

**OBJECTION TO THE ISSUANCE OF
WASTEWATER LAND APPLICATION APPROVAL
CONSTRUCTION PERMIT 531-01
HENRYVILLE MEMBERSHIP SANITATION CORPORATION
1996 OEA 0014, OEA CAUSE NO.: 95-W-J-1211**

Official Short Cite Name:	Henryville Sanitation, 1996 OEA 014
OEA Cause No.:	95-W-J-1211
Topics/Keywords:	327 IAC 7-7-4 327 IAC 7-7-5 327 IAC 7-5-3 subject matter jurisdiction
Presiding ELJ:	Lori Kyle Endris
Party Representatives:	Mary Wertz, Esq. for IDEM Susan Williams, Esq. Margaret Cravens, <i>pro se</i>
Order Issued:	February 27, 1996
Index Category:	Water
Further Case Activity:	

Indiana Administrative Code provisions govern the location, construction, and maintenance of holding tanks and storage ponds that hold and store wastewater pumped from septic tanks, holding tanks, and sealed and privy vaults. The Henryville facility is a wastewater treatment facility; therefore, its treatment ponds are not regulated by these provisions.

2. Objectors, in their petition, further objected that Henryville:

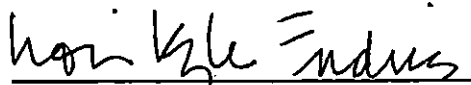
- a. Failed to obtain an easement.
- b. Failed to comply with NPDES permit.
- c. Failed to obtain approval for territorial expansion from the Indiana Utility Regulatory Commission.
- d. Failed to service all customers in its original territory before servicing customers outside the original territory.
- e. Created odors.

These objections do not fall within the subject matter jurisdiction of the Office of Environmental Adjudication.

IT IS THEREFORE ORDERED that Henryville's Motion for Summary Judgment is PARTIALLY GRANTED as to the Objectors' objections that are based on the applicability of the provisions of 327 IAC 7-7-4, 327 IAC 7-7-5, and 327 IAC 7-5-3, to the Henryville construction permit. Henryville's Motion to Dismiss is GRANTED as to all of the Objectors' remaining objections as this court lacks subject matter jurisdiction over those objections.

You are further notified that pursuant to provisions of S.E.A. 156 (P.L.41-1995 amending IC 4-21.5-7) which became effective July 1, 1995, the Office of Environmental Adjudication serves as the Ultimate Authority in administrative review of decisions of the Commissioner of the Indiana Department of Environmental Management. This is a Final Order subject to Judicial Review consistent with applicable provisions of IC 4-21.5. Pursuant to IC 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.

Dated this 26th day of February, 1996.


Lori Kyle Endris
Environmental Law Judge