Reset Form

State Form 50354 (R3 / 7-09)

Public Notice

_____ *(Date)*
_____ *(Adjacent Property Owner's Name)*
_____ *(Mailing Address)*
_____*(City, State, Zip Code)*

Indiana Code 14-11-4 was enacted to ensure that adjacent property owners are notified of permit applications and provided with an opportunity to present their views to the Department of Natural Resources prior to action.

> According to IC 14-11-4-5, the applicant must notify at least one of the owners of each parcel of real property reasonably known to be adjacent to the affected real property. "Adjacent to the affected real property", defined in 312 IAC 2-3-2, means real property owned by a person, other than the applicant, that is both of the following: (1) located within one-fourth (¼) mile of the site where the licensed activity would take place, AND (2) has a border or point in common with the exterior boundary of the property where the licensed activity would take place. Included is property that would share a common border if not for the separation caused by a right-of-way, an easement, or a railroad.

Your property has been identified to be adjacent to the project site. This public notice is being provided to you in conformance with the provisions of IC 14-11-4 and 312 IAC 2-3.

Waterbody Name_____

Project Description:
_____
_____
_____

Project Location:
_____
_____
_____

Check relevant Statute or Rule:

- ☐ Flood Control Act, IC 14-28-1
- ☐ Lake Preservation Act, IC 14-26-2
- ☐ Lowering of Ten Acre Lake Act, IC 14-26-5
- ☐ Construction of Channels Act, IC 14-29-4
- ☐ Sand and Gravel Permits Act, IC 14-29-3
- ☐ Navigable Waterways Act, IC 14-29-1

Applicant's Name, Address, and Telephone	Agent's Name, Address, and Telephone
_____	_____
_____	_____
_____	_____

Questions relating to the project should be directed to: ☐ Applicant or ☐ Agent *(check one or both)*

Pursuant to 312 IAC 2-3-4, an informal public hearing, pre-AOPA (Administrative Orders and Procedures Act) hearing, on this application may be requested by filing a petition with the Division of Water. The petition must conform to administrative rule 312 IAC 2-3-4 as follows:

(a) This section establishes the requirements for a petition to request a public hearing under IC 14-11-4-8(a)(2).
(b) The petition shall include the signatures of at least twenty-five (25) individuals who are at least eighteen (18) years of age and who reside in the county where the licensed activity would take place or who own real property within one (1) mile of the site of the proposed or existing licensed activity.
(c) The complete mailing addresses of the petitioners shall be typed or printed legibly on the petition.
(d) Each individual who signs the petition shall affirm that the individual qualifies under subsection (b).
(e) The petition shall identify the application for which a public hearing is sought, either by division docket number (application number) or by the name of the applicant and the location of the project.

A pre-AOPA public hearing on the application will be limited to the Department's authority under the permitting statutes. Only the issues relevant to the Department's jurisdiction directly related to the application will be addressed. The Department has no regulatory authority on property zoning, local drainage, burning, nuisances, road traffic, etc.; therefore, topics beyond the Department's jurisdiction will not be discussed during the public hearing.

A petition for a pre-AOPA public hearing or a request to be notified of the Department's approval, denial, or termination of the permit application should be mailed to:

Indiana Department of Natural Resources
Division of Water, Technical Services
402 West Washington Street, Room W264
Indianapolis, Indiana 46204-2641
Telephone: (877) 928-3755 or (317) 232-4160

The Department's jurisdiction under the Flood Control Act, IC 14-28-1, is limited to a project in the floodway of a waterway that includes, but is not limited to, rivers, streams, ditches, and creeks. To be approvable a project must demonstrate that the project will not:

(a) adversely affect the efficiency of or unduly restrict the capacity of the floodway,
(b) constitute an unreasonable hazard to the safety of life or property; defined as, will not result in either of the following during the regulatory flood: (1) the loss of human life, (2) damage to public or private property to which the applicant has neither ownership nor a flood easement,
(c) result in unreasonably detrimental effects upon fish, wildlife, or botanical resources.

Additionally, the Department must consider the cumulative effects of the above items.

The Department's jurisdiction under the Lake Preservation Act, IC 14-26-2, is limited to certain projects that are below the legal or normal water level, and are located along the shoreline, lakeward of the shoreline, or landward of the shoreline within 10 feet. The project will be reviewed on the basis of its impacts on:

(a) the shoreline, water line, or bed of the public freshwater lake,
(b) the fish, wildlife, or botanical resources,
(c) the public rights for the natural resources, the natural scenic beauty, and the recreational purpose of the lake,
(d) the management of watercraft operations under IC 14-15,
(e) the interests of a landowner having property rights abutting the public freshwater lake or rights to access the public freshwater lake.

Additionally, the Department must consider the cumulative effects of the above items.

The Department's jurisdiction under the Lowering of Ten Acre Lake Act, also referred to as the "Ditch Act", IC 14-26-5, applies to ditch and / or drain work within one-half (1/2) mile of a freshwater lake, ten acres or greater in size, where the ditch and / or drain work has a bottom depth lower than the legal or normal water level of the lake. To be approvable, the Department must find that the project will not:

(a) endanger the legally established water level of the lake, or
(b) endanger the normal water level of the lake, if the water level has not been legally established,
(c) result in unreasonably detrimental effects upon fish, wildlife, or botanical resources.

Additionally, the Department must consider the cumulative effects of the above items.

All of the statutory regulations can be found on our webpage www.in.gov/dnr/water.

After an approval, denial, or termination is issued by the Department, you may appeal the Department action by requesting an administrative review by the Natural Resources Commission under IC 4-21.5 and 312 IAC 3-1. The appeal request should be addressed to:

Division of Hearings
Natural Resources Commission
Indiana Government Center North, Room N501A
100 North Senate Avenue
Indianapolis, IN 46204
Telephone: (317) 232-4699