

**OBJECTION TO THE ISSUANCE OF  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)  
NPDES PERMIT NO. INRA10897  
ERNST ROAD TREE CLEARING PROJECT  
IU HEALTH ROAD DEVELOPMENT  
2023 OEA 018, OEA CAUSE NO.: 22-W-J-5229**

<b>Official Short Cite Name:</b>	<b>Ernst Rd, 2023 OEA 018</b>
<b>OEA Cause No.:</b>	22-W-J-5229
<b>Topics/Keywords:</b>	IC 4-21.5 IC 4-21.5-3-23 IC 4-21.5-5-5 IC 4-21.5-7-3 IC 4-21.5-7-5 315 IAC 1 et seq Mandatory requirements for petitions for administrative review
<b>Presiding ELJ:</b>	LORI KYLE ENDRIS
<b>Party Representatives:</b>	ANDREA MILLIMAN, PETITIONER JON VANATOR, PERMITTEE/RESPONDENT VALERIE TACHTIRIS, ESQ, RESPONDENT IDEM
<b>Order Issued:</b>	JANUARY 10, 2023
<b>Index Category:</b>	WATER
<b>Further Case Activity:</b>	



4-21.5, *et seq.*, (I.C.) and 315 IAC 1, *et seq.*, the Notices and Order ordered Petitioner to supplement her letter/Petition by

- Showing how she was aggrieved or adversely affected by IDEM’s action;
- Sending a copy to all parties including IDEM and the permittee;
- Providing her complete address(es) and telephone number(s);
- Identifying the environmental concerns or technical deficiencies related to the action and the permit terms and conditions that the Petitioner contends would be appropriate to comply with the law applicable to the contested permit; and
- Clarifying whether the referenced co-workers were intended to become petitioners

on or before January 3, 2023.

4. On January 3, 2023, Petitioner sent an email expressing that she was aware that the deadline for submitting a petition for review was past. Petitioner did not respond to any of the Orders outlined in the Court’s Proposed Order of Default.

#### **CONCLUSIONS OF LAW**

1. This is a Final Order issued pursuant to I.C. § 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. OEA has jurisdiction over the decisions of the Commissioner of the IDEM and the parties to the controversy pursuant to I.C. § 4-21.5-7-3.

3. The requirements to file a petition for administrative review are mandatory for a court to acquire jurisdiction where the review is sought from an administrative determination. *Cf. State v. Van Ulzen*, 456 N.E.2d 459, 464 (Ind. Ct. App. 1983). OEA’s jurisdiction may not be invoked until the individual seeking review has complied with the statutorily prescribed procedures. *City of North Vernon v. Funkhouser*, 725 N.E.2d 898, 904 (Ind. Ct. App. 2000); *Wayne Metal Prods. Co. v. Indiana Dep’t of Env’tl Mgmt.*, 721 N.E.2d 316, 319 (Ind. Ct. App. 1991) *trans. denied* (Ind. 2000). Petitioner did not comply with the requirements.

#### **FINAL ORDER**

**IT IS THEREFORE ORDERED** Petitioner’s Petition for Administrative Review is hereby **DISMISSED**. The Construction Stormwater Permit # INRA 10897 issued by IDEM on November 18, 2022 is hereby **AFFIRMED**.

You are further notified that pursuant to the provisions of I. C. § 4-21.5-7-5, OEA serves as the ultimate authority in the administrative review of decisions of the Commissioner of IDEM.

This is a Final Order subject to judicial review consistent with the applicable provisions of I.C. § 4-21.5. Pursuant to I.C. § 4-21.5-5-5, a Petition for Judicial Review of this Final Order is timely only if it is filed with a civil court of competent jurisdiction within thirty (30) days after the date this notice is served.

**IT IS SO ORDERED** this 10<sup>th</sup> day of January, 2023 in Indianapolis, IN.

Hon. Lori Kyle Endris  
Environmental Law Judge