

ILLINOIS POLLUTION CONTROL BOARD

MINUTES OF REGULAR BOARD MEETING  
OCTOBER 18, 1989 CHICAGO, ILLINOIS

All Board Members were present.

Board Member J. Dumelle presented a draft Opinion and Order in #89-92, Christian County. Motion to amend by J. Anderson and seconded by R. Flemal carried by a 5-2 vote with J. Anderson, R. Flemal, J. Marlin, J. Theodore Meyer and M. Nardulli for it and J. Dumelle and B. Forcade against it. A modified Opinion and Order was then adopted by a vote of 5-2. J. Dumelle and B. Forcade dissented. (JA)

In R87-6, Phosphorus Effluent Standards, a Proposed Rule, Revised Second Notice, Supplemental Opinion and Order was adopted by a vote of 6-1. B. Forcade dissented. (JA)

In R87-36, Modine Site-Specific, a Proposed Rule, First Notice, Opinion and Order was adopted by a vote of 7-0. (RF)

In R88-9, Reilly Tar & Chemical, an Adopted Rule, Final Order, Opinion and Order was adopted by a vote of 7-0. (MN)

In R89-1, RCRA Update, USEPA Regulations (August 1, 1988 through December 31, 1988), Big River Zinc Corporation's motion for reconsideration was granted and upon reconsideration the Board modified its September 13, 1989 Order. Big River Zinc Corporation's motions to extend the withholding of filing of portions of the Rules and for leave to appear before the Board were denied by a vote of 7-0. (JA)

In R89-8, Exemptions from the Definition of VOM, an Adopted Rule, Final Order, Opinion and Order was adopted by a vote of 7-0. (JA)

In R89-13(A), Special Waste Classification, an Interim Request for Public Comment, Opinion and Order was adopted by a vote of 5-2. Messrs. J. Dumelle and B. Forcade dissented. (JA)

In R89-17, California Motor Vehicle Control Program, an Inquiry Hearing Order was adopted by a vote of 7-0. (JTM)

Default Orders were adopted in these Administrative Citations by a vote of 7-0: #89-176, Palumbo Asphalt; 89-181, City of Georgetown; 89-182, Mark Grigiski et al.; 89-186, Louis J. Goldstein; 89-188, Waste Control, Inc.; 89-189, City of Casey; 89-193, Cedar Siding and Lumber, Inc.; 89-195, Jersey Sanitation Corporation; 89-196, Wayne D. Molen et al.; 89-197, Norma Landers; 89-199, Burke's Hauling and Refuse, Inc.; 89-200, George Jones; 89-201, Fred Gocey; 89-202, Jim Laurenzana.

The following matter was discussed and held to November 2, 1989 for further discussion or possible decision: #88-191, Testor Corporation.

Respondent's motion for an extension of time to file its Brief was granted until October 30, 1989 in ##AC 88-76, -77, E & E Hauling, by a vote of 7-0. (JA)

Respondent's motion for an extension of time to file its Brief was granted until November 1, 1989 in #AC 88-93, City of Herrin, by a vote of 7-0. (JM)

Agency motion to withdraw complaint and dismiss the action in #AC 89-153, Joseph Luparell, was granted by a vote of 7-0. (JM)

By a vote of 7-0, Respondent's motion to consolidate in #AC 89-187, -203, Waste Hauling Landfill, was denied and the cases were reassigned to one hearing officer so that the hearings can be consecutively held at the same location to the extent that is possible with each proceeding being transcribed separately and the records being fully developed in each. (JM)

An agreed motion to dismiss the proceedings in #83-55, Alton Packaging, was granted by a vote of 7-0. (RF)

Petitioner's motion for modification of a November 19, 1987 Board Order in #85-218, City of Belleville, was granted by a vote of 7-0. (JD)

Petitioner's motion for extension and modification of variance was granted in #87-136, Roadmaster Corporation, by a vote of 7-0. J. Dumelle concurred. (JTM)

