

2021

Do I Need a Permit?

An Overview of the Lake Preservation Act



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Division of Water

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Presentation Overview

- Division of Water's Jurisdiction under the Lake Preservation Act
- Permitting Process Overview & Common Projects
- Waterways Inquiry Request Tool & Division of Water website
- Questions & Answers



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Lake Preservation Act (IC-14-26-2) Lake Rules (312 IAC 11)

- Declares the natural resources and the natural scenic beauty of Indiana a public right
- Holds lakes in trust for the citizens of Indiana
- Projects are reviewed for their impact to:
 - the public's right to the natural resource, recreational use, and scenic beauty of the lake;
 - the water level or contour of the lake below the waterline;
 - fish, wildlife, or botanical resources; and
 - the cumulative effects of the above items.

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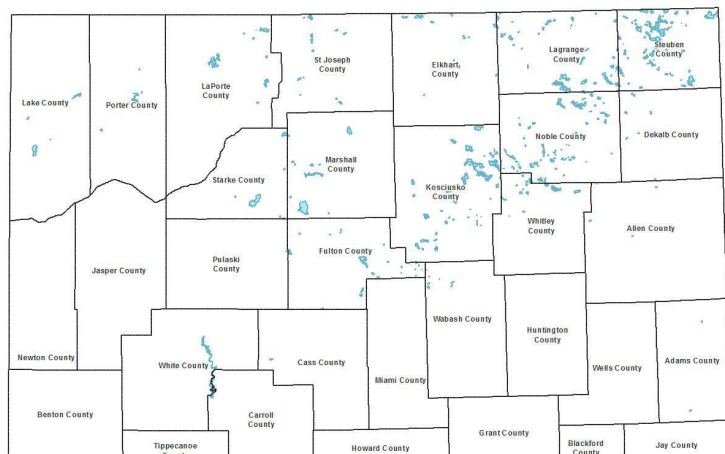
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What is a Public Freshwater Lake?

"Public freshwater lake" means a lake that has been used by the public with the acquiescence of a riparian owner.

Does not include:

- Lake Michigan
- A lake within the corporate boundaries of East Chicago, Gary, or Hammond
- A privately owned body of water used for the purpose of, or created as a result of, surface coal mining



Refer to the NRC's Nonrule Policy listing of Public Freshwater Lakes: <http://www.in.gov/nrc/2375.htm>

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DNR's Jurisdiction

IC 14-26-2-23

Unless a person obtains a permit from the department under this section and conducts the activities according to the terms of the permit, a person may not conduct the following activities:

- (1) Over, along, or lakeward of the shoreline or water line of a public freshwater lake:
 - (A) excavate;
 - (B) place fill; or
 - (C) place, modify, or repair a temporary or permanent structure.
- (2) Construct a wall whose lowest point would be:
 - (A) below the elevation of the shoreline or water line; and
 - (B) within ten (10) feet landward of the shoreline or water line, as measured perpendicularly from the shoreline or water line;
 of a public freshwater lake.
- (3) Change the water level, area, or depth of a public freshwater lake or the location of the shoreline or water line.

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"Shoreline or water line" means:

- (1) if the water level has been legally established, the line formed on the bank or shore by the water surface at the legally established average normal level; or
- (2) if the water level has not been legally established, the line formed by the water surface at the average level as determined by:
 - (A) existing water level records; or
 - (B) if water level records are not available, the action of the water that has marked upon the soil of the bed of the lake a character distinct from that of the bank with respect to vegetation as well as the nature of the soil.

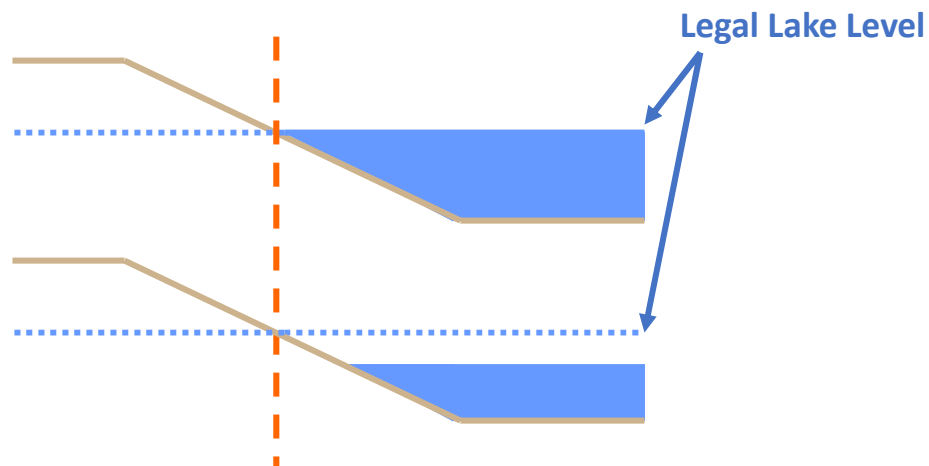


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List of Legal and Average Normal Lake Levels: <http://www.in.gov/dnr/water/5068.htm>

