos.:** 13-00-01051-00 & 13-00-01051-01

**PA DEP Water Obstruction and Encroachment Permit Application # E2301224-005 Auth No. 1982602**

Dear USFWS Pennsylvania Field Office:

We are writing to formally request that the U.S. Fish & Wildlife Service enforce the **Bog Turtle (*Glyptemys muhlenbergii*) Survey Protocol** for the proposed Shoppes at Concord commercial development in Concord Township, Delaware County, PA.

Based on written information provided on the PA DEP Water Obstruction and Encroachment Permit Application # E2301224-005 dated 1/28/2025, it has come to our attention that the developer is relying on a **July 13, 2022 Phase I Bog Turtle Habitat Assessment** conducted by **Watershed Eco, LLC**, and a **PNDI certification signed by William Twupack** claiming that no Bog Turtle habitat exists on or adjacent to the site. Based on site conditions, recent wetland re-emergence, and changes in development plans since that survey, this reliance is **outdated, insufficient, and non-compliant with federal protocol**.

**1. Reasons the July 2022 Survey Is Non-Compliant**

- **Stale Data / Changed Conditions:** Since July 2022:
  - Wetlands previously identified as inactive **have re-emerged** in 2023,
  - The developer has **revised the Limit of Disturbance (LOD)**,
  - Stormwater and grading changes have **altered hydrology**,
  - Tree clearing and vegetation changes have occurred.
- **PNDI Certification Misapplied:** The Twupack-signed PNDI receipt **does not constitute federal clearance**, per USFWS guidance. It is a **preliminary screening tool only**, not a substitute for Phase I or Phase II surveys.
- **Habitat Features Present:** Site includes **hydric soils, palustrine forested wetlands, emergent wetlands, and intermittent streams**—all conditions considered suitable for Bog Turtle by USFWS protocol.

**2. Required Federal Action**

Under the **Endangered Species Act (ESA) Section 7(a)(2)** and the USFWS 2011 Bog Turtle Survey Protocol:

1. The developer **must conduct a new Phase I Habitat Assessment** by a USFWS-approved surveyor.

2. If suitable habitat is identified, a **Phase II Presence/Absence Survey** must be conducted **during the April 15–June 15 survey window**, with all required repeat visits.
3. No permit approvals, grading, or earth disturbance activities should proceed until the USFWS has **reviewed and concurred** with survey findings.

### 3. Requested USFWS Enforcement Actions

We respectfully request that the USFWS:

1. **Confirm that an updated Phase I should be performed across the entire site due to the re-emergent of wetland conditions.**
2. **Require the developer to conduct a new Phase I survey** in compliance with the 2011 USFWS Bog Turtle Survey Protocol.
3. **Require Phase II surveys** if any suitable habitat is identified.
4. **Prevent any federal or state-permit approvals** (e.g., NPDES, Chapter 105) until compliance with federal survey requirements is verified.
5. **Document this enforcement action in the federal project file** to ensure regulatory oversight.

The Bog Turtle is a **federally threatened species**, and ESA regulations obligate USFWS to ensure that developers comply with survey and habitat protection requirements. The current reliance on an **outdated Phase I survey** is insufficient and risks take or habitat disturbance.

Thank you for your urgent attention to this matter. We request a written response confirming the actions USFWS will take to enforce compliance with Bog Turtle survey protocol for the Shoppes at Concord project.

Respectfully,

*E. Spoehr, H. Sommer and L. McClure*

Concerned Chadds Ford Township Residents

Ellen Spoehr, Henry Sommer and Luci McClure

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CC: Pennsylvania Department of Environmental Protection, Southeast Regional Office  
Waterways & Wetlands Program  
2 East Main Street, Norristown, PA 19401  
[RA-EPWW-SERO@pa.gov](mailto:RA-EPWW-SERO@pa.gov)

CC: U.S. Army Corps of Engineers Philadelphia District  
100 Penn Square East Regulatory Branch, Philadelphia, Pennsylvania 19107-3390  
[PhiladelphiaDistrictRegulatory@usace.army.mil](mailto:PhiladelphiaDistrictRegulatory@usace.army.mil)

CC: Delaware County Conservation District  
1521 N. Providence Road, Media, PA 19063  
[WheelerM@co.delaware.pa.us](mailto:WheelerM@co.delaware.pa.us)

CC: Concord Township Council, Zoning Hearing Board and Planning Commission

CC: Chadds Ford Township Board of Supervisors and Planning Commission

CC: Save Ridge Road [support@save-ridge.org](mailto:support@save-ridge.org)

December 4, 2025

**VIA EMAIL & CERTIFIED MAIL**

Pennsylvania Department of Environmental Protection  
Southeast Regional Office  
Waterways & Wetlands Program  
2 East Main Street  
Norristown, PA 19401  
[RA-EPWW-SERO@pa.gov](mailto:RA-EPWW-SERO@pa.gov)

**Re: Request for Review and Revocation of Joint Chapter 105 Permit – Concord Acquisitions / Former Pettinaro Application (PNDI-815665)**

Dear Pennsylvania Department of Environmental Protection:

We are writing to formally request that the Department review, suspend, and/or revoke the Joint Chapter 105 Permit issued in January 2025 to Pettinaro (subsequently transferred to Concord Acquisition in March 2025) due to material inaccuracies, omissions, and misrepresentations within the submitted PNDI data, wetlands documentation, and supporting plan information. These deficiencies undermine the validity of the permit under 25 Pa. Code Chapter 105 and warrant corrective action.

