

**Objection to the Issuance of Permit Approval No. 13814, Reynolds Group, Clark County  
2001 OEA 1 (00-W-J-2536)**

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**TOPICS:**

Motion to Dismiss  
Motion for Summary Judgment  
discovery  
attorney-client privilege  
permit approval  
floodway issues  
future operational failures  
fencing  
landscaping  
aesthetics

**PRESIDING JUDGE:**

Lasley

**PARTY REPRESENTATIVES:**

Petitioner: Philip R. Scharf, Jr. Spokesperson  
Robert Oster, Spokesperson  
Respondent: Michael J. Huston, Esq.: Baker & Daniels  
Nicholas Kile, Esq.: Barnes & Thornburg  
IDEM: Janice Lengel, Esq.

**ORDER ISSUED:**

January 3, 2001

**INDEX CATEGORY:**

Land

**FURTHER CASE ACTIVITY:**

[none]

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3. In addition, Petitioners speculate about potential future operational failures at this treatment facility. First, as Respondent correctly points out, the permit at issue in this case concerns construction only and not operation. Second, any operational failure that results in a violation of the law is an issue for IDEM's Office of Enforcement. This office will not usurp IDEM's permitting and enforcement authority by prejudging the applicant's ability to properly run a wastewater treatment plant. Because Petitioners have potential issues regarding the operation of the wastewater treatment plant, they should raise those issues if and when Respondent applies for and receives a NPDES permit.
4. The other issues raised by Petitioners in their Petitions for Administrative Review are outside the jurisdiction of IDEM and this office. In other words, Petitioner has not pointed to a single statute or regulation requiring fences or landscaping for aesthetic purposes. In addition, even though IDEM has issued a construction permit, the Respondent must still comply with all local laws, for which neither IDEM nor this office has enforcement authority.

Respondent's Motion to Dismiss is hereby **GRANTED**. Petitioners are hereby **DISMISSED** from these proceedings for failure to invoke the jurisdiction of this office by failing to state a claim upon which this office could grant relief.

You are further notified that pursuant to IC 4-21.5-7-5, the Office of Environmental Adjudication serves as the Ultimate Authority in administrative review of decisions of the Commissioner of IDEM. This is a Final Order subject to Judicial Review consistent with applicable provisions of IC 4-21.5-5 et seq. Pursuant to IC 4-21.5-5-5, a Petition for Judicial Review 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** in Indianapolis, Indiana this 3rd day of January 2001.

Linda C. Lasley  
Environmental Law Judge