



Division of Water
402 W. Washington St.
Room W264
Indianapolis, IN 46204
Phone (317) 232-4160
Toll-free (877) 928-3755
Fax (317) 233-4579
www.IN.gov/dnr/water/

January 18, 2005

RE: Changes to the public notice requirements

Dear Customer:

A DNR Administrative Law judge recently ruled that the practice of providing public notice to adjacent landowners prior to submitting a permit application to the Department of Natural Resources is in conflict of 312 IAC 2-3-3.

Therefore, public notice as required under the following statutes must be provided to the adjacent landowners after the application is submitted to the Division of Water. This requirement becomes effective on February 14, 2005.

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

As in the past, you must submit to the Department proof that public notice requirements have been fulfilled. Information concerning the adjacent landowners and the date of notification is recorded on the N-4 form, copy enclosed. Depending on the method of notification, the effective date of public notice may vary. Using the N-4 form and the following notification methods, the Department will verify that the effective date of your public notice occurred after the date that the application was filed with the Department. Please refer to the following notification methods for additional information concerning the effective date of public notice.

Methods of notification may include:

Certified mail:

Please be aware that, if the public notice notification is mailed via certified mail, the Department will recognize the "Date of Delivery" as the effective date for the 30-day public notice period - not the postmarked date.

First class mail:

If you use first class mail to provide public notice, the effective date of the public notice will be based on the actual postmark date. However, be aware that if you are using this method of service, you must verify that a 21-day period has passed since the mailing, and the notice has not been returned. That 21-day period will be reflected on Form N-4 between the date mailed and the date that the form is signed.

Personal delivery:

If you are using a mode of personal delivery, the effective date of the public notice is considered the date the public notice was delivered to the adjacent landowner.

Newspaper publication:

Newspaper publications are used if the identity or existence of a property owner is not ascertainable, or the current address of the property owner is not ascertainable. If you are using a publication for public notice, the date of the publication must occur after the application is submitted to the Division of Water and will be considered the effective date.

If your application is submitted to the Division of Water after February 14, 2005 without proof of public notice, or with proof of public notice having an effective date that is prior to the "application received" date, your application will be placed in abeyance. An Incomplete Notice will be mailed to you requesting that public notice be provided in accordance with the above guidelines.

We apologize for any inconvenience this matter may cause you. We remain committed to processing your application as quickly as possible. If you have any questions regarding this matter, please contact me at (317) 232-4160 or (877) 928-3755 (toll free).

Sincerely,

Andrea S. Gromeaux
Section Manager
Technical Services Section
Division of Water

Enclosure: Form N-4