Petitioner's motion for modification of an August 4, 1988 Board Order in #88-52, City of Ottawa, was granted by a vote of 7-0. J. Dumelle concurred. (RF)

Petitioner's motion for voluntary dismissal was granted in #88-58, Quantum Chemical, by a vote of 7-0. (BF)

Petitioner's motion to voluntarily withdraw was granted in #88-99, Safety-Kleen, by a vote of 7-0. (BF)

An agreed motion to dismiss the permit appeal in #88-112, Jefferson Smurfit, was granted by a vote of 7-0. (BF)

By a vote of 7-0, Petitioner's motion for voluntary dismissal was granted and the Clerk of the Board was directed to return any material claimed to represent a trade secret in #88-121, Simkins Industries. (RF)

Petitioner's motion for leave to appeal Interlocutory Hearing Officer Order and Agency motion for further sanctions and or dismissal will be taken with the case in chief in #88-152,

Citizens Utilities.

By a vote of 7-0, ESR/Anden Corporation and Town and Country Homes motion to dismiss ESR/Anden Corporation as a party defendant and to substitute Town and Country Homes as a party defendant was granted and the caption of the proceeding shall be changed to reflect the dismissal and substitution in all future filings and Board Orders in #88-173, Village of Kildeer. (JTM)

An Order dismissing the proceedings in #89-23, IDOT, Loyola University, was adopted by a vote of 7-0. (RF)

By a vote of 7-0, joint motion to stay was granted and the parties shall inform the Board as to the status of their negotiations within 90 days in ##89-44, -87, Moline Corporation. (JM)

An agreed motion for an extension of time to file response to the Agency recommendation was granted until October 27, 1989 in #89-66, Village of North Aurora, by a vote of 7-0. (RF)

By a vote of 7-0, a joint motion to stay the proceedings was denied and the parties may refile their motion if it is accompanied by an appropriate waiver of the statutory decision deadline in #89-78, Moline Corporation. (JM)

An agreed motion for an extension of time to file a response to the Agency recommendation was granted until October 27, 1989 in #89-107, City of Geneva, by a vote of 7-0. (JM)

Petitioner's motion for leave to file its response to Objectors' application for leave to Intervene or to file Amicus Briefs Instanter was granted in #89-121, Metropolitan Waste Systems, by a vote of 7-0. (MN)

Petitioner's motion to appear pro hac vice was granted in #89-133, Union Oil Company, by a vote of 7-0. (BF)

By a vote of 7-0, Petitioner's motion for voluntary dismissal was granted and the Clerk of the Board was directed to return any material claimed to represent a trade secret in R88-20, Simkins Industries. (RF)

By a vote of 7-0, Petitioner's letter dated September 7, 1989 and filed with the Board on October 4, 1989 in R88-25, City of Havana, was construed by the Board to be a motion for Board comment and the Agency was directed to respond and comment within 10 days. (MN)

These cases were discussed and held to November 2, 1989 for further discussion or possible decision: ##87-93, Commonwealth Edison; 88-172, Allied-Signal; 89-102, Reilly Industries.

This regulatory matter was discussed and held to November 2, 1989

for further discussion or possible decision: R89-7(B), Repeal of New Source Performance Standards and Hazardous Air Pollutant Rules, Proposed Rule, First Notice Opinion and Order.

In amended petitions these actions were taken by a vote of 7-0: ##89-72, Olin Corporation, 120-day decision time clock restarted with its filing; 89-129, National Environmental Services, construed as an amended petition and accepted for hearing, **Order by B. Forcade**; 89-139, City of Chenoa, 120-day decision time clock restarted with its filing.

