

ILLINOIS POLLUTION CONTROL BOARD
June 23, 1994

SHERIDAN TOWERS PARTNERSHIP,)	
Beneficiary Under Trust)	
No. 11862)	
LASALLE NATIONAL TRUST, N.A.,)	
Trustee,)	
)	
Petitioner,)	PCB 94-106
)	(UST Fund)
v.)	
)	
OFFICE OF THE STATE FIRE)	
MARSHAL,)	
)	
Respondent.)	

ORDER OF THE BOARD (by M. McFawn):

This matter is before the Board on petitioner Sheridan Tower Partnership's (Sheridan) May 31, 1994 motion to supplement the record in this eligibility/deductibility determination review. On June 7, 1994, respondent Office of the State Fire Marshal (OSFM) filed a response to petitioner's motion, requesting that the Board deny the motion.

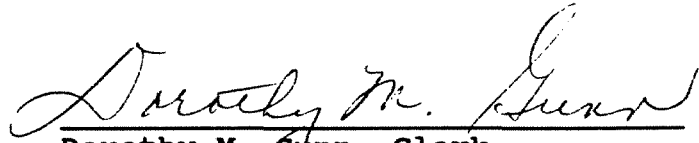
Petitioner seeks to supplement the record with certain information from the files of the City of Chicago's Department of the Environment, and information filed with the Illinois Environmental Protection Agency. Petitioner does not assert that this information was ever made part of the record, but rather asserts that this information was available for respondent's review since it was filed with other agencies. Respondent asserts that these documents were never made part of the record, and were therefore never before the OSFM prior to its final eligibility/deductibility determination. Furthermore, respondent contends that information in other Agency files is not "available" for its review.

In accordance with the Board's current practice, the Board will review this OSFM determination under its rules for permit appeals set forth in 35 Ill. Adm. Code Part 105. Except as provided therein for NPDES permits, the Board's review and decisions are to be based exclusively on the record before the Illinois Environmental Protection Agency (Agency). Illinois Environmental Protection Agency v. Pollution Control Board (1st Dist. 1983) 74 Ill.Dec. 158 at 164, 455 N.E. 2d 188; Illinois Environmental Protection Agency v. Pollution Control Board (1st Dist. 1980) 410 N.E.2d 98 at 104; see also Joliet Sand and Gravel v. Illinois Pollution Control Board (3rd Dist. 1987) 516 N.E.2d 955, 114 Ill.Dec. 800 at 803.) Accordingly, the Board will not consider information which was not before the OSFM when it made its eligibility/deductibility determination.

We hold that the information which petitioner seeks to add to the record was not part of the record before the OSFM when it made its final eligibility/deductibility determination. It would therefore be improper for the Board to consider this information when reviewing the OSFM's determination. Petitioner's motion to supplement the record is hereby denied.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 23rd day of June 1994, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board