



# INDIANA OFFICE OF ENVIRONMENTAL ADJUDICATION

Mary L. Davidsen, *Chief Environmental Law Judge*  
Lori Kyle Endris, *Environmental Law Judge*  
Sara C. Blainbridge, *Legal Administrator*

INDIANA GOVERNMENT CENTER NORTH  
100 NORTH SENATE AVENUE, SUITE N103  
INDIANAPOLIS, INDIANA 46204-2273  
[FRONTDESK@OEA.IN.GOV](mailto:FRONTDESK@OEA.IN.GOV)  
(317) 233-0850

STATE OF INDIANA )  
)  
COUNTY OF MARION )  
)  
IN THE MATTER OF: )

BEFORE THE INDIANA OFFICE OF  
ENVIRONMENTAL ADJUDICATION

CAUSE NO. 23-W-J-5257

OBJECTION TO THE DENIAL OF )  
SECTION 401 WATER QUALITY CERTIFICATION )  
IDEM PERMIT NO.: 2023-365-43-SCF-A )  
IDEM'S PROJECT: LAKE WAWASEE PROPERTY )  
SYRACUSE, KOSCIUSKO COUNTY, INDIANA. )

\_\_\_\_\_  
Terstep Company, Inc., )  
Permittee/Petitioner, )  
Indiana Department of Environmental Management, )  
Respondent. )

## ORDER SCHEDULING PREHEARING CONFERENCE

PLEASE SUBMIT ALL FILINGS TO THE COURT VIA EMAIL AT [frontdesk@oea.IN.gov](mailto:frontdesk@oea.IN.gov).

This matter came before the Office of Environmental Adjudication (Court) by Petitioner Terstep Company, Inc.'s July 12, 2023 Petition for Administrative Review which document is a part of the Court's record.

### JURISDICTION

The Indiana Department of Environmental Management 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. The 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, *et seq.* In the exercise of its jurisdiction, the OEA is governed by the Administrative Orders and Procedures Act, I.C. § 4-21.5 *et seq.*, and the OEA-specific rules per 315 IAC 1, *et seq.*

### PREHEARING CONFERENCE

**AND THE COURT**, being duly advised, now **ORDERS** this matter set for a Prehearing Conference on **August 21, 2023 at 09:00 am, EDT** to be to be conducted via Teams. The Court will email a Teams invitation to the parties. *If your email is not referenced in the Distribution/Certification of Service section of this order, please submit to [frontdesk@oea.IN.gov](mailto:frontdesk@oea.IN.gov).*

**IT IS FURTHER ORDERED**

A party who fails to participate in the Prehearing Conference or any other stage of this proceeding may be held in default or may have the proceeding dismissed. For further insight into the Prehearing Conference process, purpose, and *your responsibilities as an order of this Court*, please review the attached enclosure, OEA Initial Prehearing Conference Overview.

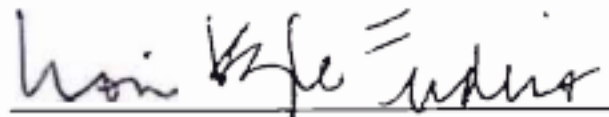
*A party must file all pleadings and documents, excluding discovery, with this office and all parties identified on the Distribution/Certificate of Service. Failure to do so may result in the judge not considering your pleading.*

**ADDITIONAL INFORMATION**

The OEA's decisions from prior contested cases, 1999 to present, are available on OEA's website at <http://www.in.gov/oea>, under the **FINAL ORDERS OF CONTESTED APPEALS** page. Links to the IDEM, the Indiana Administrative Code, and the Indiana Code are available under the **GUIDE TO ADMINISTRATIVE APPEALS** page.

Information concerning hearing schedules and procedures may be obtained by calling the Office of Environmental Adjudication at (317) 233-0850.

IT IS SO ORDERED this 13<sup>th</sup> day of July, 2023 in Indianapolis, IN.



Hon. Lori Kyle Endris  
Environmental Law Judge  
[frontdesk@oea.IN.gov](mailto:frontdesk@oea.IN.gov)

**DISTRIBUTION VIA EMAIL**

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**ENCLOSURE**

Attorney Representation in OEA Cases  
OEA Overview Re: Initial Prehearing Conference



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### REPRESENTATION IN CASES BEFORE THE OEA

- A. **Unrepresented individuals**, per I.C. § 4-21.5-3, *et seq.*, do not have to be represented by legal counsel if they are representing their own personal interest, but a party who proceeds without legal counsel (sometimes referred to as *pro se*) cannot be given legal assistance from the Court. The Court must treat an unrepresented party the same as a party who is represented by an attorney.