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Legal Shoreline

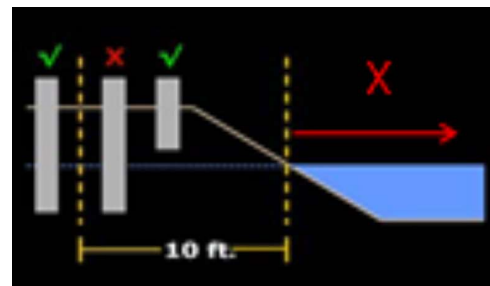


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Public Freshwater Lake Jurisdiction

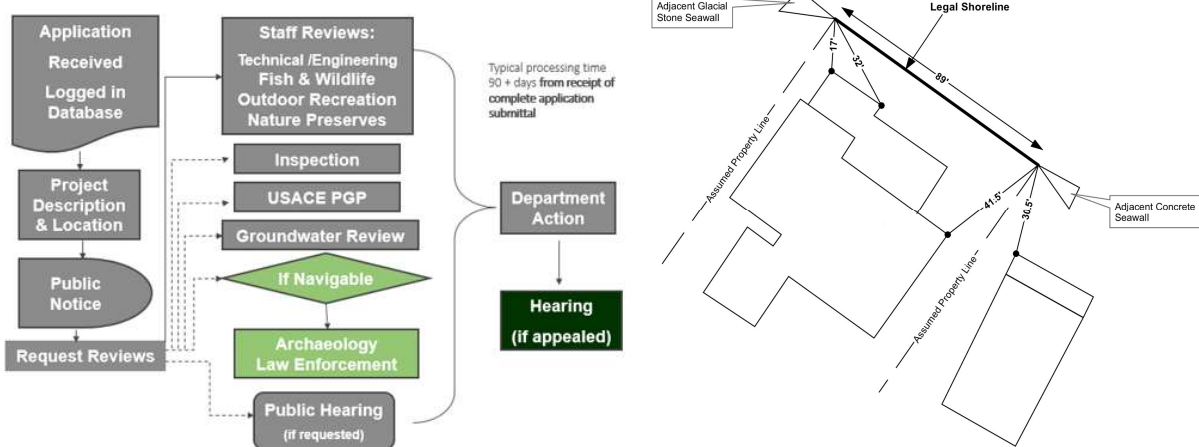
DNR's authority is confined to the area at or lakeward of the shoreline of the lake, and within 10 feet of the shoreline if an impermeable structure (wall) is proposed below the Legal Lake Level (LLL).

The green checkmarks in the image to the right indicate projects that do not require prior approval from DNR.



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Permit Application Review Process



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Shoreline Classifications

- Indiana Lake Rules (312 IAC 11) define four shoreline classifications:
 - Significant Wetland
 - Natural Shoreline
 - Area of Special Concern
 - Developed Area
- Shoreline classifications are determined based on emergent vegetation at the site and existing, lawful shoreline alterations (such as previously permitted seawalls)



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Common Projects That Require a Permit

- New Seawalls
 - Significant Wetland and Natural Shoreline: bioengineered
 - Area of Special Concern: glacial stone or bioengineered
 - Developed Area: glacial stone, bioengineered, concrete, steel sheet piling, or riprap
- Seawall Refaces *
 - Like materials
- Underwater Beaches
 - Significant Wetland and Natural Shoreline: not allowed
 - Area of Special Concern: maximum size = 625 ft²
 - Developed Area: maximum size = ½ the length of frontage and 50' lakeward
- Dredging
- Boat Ramps



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General Licenses

- Temporary Piers
- Aerators
- Dry Hydrants
- Glacial Stone Refaces



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General Licenses: Piers

- Must be temporary
- Must be placed by a riparian owner (or with written approval from a riparian owner)
- Cannot extend beyond 150' from the shoreline *
- Cannot infringe adjacent access or restrict navigation
- Does not apply to group piers or marinas