In new cases these actions were taken by a vote of 7-0: ##89-151, Brian J. Peter v. Geneva Meat and Fish Market, accepted for hearing; 89-155, EPA v. Decor Gravure Corporation, hearing mandatory; 89-156, Stepan Company v. EPA, accepted for hearing, **Order by B. Forcade**; 89-157, People of the State of Illinois v. Clybourn Metal Finishing Company, hearing mandatory; 89-158, People of the State of Illinois v. Gilbertson Clybourn, Inc., hearing mandatory; 89-159, People of the State of Illinois v. Crown Cork and Seal Company, Inc., hearing mandatory; 89-160, EPA v. P.L. Dillon Limestone, Inc., hearing mandatory; 89-161, EPA v. Technical Products, Inc., hearing mandatory; 89-162, EPA v. Family Enterprises, Inc., d/b/a Belletini's Grocery, hearing mandatory; 89-163, A.B. Dick Company v. EPA, accepted for hearing and Petitioner advised that any request for stay must be addressed by separate motion citing factual and legal bases for such stay, **Order by B. Forcade**; 89-164, Burlington Northern Railroad v. EPA, provisional variance granted, **Order by J. Marlin**; 89-165, Super-Cut v. EPA, provisional variance granted, **Order by J. Marlin**; 89-166, Modine v. EPA, provisional variance granted, **Order by J. Marlin**; 89-167, Microswitch #4 v. EPA, provisional variance granted, **Order by J. Marlin**; 89-168, Phyllis A. Daidone et al. v. Lexington Square, held for **Duplicitous/Frivolous determination.**

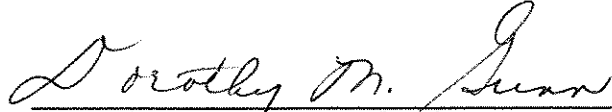
Because Petitions for Review were filed, these Administrative Citations will be set for hearing: ##89-190, James and Nellie Britz; 89-198, General Iron Industries.

These Administrative Citations were received by the Board: ##89-215, Thomas Omer; 89-216, J & L Pallett Service, Inc.; 89-217, Melvin Banks; 89-218, G & M Wrecking Company, Inc.; 89-219, Cedar Siding & Lumber, Inc.; 89-220, First Illinois Bank & Trust et al.; 89-221, Maddox Construction Company; 89-222, Paul Seebold, Sr.; 89-223, Jeannette Childs; 89-224, John Vander.

Minutes of these Board Meetings were approved by a vote of 7-0: September 28, 1989; October 2, 1989; October 5, 1989.

All other matters not disposed of as listed were ordered held to November 2, 1989 for possible consideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Minutes were approved this 2nd day of November, 1989 by a vote of 6-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board

PENDING CASES ASSIGNED:

83-55 Alton Packaging (RF)(open waiver)  
 \* 85-95 Citizens Utilities (Remand)(JTM)(open waiver)  
 \* 85-166 Citizens Utilities (JTM)(open waiver)  
 86-56 Trilla Steel Drum (Remand)(JD)  
 86-161 Elizabeth Street Foundry (JD)  
 \* 86-180 The Ceco Corporation (BF)(open waiver)  
 87-89 Cargill (Remand)(JM)  
 \* 87-127 City of East Moline (BF)(due 11/15)  
 \* 87-131 Amerock Corporation (JTM)(open waiver)  
 87-139 Browning-Ferris (JD)  
 87-209 Commonwealth Edison Company (JA)  
 AS 88-2 Stepan Company(JM)  
 \* 88-25 Modine Manufacturing (JA)(open waiver)  
 88-36 Mervis Industries (JD)  
 \* 88-58 Quantum Chemical (BF)(due 1/11)  
 88-71 Allen Barry (BF)  
 AC 88-76 E & E Hauling (JA)  
 AC 88-77 E & E Hauling (JA)  
 AC 88-90 James Esarey (JM)  
 AC 88-93 City of Herrin (JM)  
 88-127 Koppers Company (JD)  
 \* 88-151 Citizens Utilities (RF)(due 3/8)  
 88-173 Village of Lake Zurich (JTM)  
 \* 88-195 McLean County Disposal (JTM)(open waiver)  
 88-199 Seegers Grain (JM)  
 88-207 Central Illinois Public Service (MN)  
 \* 89-5 Arco Products (RF)(due 1/25)  
 AC 89-10 Jim Landers (MN)  
 89-23 IDOT, Loyola University (RF)  
 89-29 Village of Fox River Grove (BF)  
 \* 89-41 Old Ben Coal (JA)(due 12/20)  
 \* 89-42 Old Ben Coal (JA)(due 12/20)  
 89-53 Lefton Iron & Metal (MN)  
 \* 89-66 Village of North Aurora (RF)(due 12/20)  
 89-64 Gallagher Blacktop (BF)  
 89-69 Klausung Tree Service (BF)  
 \* 89-104 Metropolitan Waste Systems (JD)(due 2/8)  
 \* 89-107 City of Geneva (JM)(due 12/20)  
 \* 89-108 McLean County Disposal (JTM)(due 11/15)  
 AC 89-109 Fairview Heights (JA)  
 \* 89-121 Metropolitan Waste Systems (MN)(due 11/15)  
 \* 89-122 Rowe Foundry & Machine Company (JM)(due 11/15)  
 \* 89-130 Village of Malta (JM)(due 12/20)  
 \* 89-131 City of Galva (MN)(due 12/20)  
 \* 89-138 Solid Waste Agency (JM)(due 1/25)  
 \* 89-139 City of Chenoa (RF)(due 1/25)  
 \* 89-140 City of Minonk (MN)(due 3/8)

