



ISSUED:
February 24, 2026

STATE OF INDIANA
OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS

TOWN OF WINFIELD, INDIANA,
Petitioner,
v.

Administrative Case Number IDEM-2512-006364

**INDIANA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT AND
CITY OF CROWN POINT, INDIANA,**
Respondent.

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER GRANTING MOTIONS TO
DISMISS**

This matter comes before the Office of Administrative Law Proceedings (“OALP”) on Respondent Indiana Department of Environmental Management (“IDEM”) and Permittee/Respondent City of Crown Point, Indiana’s (“Crown Point”) January 13, 2026 Motions to Dismiss, the January 27, 2026 Petitioner’s Town of Winfield, Indiana’s (“Winfield”) Response in Opposition to the Motions to Dismiss, and the February 2, 2026 IDEM and Crown Point Replies in Support of their Motions to Dismiss all of which are now part of the Court’s Record. Having read and considered the pleadings, the presiding Administrative Law Judge makes the following Findings of Facts, Conclusions and enters the following Final Order:

Findings of Fact

1. On December 9, 2025, Winfield filed its Petition for Administrative Review (Petition). The Petition included a November 24, 2025 Outfall Letter from IDEM to Crown Point as Exhibit A and an October 22, 2024 Antidegradation Letter from IDEM to Crown Point as Exhibit B. See Petition, Exhibit A.
2. Winfield sought review, and stay of effectiveness, of the following five (5) purported agency actions taken by IDEM in its Petition:
 - I. IDEM’s preliminary approval Crown Point, Indiana’s antidegradation demonstration with new outfall coordinates;¹

¹ Petition, p. 1.

- II. IDEM’s failure to perform a complete and final antidegradation review before Crown Point proceeds with construction permitting and activities with its new publicly owned treatment works;²
- III. IDEM permitting Crown Point to proceed with construction permitting before NPDES permitting and a final antidegradation determination;³
- IV. IDEM’s failure to reject Crown Point’s incomplete and erroneous antidegradation demonstration;⁴ and
- V. IDEM’s determinations that Crown Point’s relocation of its proposed outfall location “does not change the findings of the antidegradation demonstration” and that the antidegradation demonstration and Preliminary Effluent Limitation apply to and cover the new proposed outfall location.⁵

4. On January 13, 2026, IDEM and Crown Point filed separate Motions to Dismiss. Both Respondents contend that Winfield’s petition is not ripe, as none of the purported actions represent appealable orders Ind. Code 4-21.5-3 sections 4, 5, or 6.

5. On January 27, 2026, Winfield filed its Response in Opposition to IDEM’s and Crown Point’s Motions to Dismiss.

6. On February 2, 2026, IDEM and Crown Point filed separate Replies in Support of their Motions to Dismiss.⁶

Conclusions of Law

1. This is a Final Order issued under Ind. Code § 4-21.5-3-23. Findings of fact that may be construed as conclusions of law and conclusions of law that may be construed as findings of fact are so deemed.

2. IDEM is authorized to implement and enforce Indiana environmental statutes and rules promulgated relevant to those statutes. See Ind. Code § 13-13 *et seq.* and I.C. § 13-14-1-11.5.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.* at 1-2.

⁶ On February 4, 2026, Winfield filed a Surreply in Opposition to Motions to Dismiss and on January 6, 2026, IDEM and Crown Point filed Objections to Winfield’s Surreply and Responses to Surreply. Such filings were not considered in this Order. 315 IAC 1-3-4.1 establishes the deadlines by which parties may respond or reply to motions to dismiss. A surreply is not contemplated under the rule nor was a deadline for a surreply provided in this tribunal’s January 5, 2026, Scheduling Order. Finally, Winfield did not request leave to file a Surreply.

The OALP has jurisdiction over and serves as the ultimate authority for administrative reviews of permits issued by the IDEM. See Indiana Code § 4-21.5, Ind. Code § 4-15-10.5-12. In addition, administrative reviews of permits issued by the IDEM are governed by 315 IAC 1, *et. seq.*

3. As state agencies, the OALP and IDEM only have the authority to take those actions which are granted by the law. See *In Re: Cooper Farms*, 2018 OEA 24; *In Re: Twin Lakes Regional Sewer District*, 2007 OEA 53, 61. “An agency may not by its rules and regulations add to or detract from the law as enacted or may it extend its powers beyond those conferred upon it by law.” *Lee Alan Bryant Health Care Facilities, Inc. v. Hamilton*, 788 N.E.2d 495, 500 (Ind. Ct. App. 2003).

4. IDEM’s regulatory authority focuses on implementing, regulating and enforcing environmental laws, including those rules related to issuing permits. See I.C. § 13-15-2, *et seq.* IDEM may only determine whether a permit should be issued by applying the relevant statutes and regulations and may only consider those factors specified in the applicable statutes and regulations in its decision to issue the permit. *Wolf Lake*, 2023 OEA 001, 005. In this case, IDEM has not yet issued a permit. Instead, IDEM’s actions were an exercise of the permitting process found in 327 IAC 3 *et. seq.*

5. Motions to Dismiss generally test the legal sufficiency of a claim and not the facts supporting it. *Greentree Enterprises, LLC*, 2014 OEA 8, 11. Here, when ruling on IDEM’s and Crown Point’s Motions to Dismiss, the Court is required to accept as true the facts alleged on the face of the Petition and may only dismiss if Winfield would not be entitled to recover under any set of facts admissible under the allegations of the Petition. *Trail v. Boys and Girls Club of N.W. Ind.*, 845 N.E.2d 130, 135 (Ind. 2006); *McQueen v. Fayette County Sch. Corp.*, 711 N.E.2d 62, 65 (Ind.Ct.App. 1999).

