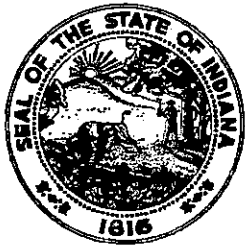


**OBJECTION TO THE ISSUANCE OF
ADAM'S COUNTY SEWER PROJECT
DECATUR, ADAMS COUNTY, INDIANA
2023 OEA 022, OEA CAUSE NO.: 22-W-J-5231**

Official Short Cite Name:	Adam's County Sewer Project, 2023 OEA 022
OEA Cause No.:	22-W-J-5231
Topics/Keywords:	I.C. § 4-21.5, <i>et seq.</i>
	I.C. § 4-21.5-3-23
	I.C. § 4-21.5-5-5
	I.C. § 4-21.5-7-3
	315 IAC 1, <i>et seq.</i>
Presiding ELJ:	LORI KYLE ENDRIS
Party Representatives:	Bobby Freeman III & Alexis Schmidtke, Petitioner
	Jennifer & Brandon Anstett, Petitioner
	Nathan Boese, Petitioner
	Brittney Burkholder & Pamela Hart, Petitioner
	Dan & Kellie Hawbaker, Petitioner
	Delane D. Hawkins, Petitioner
	Rogers Hawkins, Petitioner
	Nancy Lee Krick, Petitioner
	Sean Murphy, Petitioner
	Mr. Shannon Smitley, Adams Co. RSD, Permittee
	Valerie Tachtiris, Esq., IDEM
Date of Order:	January 20, 2023
Index Category:	Water
Further Case Activity:	



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
(317) 233-0850

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

BEFORE THE INDIANA OFFICE OF
ENVIRONMENTAL ADJUDICATION

CAUSE NO. 22-W-J-5231

OBJECTION TO ISSUANCE OF)
ADAM'S COUNTY SEWER PROJECT)
DECATUR, ADAMS COUNTY, INDIANA.)
_____)
Bobby Freeman III & Alexis Schmidtke,)
Jennifer & Brandon Anstett, Nathan Boese,)
Brittney Burkholder & Pamela Hart,)
Dan & Kellie Hawbaker, Delane D. Hawkins,)
Rogers Hawkins, Nancy Lee Krick, & Sean Murphy)
Petitioners,)
Adams County Regional Sewer District)
Permittee/Respondent,)
Indiana Dept of Environmental Management,)
Respondent.)

FINDINGS OF FACT, CONCLUSIONS OF LAW and FINAL ORDER OF DEFAULT

This matter comes before the Office of Environmental Adjudication (OEA or Court) on the Court's December 13, 2022 Proposed Order of Default. The presiding Environmental Law Judge makes the following findings of fact, conclusions of law and enters the Final Order.

FINDINGS OF FACT

1. On November 4, 2022, the Indiana Department of Environmental Management (IDEM) issued a Construction Stormwater Permit Summary Report – Sufficiency Letter regarding Permit # L-0684 to the Adams County Regional Sewer District. (Permittee/Respondent).
2. On December 7, 2022, the Court received a letter from Bobby Freeman III, Alexis Schmidtke, Nathan Boese, Brittney Burkholder, Pamela Hart, Dan & Kellie Hawbaker, Delane D. Hawkins, Rogers Hawkins, Nancy Lee Krick and Sean Murphy (Petitioners) requesting administrative review of Permit # L-0684.

3. On December 13, 2022, the Court issued a Notice of Incomplete Filing, Order To Supplement the Petition and Notice of Proposed Order of Default. To comply with Ind. Code § 4-21.5, *et seq.*, (I.C.) and 315 IAC 1, *et seq.*, the Notices and Order ordered Petitioners to supplement their letter/Petition by

- Attaching a complete copy of IDEM's action to which Petitioners object;
- Showing how they were aggrieved or adversely affected by IDEM's action;
- Sending a copy to all parties including IDEM and the permittee;
- Providing their 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
- Stating why OEA has jurisdiction over the matter

on or before January 3, 2023.

4. None of the Petitioners responded.

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).

To be timely the letter/petition had to have been filed on or or before November 22, 2022. Petitioners' letter/petition was filed on December 7, 2022. Petitioners did not comply with the requirements.

FINAL ORDER

IT IS THEREFORE ORDERED Petitioners' Petition for Administrative Review is hereby **DISMISSED**. The Construction Stormwater Permit # L-0684 issued by IDEM on November 4, 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 20th day of January, 2023 in Indianapolis, IN.



Hon. Lori Kyle Endris
Environmental Law Judge
frontdesk@oea.IN.gov

DISTRIBUTION VIA REG. & CERT. MAIL

Bobby Freeman III & Alexis Schmidtke
6261 North 600 West
Decatur, Indiana 46733

Jennifer & Brandon Anstett
6217 North 600 West
Decatur, Indiana 46733

Nathan Boese
5747 West Highway 224
Decatur, Indiana 46733

Brittney Burkholder & Pamela Hart
6010 North 600 West
Decatur, Indiana 46733

Dan & Kellie Hawbaker

DISTRIBUTION VIA EMAIL

Valerie Tachtiris, Esq.
Office of Legal Counsel
Indiana Dept of Environmental Management
100 North Senate Avenue, IGCN, Room 1307
Indianapolis, Indiana 46204
VTachtir@idem.IN.gov

NOT SERVED, contact information not provided by Petitioner

Adams County Wastewater Treatment Plant
Address not provided by Petitioner
Permittee/Respondent

6901 North 600 West
Decatur, Indiana 46733

Delane D. Hawkins
5981 West Highway 224
Decatur, Indiana 46733

Rogers Hawkins
5833 West Highway 224
Decatur, Indiana 46733

Nancy Lee Krick
5807 West Highway 224
Decatur, Indiana 46733

Sean Murphy
5765 West Highway 224
Decatur, Indiana 46733