

**In Re: Objection to Final Order of Commissioner of
Indiana Department of Environmental Management,
Mexico Community Regional Sewer District, Miami County, Indiana
2004 OEA 45 (04-W-J-3365)**

TOPICS:

dismissal
regional sewer district
subject matter jurisdiction

PRESIDING JUDGE:

Gibbs

PARTY REPRESENTATIVES

Petitioners, pro se: Robert G. Novale, John J. Leedy, Melvin D. and Linda S. Spear,
Shirley J. Smiley, Terry R. Smiley, Michael A. Miser, Penny Hall,
Ken and Katrina Chester, William R. Stern, James A. Alwine,
Bertha F. Alwine, Karen Cadwallader, Leila Ferguson, Jean Barfell,
Arthur Williams, Danny & Virginia See
Permittee, pro se: Mexico Community Regional Sewer District
IDEM: Kathleen Mills, Esq.

ORDER ISSUED:

June 16, 2004

INDEX CATEGORY:

Water

FURTHER CASE ACTIVITY:

[none]

**In Re: Objection to Final Order of Commissioner of
Indiana Department of Environmental Management,
Mexico Community Regional Sewer District, Miami County, Indiana
2004 OEA 45 (04-W-J-3365)**

Conclusions of Law

1. The Office of Environmental Adjudication (“OEA”) ordinarily has jurisdiction over the decisions of the Commissioner of the Indiana Department of Environmental Management (“IDEM”) and the parties to this controversy pursuant to Ind. Code §4-21.5-7, et seq.
2. 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.
3. IC §13-26-2-11 states “An order for the establishment of a district is subject to review as provided in IC §4-21.5-5.”
4. Pursuant to IC §13-26-2-11, OEA does not have subject matter jurisdiction of an appeal of an order for the establishment of a regional sewer district. OEA has no subject matter jurisdiction over the requests for appeal filed by the Petitioners, Shirley Smiley, Penny Hall, Ken and Katrina Chester, Robert G. Novale, John J. Leedy, Melvin D. and Linda S. Spear, Michael A. Miser, William R. Stern, James A. Alwine, Bertha F. Alwine, Karen Cadwallader, Jean Barfell, Leila Ferguson, Danny and Virginia See, and Arthur Williams. The Petitioners must file a verified Petition for Judicial Review in the appropriate trial court. This matter must therefore be dismissed.

Final Order

IT IS THEREFORE ORDERED that the Office of Environmental Adjudication hereby **DISMISSES** the requests for appeal filed by the Petitioners for lack of subject matter jurisdiction. All previous Orders issued by this Court are hereby **VACATED**.

You are hereby further notified that pursuant to provisions of Indiana Code § 4-21.5-7.5, the Office of Environmental Adjudication serves as the Ultimate Authority in the 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.

IT IS SO ORDERED this 16th day of June, 2004 in Indianapolis, IN.

Hon. Catherine Gibbs
Environmental Law Judge