**1. Material Errors in PNDI Submission – Incorrect Claim of “No Woodland Impacts”**

The applicant’s PNDI response to **Question #4** asserted that **no woodlands or trees** would be removed by the project. This statement was false at the time of submission and remains false.

Subsequent review of an amended NPDES application to the Delaware County Conservation District (DCCD), as confirmed in their **Incompleteness Letter dated October 28, 2025**, identified:

- An area of **woodland located along the southern boundary within the active LOD (Limit of Disturbance)**, estimated at under 0.25 acres but still qualifying as woodland.
- Multiple **specimen trees** designated for removal along the western boundary line.
- Additional trees proposed for removal in the **mid-southern field area near Route 202**.
- A **Woodland Survey by Rockwell Associates** dated May 8, 2025 that clearly documents these woodland resources.
- Additional notations on the plan “Wooded (TBR)” and “Edge of Woods (TBR)” which add to this discrepancy.

Despite the presence of these woodland areas, the applicant certified to PNDI that no woodland impacts existed. This inaccurate certification is a substantive defect, and in my opinion not just a clerical oversight.

**2. Potential Impacts to Endangered Indiana Bat Habitat**

The site contains declining or sparsely-vegetated trees, including dead and dying specimens often used by the **Indiana Bat (*Myotis sodalis*)** for roosting between **April and August**. Open field areas adjacent to these trees also provide potential foraging habitat.

Given the misrepresentation of woodland conditions, the applicant did not consult with the **PA Game Commission** or **PA DCNR**, nor did they submit an **Indiana Bat Conservation Plan (IBCP)**. Correct PNDI information would likely have triggered such consultation.

### **3. Hydrologic Impacts and Stormwater Alterations Not Reflected in Permit Record**

The proposed land development significantly **reduces stormwater discharge** into the tributary of Beaver Creek behind the Nissan dealership (an area of approximately 1.2 acres). These changes may affect hydrologic function, channel stability, and aquatic habitat. Because the PNDI data were inaccurate, associated hydrologic and habitat impacts were not properly evaluated when the Chapter 105 permit was issued.

### **4. Misrepresentations and Omissions in the Original Joint 105 Application**

Several additional deficiencies in the Pettinaro submission further undermine the permit's validity. Each of these constitutes a material defect under Chapters 102 and 105 when evaluating environmental impacts:

- The applicant represented that the **U.S. Army Corps of Engineers performed a site-wide Jurisdictional Determination (JD)**, when in fact the Corps evaluated only the **northeastern quadrant** in their latest Army Corp and DEP site visit in August 2023. The wetland Jurisdictional Plan later presented by the applicant presented and identified the entire site boundary by Pickering and Corts dated 10-3-2003 but indicated the previous wetland area "C" as well as the more recently surveyed wetlands (areas A & B) from August 2023 site visit. It does NOT clearly identify the "search" area during the August 2023 visit. Plan revised 2-25-24.
- Wetlands re-identified in August 2023 indicate the potential for **additional reemergence elsewhere on the site**, which was never evaluated because the JD was incomplete.
- The plan recorded in the Delaware County Courthouse included an **open final-plan condition**, requiring **building pads 7–12** to undergo **Land Development approval**, which has never occurred.
- The **transfer of the 105 permit** from Pettinaro to Concord Acquisitions **does not include the most recent plan proposed revisions**, meaning DEP's file for the permit is not based on the current site plan.
- Critically, the wetlands authorized for filling are **downgradient of a proposed underground gasoline storage tank**, raising contamination risk concerns not addressed in the original permit review.

### **5. Basis for Revocation or Suspension**

Under **25 Pa. Code § 105.20(a)**, DEP may suspend, revoke, or require modification of a permit if:

- It was issued based upon **false, incomplete, or misleading information**,
- Environmental conditions were not accurately described, or
- The project's impacts were not fully and properly evaluated.

The documented errors in the PNDI submission and related omissions fully satisfy these criteria.

## 6. Requested Actions

We respectfully request that the Department:

1. **Suspend or revoke the existing Joint Chapter 105 Permit**, as authorized by § 105.20(a).
2. Require the applicant to submit a **corrected PNDI** reflecting all woodland impacts and specimen tree removals.
3. Require a **new or updated Jurisdictional Determination** to evaluate wetlands outside the previously-examined area.
4. Require agency consultation regarding **Indiana Bat habitat**, including submission of an **Indiana Bat Conservation Plan** if applicable.
5. Require submission and approval of a **revised Final Land Development Plan** at the municipal level before any further action on state permits.

Given the number and severity of inaccuracies, the existing permit cannot reliably serve as a basis for regulated activity.

Thank you for your attention to this matter. We would appreciate written acknowledgement of this request and am available to provide referenced materials upon request.

Respectfully submitted,

*E. Spoehr, H. Sommer and L. McClure*

Concerned Chadds Ford Township Residents

Ellen Spoehr, Henry Sommer and Luci McClure

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CC: Delaware County Conservation District  
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CC: U.S. Fish & Wildlife Service Pennsylvania Field Office  
110 Radnor Road, Suite 101, State College, PA 16801  
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CC: Concord Township Council, Zoning Hearing Board and Planning Commission

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