NEW AC CASES:

- 89-215 Thomas Omer \_\_\_\_\_
- 89-216 J & L Pallet Service, Inc. \_\_\_\_\_
- 89-217 Melvin Banks \_\_\_\_\_
- 89-218 G & M Wrecking Company, Inc. \_\_\_\_\_
- 89-219 Cedar Siding & Lumber, Inc. \_\_\_\_\_
- 89-220 First Illinois Bank & Trust et al. \_\_\_\_\_
- 89-221 Maddox Construction Company \_\_\_\_\_
- 89-222 Paul Seebold, Sr. \_\_\_\_\_
- 89-223 Jeannette Childs \_\_\_\_\_
- 89-224 John Vander \_\_\_\_\_

MINUTES:

- September 28, 1989 \_\_\_\_\_
- October 2, 1989 (Special Board Meeting) \_\_\_\_\_
- October 5, 1989 (Special Board Meeting) \_\_\_\_\_

ILLINOIS POLLUTION CONTROL BOARD  
FINAL AGENDA  
OCTOBER 18, 1989 CHICAGO, ILLINOIS  
CONFERENCE ROOM 9-040  
10:30 A.M.

DECISIONS:

- \* 88-191 Testor Corporation (JTM)(due) \_\_\_\_\_
- \* 89-92 Christian County (JD)(due) \_\_\_\_\_
- R87-6 Phosphorus Effluent Standards, Proposed Rule, Second  
Notice, Supplemental Opinion and Order (JA)  
\_\_\_\_\_
- R87-36 Modine Site-Specific, Proposed Rule, First Notice,  
Opinion and Order (RF) \_\_\_\_\_
- R88-9 Reilly Tar & Chemical, Adopted Rule, Final Opinion and  
Order (MN) \_\_\_\_\_
- R89-1 RCRA Update, USEPA Regulations (August 1, 1988 through  
December 31, 1988), amend Adopted Rule regarding Big  
River motions of October 4 and October 11, 1989 (JA)  
\_\_\_\_\_
- R89-8 Exemptions from the Definition of VOM, Adopted Rule,  
Final Order, Opinion and Order (JA)  
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- R89-13 Special Waste Classification, authorization to circulate  
(A) draft prior to Second Notice action (JA)  
\_\_\_\_\_
- R89-17 California Motor Vehicle Control Program, Inquiry  
Hearing Order (JTM) \_\_\_\_\_

AC DECISIONS:

