

RECEIVED  
CLERK'S OFFICE

JUL 28 2014

STATE OF ILLINOIS  
Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD  
July 24, 2014

CHATHAM BP, LLC	)	
	)	
Petitioner,	)	
	)	
v.	)	
	)	PCB 14-01
ILLINOIS ENVIRONMENTAL	)	(UST Appeal)
PROTECTION AGENCY,	)	
	)	
Respondent.	)	
	)	



ORIGINAL

**HEARING OFFICER ORDER**

On July 10, 2014, petitioner filed a motion in limine to bar evidence regarding the Agency's calculations used in its determination that the costs for drum disposal exceeded the minimum requirements. Respondent did not respond. Petitioner asserts that the calculations do not appear in the administrative record despite the fact that the project manager describes the alleged calculations in an affidavit. By the time petitioner received a copy of the calculations, the document showed a date indicating that it had been modified after the determination was issued.

The Board has previously found instances where evidence is admissible in an UST appeal despite not being included in the administrative record. The purpose of the hearing is to explain the information relied on by the Agency for the denial. Thus, evidence may be admissible if it existed at the time of the Agency's determination, and would have been appropriate for the Agency to consider in its determination. *See e.g. Freedom Oil Company v. IEPA*, PCB 03-54 (Feb. 2 2006); *Weeke Oil Company v. IEPA*, PCB 10-1 (May 20, 2010).

In this appeal, the Board must determine whether drum disposal costs exceed the minimum requirement. To this end, the motion in limine is denied, and testimony regarding data and calculations used in respondent's determination shall be admissible at hearing. Any documents the Agency intends to introduce into evidence on this issue shall be provided to petitioner at least 24 hours before hearing.

IT IS SO ORDERED.

Carol Webb

---

Carol Webb  
Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, Illinois 62794-9274  
217/524-8509  
Carol.webb@illinois.gov

## CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were mailed, first class, on July 24, 2014, to each of the persons on the service list below.

It is hereby certified that a true copy of the foregoing order was hand delivered to the following on July 24, 2014:

John T. Therriault  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph St., Ste. 11-500  
Chicago, Illinois 60601



Carol Webb  
Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, Illinois 62794-9274  
217/524-8509  
[Carol.Webb@illinois.gov](mailto:Carol.Webb@illinois.gov)

SERVICE LIST

PCB 2014-001  
Scott B. Sievers  
IEPA  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

PCB 2014-001  
William D. Ingersoll  
Brown, Hay & Stephens LLP  
205 South Fifth Street  
Suite 700  
P.O. Box 2459  
Springfield, IL 62705-2459