6. Petitioner need not set out in precise detail the facts upon which the claim is based but must still plead the operative facts necessary to set forth an actionable claim. *Trail* (citing *Miller v. Mem. Hosp. of South Bend, Inc.*, 679 N.E.2d 1329 (Ind. 1997)). Lastly, this tribunal must view the pleadings in a light most favorable to the nonmoving party and must draw every reasonable inference in favor of that party. *NPDES General Permit No. 490141 to Americus Quarry, Lafayette, Tippecanoe County, Indiana*, 2015 OEA 12, 16; *Huffman v. Ind. Office of Env’tl Adjudication*, 811 N.E.2d 806, 814 (Ind. 2004).

7. OALP’s authority is statutorily created. OALP has no authority to adjudicate matters beyond that which it has been statutorily empowered to review. The OALP has “jurisdiction over all administrative proceedings concerning agency administrative actions under: (1) IC 4-2.15; or (2) any other statute that requires or allows the office to take action.” I.C. § 4-15-10.5-12.

8. “Agency action” is further defined under I.C. § 4-21.5-1-4 as “[t]he whole or a part of an order,” “[t]he failure to issue an order,” or “[a]n agency’s performance of, or failure to perform, any other duty, function, or activity under this article.”

9. “Order” is defined as “an agency action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one (1) or more specific persons.” I.C. § 4-21.5-1-9. The term “order” “implies a formal agency mandate issued at the culmination of some regular agency proceeding.” *Advantage Home Health Care, Inc. v. Ind. State Dep’t of Health*, 829 N.E.2d 499, 504 (Ind. 2005).

10. Neither the October 22, 2024, nor the November, 24, 2025, letters issued by IDEM constitute final and appealable orders under I.C. § 4-21.5-1-9. Accordingly, neither letter constitutes an agency action under I.C. § 4-21.5-1-4.

11. The letters instead represent interaction between IDEM and Crown Point regarding the regulatory steps necessary to be performed and/or completed before a municipality may pursue an NPDES permit.

12. Pursuant to 327 Indiana Administrative Code (“IAC”) 2-1.3-5(a), “any person requesting a new or increased loading that would cause a lowering of water quality that is not exempt under section 4 of this rule shall submit” to IDEM an antidegradation demonstration that contains the information set forth in this rule that supports IDEM’s “determination that the proposed new or increased loading is necessary and accommodates important social or economic development in the area of the loading.”

13. An entity must first determine if the antidegradation requirements are triggered requiring it to complete the antidegradation standards and implementation procedures found at 327 IAC 21.3 *et. seq.* In this case, the antidegradation requirements were determined to have been triggered, requiring Crown Point to complete the antidegradation standards and implementation procedures.

14. Crown Point completed such antidegradation demonstration. IDEM’s October 22, 2024 letter confirmed receipt of the demonstration, that IDEM posted the same online for public review, and received no public comments.

15. After learning that the proposed outfall location had shifted 0.3 miles downstream of the original outfall location, IDEM required Crown Point to complete a new antidegradation demonstration based upon the new outfall location. After receiving a completed antidegradation demonstration in response to the new outfall location, IDEM issued the November 24, 2025, again confirming receipt of the antidegradation demonstration. The letter further advised that Crown Point was free to proceed with the NPDES permitting process but that no determination has been as to whether the antidegradation demonstration had been approved or not.

16. Pursuant to 327 IAC 2-1.3-6(g), “[w]hen the commissioner makes a tentative determination [or preliminary approval] on an antidegradation demonstration, the commissioner shall public notice the antidegradation demonstration tentative determination” in the draft NPDES permit and fact sheet. It is at this point the public, to include Winfield, may provide feedback on the antidegradation demonstration. When IDEM then makes a determination on the approval of the antidegradation demonstration as part of the NPDES application, Winfield could, in theory, seek administrative review of such an agency action.

17. The October 22, 2024 and November 24, 2025 do not constitute final, appealable orders from IDEM. No final determination has been made in either letter for OALP to review. The stated actions which Winfield seeks to review are not final and appealable agency actions. The petition is not ripe and OALP lacks subject matter jurisdiction to review that for which Winfield seeks review.

For all of the foregoing reasons, **IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that, even taking as true the allegations Winfield made in its Petition, OALP lacks subject matter jurisdiction over the matter. Winfield’s petition is hereby **DISMISSED** pursuant to Ind. Tr. R. 12(B)(1).

SO ORDERED on: February 24, 2026.

/s/ Andrew R. Bernlohr
Andrew R. Bernlohr
Administrative Law Judge

Distribution

(Sent via the email address on file with the Indiana Role of Attorneys, unless otherwise noted):

Permittee(s)/Petitioner(s), TOWN OF WINFIELD, INDIANA, sent via counsel, J. Christopher Janak, Bradley R. Sugarman, and Jackson L. Schroeder, as noted above.

Respondent, Indiana Department of Environmental Management, sent via counsel, Sierra Alberts and Susanna Bingman, as noted above.

Crown Point, Indiana, sent via counsel, Daniel J. Deeb, as noted above.

APPEAL RIGHTS

A person who wishes to seek judicial review of this final determination must file a petition for review in an appropriate court within 30 days of the date this Order was served. See Ind. Code § 4-21.5-5-5. Guidance for calculating deadlines may be found at Indiana Code § 4-21.5-3-2.

Other requirements for a petition for judicial review may be found at Indiana Code Ch. 4-21.5-5. A petition for judicial review must be served on the Office of Administrative Law Proceedings at oalp@oalp.in.gov to ensure the Office prepares the record that will be filed in the court presiding over the judicial review.