“A litigant who chooses to proceed *pro se* will be held to the same rules of procedure as trained legal counsel and must be prepared to accept the consequences of his action.” *Shepherd v. Truex*, 819 N.E.2d 457, 463 (Ind. Ct. App. 2004), *cited In Re: Clay Township of Hamilton County, Indiana (06-W-J-3660)*, 2007 OEA 8, 13. *See also Twin Lakes Reg'l Sewer Dist. v. Teumer*, 992 N.E.2d 744 (Ind. App. Ct. 2013), *Wressell v. R.L. Turner Corp.*, 988 N.E.2d 289 (Ind. App. Ct. 2013).

- B. **Representation of others (corporations, for example) by a non-attorney** occurs when a party (“the Representative”) represents another parties’ legal interest (“the Represented”). Without legal representation from an attorney admitted to the Indiana bar, the Represented shall demonstrate, at minimum, via a signed affidavit or corporate resolution, that the Represented has been advised of, acknowledges, and understands the following:

1. The Representative is authorized to receive service on the Represented’s behalf.
2. The Representative is not an attorney admitted to the Indiana bar;
3. The Representative may not make or address legal arguments on the Represented’s behalf;
4. If such legal arguments are raised at a later date, the Representative may not be allowed to make such arguments if doing so would result in undue delay or prejudice to any other party;
5. Failure to raise any such legal arguments may result in such arguments being waived in this proceeding or in judicial review;
6. The Representative may not participate, in a representative capacity, for the Represented in any activity which may constitute the practice of law, including, but not limited to, filing or responding to any motion which raises legal arguments; appearing in any evidentiary hearing at which evidence is introduced; or arguing at any hearing regarding legal issues raised by any party.

- C. **Legal Representation:** The form, Representation in Cases before OEA, summarizes situations where an attorney (at your cost) is required to represent the interests you present before OEA. Attorneys not admitted to the Indiana Bar must comply with Indiana’s Rules for Admission to the Indiana Bar and Discipline of Attorneys.



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## OEA INITIAL PREHEARING CONFERENCE OVERVIEW

The Presiding Environmental Law Judge (ELJ) will conduct a prehearing conference. The purpose of the prehearing conference is to:

- A. **Explore settlement possibilities.** Indiana Code § 4-21.5-3.5 authorizes the use of mediation in administrative proceedings. The parties are urged to seriously consider the potential benefits of mediation in this proceeding. Please be prepared to discuss the use of mediation during the prehearing conference.
- B. **Set deadlines**, including dates to exchange witness and exhibit lists. Witnesses or exhibits discovered after the exchange of lists shall be furnished immediately upon discovery.
- C. **Set dates for filing:**
  1. **dispositive** motions.
  2. **stipulations** to be entered, with parties stipulating to the fullest extent possible the issues, undisputed facts, authenticity and admissibility of exhibits, and any and all other matters which will expedite the hearing by reducing formal proof.
  3. **final hearings** or future prehearing conferences. Please be advised that ten (10) days before your final hearing date, you will be ordered to meet with all parties to pre-mark exhibits and agree upon stipulations.
  4. filing an **amended Petition for Review**. You may be required to submit an amendment to your petition if you have filed a Petition for Administrative Review that does NOT conform to the following standard:
    - a. State the name and address of the person making the request.
    - b. Identify the interest of the person making the request.
    - c. Identify any persons represented by the person making the request.
    - d. State with particularity the reasons for the request.
    - e. State with particularity the issues proposed for consideration at the hearing.
    - f. Identify the permit terms and conditions that, in the judgment of the person making the request, would be appropriate in the case in question to satisfy the requirements of the law governing permits of the type granted or denied by the commissioner's action.
- D. **Legal Representation:** The form, Representation in Cases before OEA, summarizes situations where an attorney (at your cost) is required to represent the interests you present before OEA. Attorneys not admitted to the Indiana Bar must comply with Indiana's Rules for Admission to the Indiana Bar and Discipline of Attorneys.