

HOW TO APPLY FOR A RIGHT OF WAY ON STATE FOREST LANDS

FOR PROPOSED PROJECTS SUBJECT TO THE DCNR APPLICATION FOR RIGHT OF WAY REVIEW PROCESS

The Department of Conservation and Natural Resources (DCNR) - Bureau of Forestry (BOF) has developed a proactive process to thoroughly evaluate and efficiently administer right-of-way requests. The process compliments the existing jurisdictional procedures established by FERC and the PUC and provides the mechanism for the Bureau to issue substantive comments as a potentially affected land manager. The procedure described in this document should provide a clear understanding of the Bureau of Forestry's expectations for right-of-way applications.

All applicants must familiarize themselves with the documentation located on the DCNR website link <http://www.dcnr.state.pa.us/forestry/rightofways/index.htm> before proceeding to contact the Bureau to discuss the application for right-of-way on State Forest lands. It is prudent that the applicant contact DCNR in the initial stages of project planning.

Right-of-way requests that meet any of the following thresholds will be administered through the process outlined in this document:

- 1) The project is under the jurisdiction of FERC or the PUC.
- 2) The project meets the criteria for a 'large project' as established by the PNDI review. ("large project" PNDI review is explained below)
- 3) Projects that cross BOF management boundaries (i.e. forest districts).
- 4) Other right-of-way requests as determined by the District Forester or Central Office.

All other right-of-way requests will be administered by the local State Forest district.

During initial contact made to DCNR, it is often the applicants desire to seek permission to conduct surveys for environmental, ecological, cultural resources, or civil data. ***While it is recognized that the intent of a request to survey are to satisfy regulatory requirements or processes and/or to incorporate data into the DCNR Formal Request for Right of Way, it is inappropriate and premature for DCNR to allow these intensive surveys outside of the steps of its Application for Right of Way Review Process.*** In order for DCNR to form project related questions or to develop its concerns of an applicant's desired right of way area, it must first review all four (4) items as outlined in Step 1 of the *Formal Request for Right of Way*. Adhering to the pragmatic steps within the review process, will save both parties time and effort and the possible avoidance of unnecessary delays.

The DCNR will consider an applicant's request for access to conduct a non-intrusive walk-thru area examination. The walk-thru is an opportunity to achieve

familiarization with the physical conditions on DCNR administered lands. The results of this walk-thru may aid the applicant in forming its inconclusive opinion of a preferred area and in the formulation of alternative considerations. To initiate this type of access, the applicant would need to contact the District Forester (or State Park Manager) of the local State Forest (or State Park) and ask for a (*Request for Access to a Preliminary Right of Way Area*).

APPLICATION FOR RIGHT OF WAY REVIEW PROCESS

1. Formal Request for Right-of-Way

To initiate the *DCNR Application for Right of Way Review Process*, the applicant needs to submit a formal application for right of way on DCNR lands. The formal request, and its proposal components, shall be submitted to:

PA Department of Conservation and Natural Resources
Bureau of Forestry, Operations Section
P.O. Box 8552
Harrisburg, PA 17105-8552
(717) 787-2014
Email: RA-NRFORESTRYROW@pa.gov

All formal requests must include the following project proposal items:

1. A detailed proposal in the form of a written narrative describing the entire scope and route of the project. The proposal should clearly demonstrate project need and what alternatives were considered.
2. An ArcGIS® shapefile showing the entire scope and route of the proposed project. An [ArcGIS® template](#) has been created to standardize the information provided by the applicant. The template files are available upon request. A shapefile will facilitate the Bureau of Forestry's evaluation of the proposal and foster the identification of potential conflicts or concerns in an efficient manner. Please note that the Commonwealth's computer network may consider some email attachments suspicious and quarantine the incoming message. Please confirm that files sent through email were received by the intended recipient or mail the files on CD-ROM directly to the Department at the address indicated above.
3. A [large project PNDI review](#). Large projects are those which cannot be drawn on the online interactive environmental review tool at a 1:24,000 map scale. This includes projects which are township-wide, county wide, or state-wide. Large project requests should not be submitted piecemeal using the online PNDI environmental review tool. The entire project area should be submitted as a single unit for review. Applicants should submit a completed [PNDI form](#) and a USGS 7.5 minute quadrangle with project boundaries and quad name marked on the map to each of the following jurisdictional agencies:

Department of Conservation and Natural Resources Bureau
of Forestry, Ecological Services Section
400 Market St., PO Box 8552
Harrisburg, PA 17105
fax: 717-772-0271

Pennsylvania Fish and Boat Commission
Natural Diversity Section
450 Robinson Lane
Bellefonte, PA 16823
no faxes please

Pennsylvania Game Commission
Bureau of Land Management
2001 Elmerton Avenue
Harrisburg, PA 17110-9797
fax: 717-787-6957

United States Fish and Wildlife Service
Endangered Species Biologist
315 South Allen St., Suite 322
State College, PA 16801
no faxes please

Please send one copy of the large project review request to each organization. Emailed requests are not accepted. Allow 30-60 days for response to the request. A PNDI clearance letter is issued by the aforementioned jurisdictional authorities and **does not** constitute or imply the Bureau's approval of the project. Further coordination with the Bureau of Forestry is necessary regarding specific land management issues on State Forest lands.

4. A completed [Application for Right-of-Way](#). The authorized individual identified on the application will be the primary point of contact for all future correspondence regarding the project. Identification of a project lead is imperative to assuring a positive communication flow throughout the applicant's project.

