

### **IC 14-25-3**

#### **Chapter 3. Water Rights; Ground Water**

### **IC 14-25-3-1**

#### **"Person" defined**

Sec. 1. As used in this chapter, "person" means an individual, a firm, a limited liability company, a corporation, an association, or a governmental agency. However, for purposes of sections 6 through 10 of this chapter, the term does not include a public utility privately or publicly owned engaged in supplying or furnishing public utility service to the residents and business institutions of a city, town, or public institution within a restricted use area.

*As added by P.L.1-1995, SEC.18.*

### **IC 14-25-3-2**

#### **"Waste" and "wasted" defined**

Sec. 2. As used in this chapter, "waste" or "wasted" means any of the following:

- (1) Permitting ground water to flow or taking or using ground water in any manner so that the ground water is not put to the full beneficial use.
- (2) Transporting ground water from the water's source to the place of use in such a manner that there is an excessive loss in transit.
- (3) Permitting or causing the pollution of a fresh water strata through an act that will cause salt water, highly mineralized water, or otherwise contaminated water to enter the strata.

*As added by P.L.1-1995, SEC.18.*

### **IC 14-25-3-3**

#### **Public policy regarding conservation of ground water**

Sec. 3. It is a public policy of the state in the interest of the economy, health, and welfare of Indiana and the citizens of Indiana to conserve and protect the ground water resources of Indiana and for that purpose to provide reasonable regulations for the most beneficial use and disposition of ground water resources.

*As added by P.L.1-1995, SEC.18.*

### **IC 14-25-3-4**

#### **Restricted use areas; designation**

Sec. 4. (a) The department may by rule or order, when the department has reason to believe it is necessary and in the public interest, designate certain areas of Indiana where the withdrawal of ground waters exceeds or threatens to exceed natural replenishment as restricted use areas. Before the department designates an area as a restricted use area, the department shall do the following:

- (1) Have surveys made of the ground water resources of the area.
- (2) Determine the safe annual yield of the basin.

(b) The department may do the following:

(1) Cooperate with the agencies of the federal government engaged in making ground water surveys.

(2) Accept and use the findings of other agencies of the federal and state governments as a basis of the department's decisions.

*As added by P.L.1-1995, SEC.18.*

#### **IC 14-25-3-5**

##### **Restricted use areas; orders, rules, and notice of hearing**

Sec. 5. (a) Whenever the department designates a restricted use area, the department shall approve an order to that effect and adopt a rule under IC 4-22-2.

(b) In addition to the publication of notice provided for in IC 4-22-2, the department shall, for the purposes of this chapter only, do the following:

(1) Give notice by publication one (1) time each week for three (3) consecutive weeks in all of the newspapers of general circulation in the area to be designated as a restricted use area.

(2) Give ten (10) days written notice to all public utilities privately or publicly owned engaged in furnishing water to residents of the restricted use area.

(3) Give ten (10) days written notice to:

(A) the executive of each city and town;

(B) the president of each county executive in a county that does not have a consolidated city; and

(C) the county executive in a county that has a consolidated city;

in the restricted use area.

(4) Have the notice posted at least ten (10) days before the hearing as follows:

(A) At the door of the courthouse.

(B) At the city or town hall if there is a city or town hall in the restricted use area.

(C) In at least three (3) other public places.

(c) Proof of the notice shall be made at the hearing by the affidavits of the publishers of the newspapers and of the persons who posted and sent the other notices required by this section.

*As added by P.L.1-1995, SEC.18.*

#### **IC 14-25-3-6**

##### **Withdrawal permits; requirement**

Sec. 6. In a restricted use area, a person may not withdraw or use for any purpose ground water in quantities in excess of one hundred thousand (100,000) gallons per day in addition to the quantity the person is using at the time the order designating the area as a restricted use area becomes effective, unless the person has obtained a permit from the department to withdraw or use a greater quantity.

*As added by P.L.1-1995, SEC.18.*

#### **IC 14-25-3-7**

##### **Withdrawal permits; application**

Sec. 7. A person that:

- (1) desires to withdraw or use a quantity greater than one hundred thousand (100,000) gallons per day in addition to the quantity being used at the time of the effective date of an order declaring an area as a restricted use area; or
- (2) desires to withdraw or use a quantity greater than one hundred thousand (100,000) gallons per day if the applicant was not a prior user of ground water;

must apply for permission to do so to the department upon a form prescribed by the department.

*As added by P.L.1-1995, SEC.18.*

#### **IC 14-25-3-8**

##### **Withdrawal permits; factors to consider**

Sec. 8. In granting or refusing a permit, the department shall consider the following:

- (1) The effect the withdrawal of additional ground water from the restricted use area will have on future supplies in the area.
- (2) What use is to be made of the water.
- (3) How the withdrawal will affect present users of ground water in the area.
- (4) Whether the future natural replenishment is likely to become more or less.
- (5) Whether future demands for ground water are likely to be greater or less.
- (6) How the withdrawal of additional ground water will affect the health and best interests of the public.