- 89-176 Palumbo Asphalt \_\_\_\_\_



**AC DECISIONS: (Cont'd)**

89-181 City of Georgetown \_\_\_\_\_

89-182 Mark Grigiski et al. \_\_\_\_\_

89-186 Louis J. Goldstein \_\_\_\_\_

89-188 Waste Control, Inc. \_\_\_\_\_

89-189 City of Casey \_\_\_\_\_

89-191 Adolph Lo \_\_\_\_\_

89-192 City of Casey \_\_\_\_\_

89-193 Cedar Siding & Lumber, Inc. \_\_\_\_\_

89-195 Jersey Sanitation Corporation \_\_\_\_\_

89-196 Wayne D. Molen et al. \_\_\_\_\_

89-197 Norma Landers \_\_\_\_\_

89-199 Burke's Hauling & Refuse, Inc. \_\_\_\_\_

89-200 George Jones \_\_\_\_\_

89-201 Fred Gocey \_\_\_\_\_

89-202 Jim Laurenzana \_\_\_\_\_

**AC MOTIONS:**

88-76 E & E Hauling - Respondent's motion to extend time  
88-77 (10/13), County of DuPage response to September 13,  
1989 Board Order (10/16), Agency response to  
September 13, 1989 Board Order (10/17)(JA) \_\_\_\_\_

88-93 City of Herrin - Respondent's motion for extension of  
time to file Brief (10/3)(JM) \_\_\_\_\_

89-153 Joseph Luparell - Agency motion to withdraw complaint  
and dismiss action (10/11) \_\_\_\_\_

89-171 City of Paxton - Agency motion to proceed to decision by  
submittal of written legal argument to the Board without  
hearing (10/16) \_\_\_\_\_

AC MOTIONS: (Cont'd)

89-178 City of Harvey - Respondent's motion to vacate September 28, 1989 Default Order (10/10), Agency response to Respondent's motion to vacate (10/13)(JM)

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89-187 Waste Hauling Landfill - Respondent's motion to  
89-203 consolidate (10/5)

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MOTIONS:

83-55 Alton Packaging - agreed motion to dismiss proceedings (10/2)(RF)

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85-218 City of Belleville - Petitioner's motion for modification of October 29, 1987 Order (8/7), Agency response to Petitioner's motion for modification of Board Order (9/14), Petitioner's response to September 28, 1989 Board Order (10/10), Agency response to September 28, 1989 Board Order (10/13)(JD)

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87-136 Roadmaster Corporation - Petitioner's motion for extension and modification of variance (9/18)

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87-191 Lefton Iron & Metal - Respondents Moss-American and Kerr-McGee's motion for clarification (10/6)

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88-52 City of Ottawa - Petitioner's motion for modification of August 4, 1988 Board Order (10/2)(RF)

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88-58 Quantum Chemical - Petitioner's motion for voluntary dismissal (10/3)(BF)

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88-99 Safety-Kleen - Petitioner's motion to voluntarily withdraw (10/13)(BF)

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88-112 Jefferson Smurfit - agreed motion to dismiss permit appeal (10/2)(BF)

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88-121 Simkins Industries - Petitioner's motion for voluntary dismissal (10/5)(RF)

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MOTIONS: (Cont'd)

- 88-151 Citizens Utilities - Petitioner's motion for leave to appeal Interlocutory Hearing Officer's Order (9/15), Agency motion for further sanctions and or dismissal (9/25), Agency response to Petitioner's appeal of Hearing Officer's Interlocutory Order of September 12, 1989 (9/27), Petitioner's response to Agency's motion for further sanctions and or dismissal (10/10)(RF)
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- 88-173 Village of Kildeer - ESR/Anden Corporation and Town & Country Homes motion to dismiss ESR/Anden Corporation as a party defendant (9/11)(JTM)
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- 88-203 American National Can - Petitioner's motion to consolidate and modify August 31, 1989 Board Order (10/2)(MN)
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- 89-19 Sheridan South Condominium - Respondent's motion to vacate September 28, 1989 Board Order and motion to dismiss (10/2)
- 
- 89-23 IDOT, Loyola University - Dismissal Order (RF)
- 
- 89-44) Moline Corporation - joint motion to stay proceedings  
89-87) (9/28)
- 
- 89-66 Village of North Aurora - agreed motion for extension of time to file response to Agency recommendation (10/13)(RF)
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- 89-78 Moline Corporation - Petitioner's motion for summary judgment (9/8), Agency motion to file Instanter and response to Petitioner's motion for summary judgment (9/26), joint motion to stay proceedings (9/28)(JM)
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- 89-83 American National Can - Petitioner's motion to consolidate and modify September 13, 1989 Board Order (10/2)(BF)
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- 89-107 City of Geneva - agreed motion for extension of time to file response to Agency recommendation (10/13)(JM)
- 
- 89-117 Waste Management - Objection (10/10)
- 
- 89-121 Metropolitan Waste Systems - Petitioners' motion for leave to file Instanter response to Objectors' Applications for Leave to Intervene or to file Amicus Briefs (10/6)(MN)
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**MOTIONS: (Cont'd)**

