

**Objection to the Issuance of Permit Approval No. 473-05
Mr. Perry Godlove, Godlove Enterprises, Inc., White County
2002 OEA 18 (02-S-J-2863)**

OFFICIAL SHORT CITATION NAME: When referring to 2002 OEA 18, cite this case as
Godlove Enterprises, Inc., 2002 OEA 18.

TOPICS:

land permit
Dismiss for Lack of Jurisdiction over the Subject Matter
nuisance
Trial Rule 12 (B) (1)
stay of permit
endanger public health or the environment
Subject Matter Jurisdiction

PRESIDING JUDGE:

Vogel

PARTY REPRESENTATIVES:

Petitioner: Alan D. Wilson
IDEM: Cindy Shively Klem

ORDER ISSUED:

September 22, 2002

INDEX CATEGORY:

Land

FURTHER CASE ACTIVITY:

[none]

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6. The Office of Environmental Adjudication is an administrative court of limited, statutory jurisdiction and is not endowed with equity jurisdiction.
7. The failure of the Petitioners to allege limitations of the site in question deprives this court of specific subject-matter jurisdiction pursuant to Indiana Rules of Court, Trial Rule 12 (B) (1), lack of subject-matter jurisdiction.
8. That IDEM did not abuse its discretion in the issuance of permit approval no. 473-05.
9. That even assuming *arguendo* that the OEA has jurisdiction of a general claim for nuisance under 327 IAC 7-6-3, on August 8, 2002, 327 IAC 7-6 was repealed and a new rule, 327 IAC 7.1 became effective. The current rule does not all allow IDEM to consider nuisance at all when issuing a permit approval.
10. The objection to the issuance of permit approval no. 473-05 is denied and the permit approval no. 073-05 is hereby upheld.

You are further notified that, pursuant to Indiana Code § 4-21.5-5, this Final Order is subject to judicial review. Pursuant to Indiana Code § 4-21.5-5, 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 22nd day of September, 2002 in Indianapolis, Indiana.

Candace T. Vogle
Administrative Law Judge