* Specific criteria in the rule; some exceptions

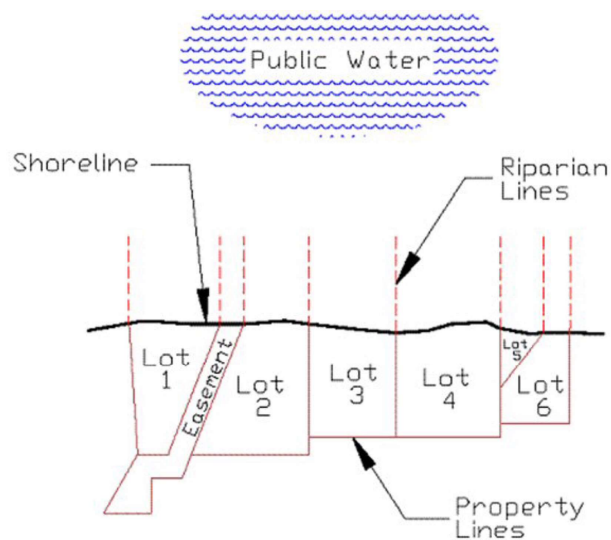


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Riparian Rights



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General Licenses: Glacial Stone Reface

- *Existing* seawalls can be refaced with glacial stone
- Cannot extend more than 4' lakeward from existing wall
- Shoreline classification not needed
- No impermeable material



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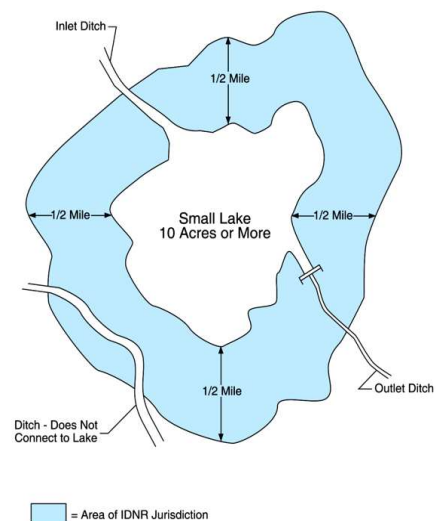
Lowering of Ten Acre Lakes Act (IC 14-26-5; also referred to as the "Ditch Act")

Applies to ditch or drain work that:

- is located within $\frac{1}{2}$ mile of a freshwater lake that is at least ten acres in area, and
- has a bottom depth below the lake's legal or normal water level.
- Work along an inlet to the lake may be exempt from permitting.

A proposed project can not:

- endanger the legal or normal water level of the lake, or
- result in unreasonably detrimental effects upon fish, wildlife, or botanical resources.



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What About Other Lakes?

- U.S. Army Corps of Engineers' Flood Control Reservoirs:
 - USACE and DNR State Parks requirements
- Water Supply Reservoirs:
 - Only certain activities are regulated
- Tippecanoe River Impoundments
 - Lake Freeman and Lake Shafer
 - Only certain activities are regulated
- Other reservoirs:
 - Jurisdiction is under the Flood Control Act and is limited to activity below the normal pool of the reservoir, unless mapped as floodway

**** No matter the type of lake, all work within 150' of a dam requires review by the DNR Division of Water ****

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Waterways Inquiry Request

- IDEM and DNR partnered together to create the **Waterways Inquiry Request** to help Indiana citizens determine when or if they need a permit to complete a project that may impact a waterway. This tool can be accessed via the Waterways website at waterways.IN.gov
- The **Waterways Inquiry Request** relates specifically to:
 - Section 401 Water Quality Certifications
 - Isolated Wetlands Permits
 - Construction in a Floodway permits
 - Other construction along streams, lakes, or dams




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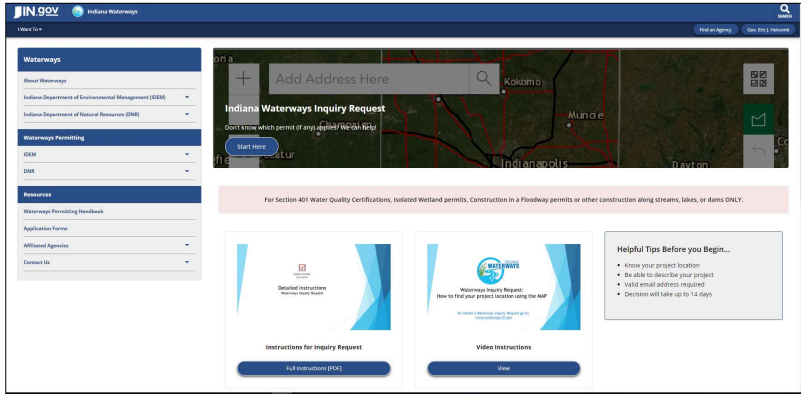
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waterways.IN.gov