- 89-133 Union Oil Company - Petitioner's motion to appear  
(10/16)(BF) \_\_\_\_\_
- 89-148 Reichhold Chemicals - Petitioner's motion to Board for  
sanctions (10/16) \_\_\_\_\_
- R88-20 Simkins Industries - Petitioner's motion for voluntary  
dismissal (10/5)(RF) \_\_\_\_\_
- R88-25 City of Havana Site-Specific - letter construed as  
motion for Board comment (10/4)(MN) \_\_\_\_\_
- R89-1 RCRA Update - motion to extend the withholding of filing  
of portions of the rules adopted in R89-1 by Big River  
Zinc Corporation (10/4), motion for reconsideration of  
stay by Big River Zinc Corporation (10/11)(JA) (SEE  
DECISION AGENDA) \_\_\_\_\_
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**DISCUSSIONS:**

- 87-93 Commonwealth Edison (RF) \_\_\_\_\_
- 88-172 Allied-Signal (MN)(due 11/15) \_\_\_\_\_
- \* 89-102 Reilly Industries (JA)(due 11/2) \_\_\_\_\_
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**REGULATORY DISCUSSIONS:**

- R89-7(B) Repeal of New Source Performance Standards and Hazardous  
Air Pollutant Rules, Proposed Rule, First Notice,  
Opinion and Order (JD) \_\_\_\_\_
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**AMENDED PETITIONS:**

- 89-72 Olin Corporation (filed 10/4) \_\_\_\_\_
- 89-129 National Environmental Services (filed 10/17)  
\_\_\_\_\_
- 89-139 City of Chenoa (filed 9/28)(RF) \_\_\_\_\_

**NEW CASES:**

89-151 Brian J. Peter v. Geneva Meat and Fish Market  
\_\_\_\_\_

89-155 EPA v. Decor Gravure Corporation \_\_\_\_\_

89-156 Stepan Company v. EPA (BF) \_\_\_\_\_

89-157 People of the State of Illinois v. Clybourn Metal  
Finishing Company \_\_\_\_\_

89-158 People of the State of Illinois v. Gilbertson Clybourn,  
Inc. \_\_\_\_\_

89-159 People of the State of Illinois v. Crown Cork and Seal  
Company, Inc. \_\_\_\_\_

89-160 People of the State of Illinois v. P.L. Dillon  
Limestone, Inc. \_\_\_\_\_

89-161 EPA v. Technical Products, Inc. \_\_\_\_\_

89-162 EPA v. Family Enterprises, Inc., d/b/a Belletini's  
Grocery \_\_\_\_\_

89-163 A.B. Dick Company v. EPA (BF) \_\_\_\_\_

89-164 Burlington Northern Railroad v. EPA (Provisional  
Variance)(JM) \_\_\_\_\_

89-165 Super-Cut v. EPA (Provisional Variance)(JM)  
\_\_\_\_\_

89-166 Modine v. EPA (Provisional Variance)(JM)  
\_\_\_\_\_

89-167 Microswitch #4 v. EPA (Provisional Variance)(JM)  
\_\_\_\_\_

89-168 Phyllis A. Daidone et al. v. Lexington Square  
\_\_\_\_\_

**AC APPEALS:**

89-190 James & Nellie Britz \_\_\_\_\_

89-198 General Iron Industries \_\_\_\_\_