The Bureau of Forestry will review the proposal for completeness. Insufficient proposals will not be processed until the identified requirements (items 1-4) are satisfied by the applicant. The Bureau will thoroughly evaluate the project considering our position statement, guidelines, and siting criteria to develop a list of specific concerns or potential conflicts. These comments and/or concerns will be summarized and presented to the applicant. The summary will also be submitted to FERC or the PUC as the Bureau's official comment regarding the project pursuant to existing regulatory procedures (i.e., scoping period under pre-filing). **DCNR will not process any right-of-way requests until a formal application is made as referenced above (items 1-4).**

2. Pre-Survey Meeting

The Pre-Survey Meeting will be an applicant driven exchange of information. The meeting will follow an agenda prepared by the Bureau and include: an applicant presentation of the proposed project addressing the summary of initial concerns; a discussion of related concerns; field logistics; a discussion of Bureau of Forestry requested surveys and survey protocols (PNDI and land manager); an outline of the *Right-of-Way Agreement* and an overview of the remainder of the review process. The Bureau of Forestry will include necessary central office and field staff. The meeting will also provide the forum for direct questions and answers between the applicant and Bureau staff.

Within 21 days following the Pre-Survey Meeting, the Bureau of Forestry will make written determination to the applicant regarding its decision to issue a *Certificate to Survey*. If the applicant has demonstrated sufficient project planning, established a

determination of need, suggested and evaluated alternatives, and adhered to the siting guidelines and criteria; the applicant may be issued a *Certificate to Survey*. If the above mentioned factors are insufficient the Bureau may deny the applicant the right to survey without further consideration or request that the applicant resubmit a formal application which is better designed to meet the Bureau's standards.

3. Field Survey

If the applicant is granted a *Certificated to Survey*, the certificate will identify required Bureau of Forestry land management surveys and those surveys as required through its jurisdictional PNDI authority. As the manager for lands in the public domain, the Bureau of Forestry may request surveys for species and/or their associated habitats which exceed those required by other associated jurisdictional agencies. The applicant will thus be informed of the complete scope of survey requirements so that ecological, archeological, and civil components can occur simultaneously or at the discretion of the applicant.

The field survey will investigate and document the existence of identified concerns on the landscape. The data generated from the field survey will be used as a basis for completing a *State Forest Environmental Review*.

4. State Forest Environmental Review

The [State Forest Environmental Review](#) (SFER) is a comprehensive review for projects on State Forest land that significantly modify the current land use. This review addresses a variety of stakeholder concerns to ensure the project upholds the principals of sustainable forest management. The document addresses issues including water quality, aesthetics, biological productivity and species of special concern.

Written environmental reviews will include a description of the project, justification for the project's need, a description of the project site, and a narrative consideration of each of the environmental review items. The narrative consideration must include an assessment of the project's probable impact on each factor and whether it is beneficial or adverse. Factors where an adverse impact is predicted require an explanation of the corrective measures that will be taken or justification why none are planned.

The applicant shall prepare and submit a SFER which will be distributed for internal review and comment within DCNR. If concerns or conflicts remain following the SFER review period, a Post Survey Meeting will be scheduled with the applicant. These items will serve as the Bureau of Forestry's official comment and will be submitted to FERC or the PUC, as applicable, to coincide with the comment period for the Environmental Assessment (EA) or Environmental Impact Statement (EIS). The State Forester has the authority to approve or deny the project. This decision will be rendered after the Post Survey Meeting, as necessary.

5. Post Survey Meeting

The objective of the Post-Survey Meeting is to resolve any outstanding issues regarding the request for right-of-way. The meeting will also provide the opportunity to finalize specific right-of-way negotiations. The Post-Survey Meeting will be scheduled as necessary using an agenda prepared by the Bureau of Forestry.

6. Right-of-Way Agreement

Upon approval of the SFER, the drafting of the *Right-of-Way Agreement* will commence. The agreement reflects the finalized and agreed upon specifics of prior negotiations. Upon receipt, review and approval of the agreement, the applicant should return the partially executed *Right of Way Agreement* to the DCNR for further signature processing.

7. Pre-Construction Meeting

A Pre-Construction meeting between the company and district field staff will be scheduled prior to the commencement of any construction activity. The purpose of this meeting is as follows:

1. Introduce all key players (i.e., DCNR personnel, Project Supervisor, Contractors, Inspectors (Project, FERC and/or PUC) and obtain contact information for these persons.
2. Review project timeline and confirm in-service dates (i.e., “what” is anticipated, “where”, and “when”).
3. Review field logistics, procedures and expectations including: use and maintenance of State Forest roads, timber removal, stump/top disposal, trash, revegetation plan, erosion and sedimentation plan, (i.e., the provisions of the agreement, exhibits, stipulations or conditions).
4. Discussion of company or district concerns.

Since most projects are very dynamic in nature, it is essential to fully understand the expectations of DCNR prior to commencing construction. Forest District personnel can provide guidance and insight as to what best management practices work best in a given area as well as the ideal methods for avoiding conflicts and operational setbacks. As a follow-up to the pre-construction meeting, there will be a weekly meeting involving the Forest District contact and the Project Supervisor to review and address concerns or issues that either party may have. DCNR’s past experience have proven that weekly communications not only avoid field problems but also save time and money for the company. The forest district or state park will be responsible for overseeing the construction phase of the project and enforcing the terms of the right-of-way agreement.