Website Features:

- Indiana Waterways Inquiry Request
- Detailed Written Instructions
- Video Instructions
- Helpful Tips
- Quick links to applications & Waterways Permitting Handbook



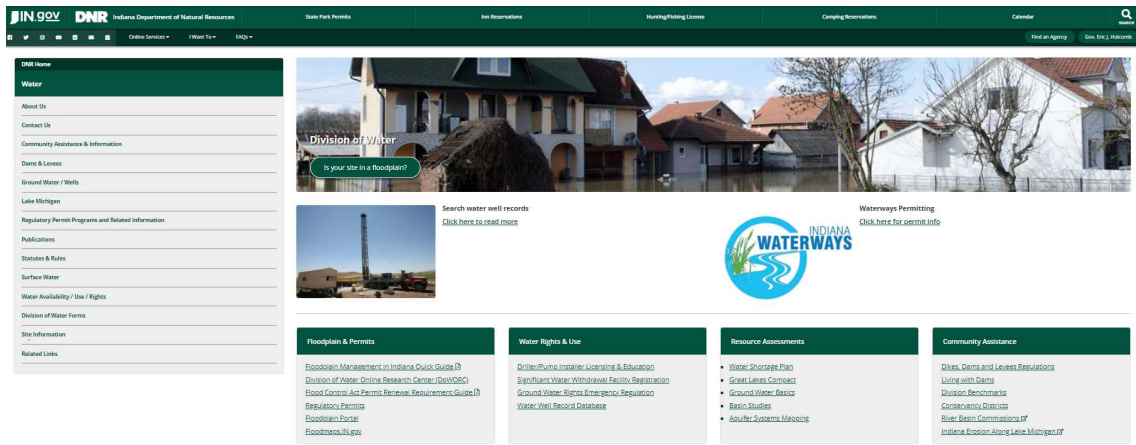
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Division of Water Website

dnr.IN.gov/water

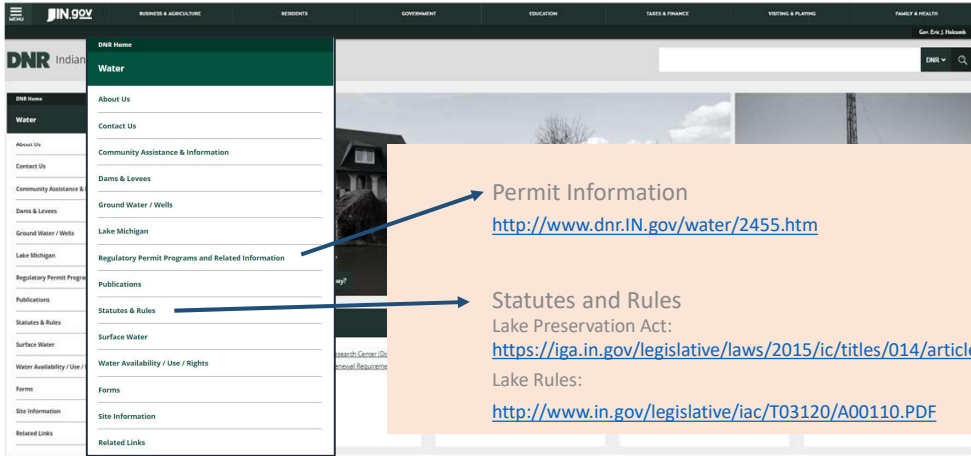


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Permit Information
<http://www.dnr.IN.gov/water/2455.htm>

Statutes and Rules
 Lake Preservation Act:
<https://iga.in.gov/legislative/laws/2015/ic/titles/014/articles/026/chapters/002/>
 Lake Rules:
<http://www.in.gov/legislative/iac/T03120/A00110.PDF>

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Contact Us

Web: <http://www.in.gov/dnr/water/>
 Email: water_inquiry@dnr.IN.gov
 Phone: 877-928-3755 (toll-free)

Questions about permitting requirements can be directed to the Technical Services section of the Division of Water.

See the [Statutes/Rules section](#) for specific information on the DNR's permitting jurisdiction.

Check out waterways.IN.gov for permitting information from both IDEM and DNR!

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