*As added by P.L.1-1995, SEC.18.*

#### **IC 14-25-3-9**

##### **Withdrawal permits; conditions**

Sec. 9. In granting a permit, the department may do the following:

- (1) Impose the conditions or stipulations that are necessary to conserve the ground water of the area and prevent waste, exhaustion, or impairment of the ground water.
- (2) Require that ground water in a restricted area that is withdrawn and used be returned to the ground through wells, pits, or spreading grounds. If this condition is imposed, the water shall be returned under the rules that the department adopts subject to the approval of the water pollution control board to avoid pollution of underground water.

*As added by P.L.1-1995, SEC.18.*

#### **IC 14-25-3-10**

##### **Withdrawal permits; judicial review**

Sec. 10. A refusal to grant a permit is subject to court review under IC 4-21.5-5.

*As added by P.L.1-1995, SEC.18.*

#### **IC 14-25-3-11**

### **Statements of average daily use of ground water**

Sec. 11. (a) All users of ground water in amounts exceeding one hundred thousand (100,000) gallons per day in an area designated by the department as a restricted use area shall file with the department a certified statement of the average daily amount of ground water used before the designation of the area as a restricted use area. The statement:

(1) shall be filed within ninety (90) days after the adoption of an order by the department designating the area as a restricted use area; and

(2) must be on a form furnished by the department upon request.

(b) Failure to file a certified statement as required by subsection (a) invalidates a user's prior claim to the withdrawal and use of ground water exceeding one hundred thousand (100,000) gallons per day without having secured a permit from the department under this chapter.

*As added by P.L.1-1995, SEC.18.*

### **IC 14-25-3-12**

#### **Records regarding drilling of new wells**

Sec. 12. In a restricted use area, each well owner or the representatives of the well owner shall file with the department, on forms furnished by the department, a complete record of each new well drilled within the area. The record:

(1) shall be filed within thirty (30) days after the well has been completed and placed in operation; and

(2) must contain the following:

(A) A log of the following:

(i) The well.

(ii) The static water level.

(iii) The yield.

(iv) The drawdown.

(B) Other pertinent information that is required by the department.

*As added by P.L.1-1995, SEC.18.*

### **IC 14-25-3-13**

#### **Withdrawal permits; title or lease to property required**

Sec. 13. A permit may not be issued to an applicant requesting permission to withdraw and use more than one hundred thousand (100,000) gallons per day of ground water from a designated restricted use area who does not:

(1) have title; or

(2) hold a lease;

to the property from which the water is to be withdrawn.

*As added by P.L.1-1995, SEC.18.*

### **IC 14-25-3-14**

#### **Meters**

Sec. 14. The department may require a user of ground water in amounts exceeding one hundred thousand (100,000) gallons per day in designated restricted use areas to install a meter if any of the following conditions exist:

- (1) The user is unable to furnish accurate information concerning the amounts of ground water being withdrawn and used.
- (2) There is evidence of either of the following:
  - (A) The user's certified statement is false or inaccurate.
  - (B) The user is withdrawing and using a larger quantity than has been authorized by the department under this chapter.

*As added by P.L.1-1995, SEC.18.*

### **IC 14-25-3-15**

#### **Waste of water**

Sec. 15. (a) In a restricted use area, the department may require a person found to be committing waste of ground water to return all or a part of the water to the ground if the following conditions are met:

- (1) The water being wasted can safely and practicably be returned to the ground.
- (2) Requirements are imposed as proportionately equal as is practicable on all persons committing waste.

(b) The use of ground water for cooling purposes may constitute waste if the water is:

- (1) not used more than one (1) time in a cooling, air conditioning, or heating system; and
- (2) not put to further beneficial use.

(c) In a restricted use area the department may require the owner of a flowing well:

- (1) that exceeds a flow of one thousand five hundred (1,500) gallons per day; and
- (2) whose water is being wasted;

to install the controls on the well that are necessary to diminish the daily flow to not more than one thousand five hundred (1,500) gallons.

*As added by P.L.1-1995, SEC.18.*

### **IC 14-25-3-16**

#### **Determination of quantity of ground water removed**

Sec. 16. (a) As used in this section, "rated capacity of a pump" means the number of gallons of water a pump is capable of discharging in a given time as determined by the manufacturer or by certified pump tests.

(b) In determining the quantity of water being removed from or returned to the ground, the department may use the following:

- (1) The rated capacity of the pump used for pumping the water.
- (2) The rated capacity of the cooling system.
- (3) Data furnished by the well driller or user.
- (4) The standards or methods employed by the United States Geological Survey in determining quantities.

(5) Any other accepted method.

*As added by P.L.1-1995, SEC.18.*

**IC 14-25-3-17**

**Adoption of rules**

Sec. 17. The department may adopt the rules that are necessary to do the following:

(1) Determine within reasonable limits quantities of water being removed from the ground.

(2) Administer any of the other provisions of this chapter.

*As added by P.L.1-1995, SEC.18.*

**IC 14-25-3-18**

**Violations**

Sec. 18. A person who violates this chapter commits a Class C infraction. Each day of violation constitutes a separate infraction.

*As added by P.L.1-1995, SEC.18.*