

ILLINOIS POLLUTION CONTROL BOARD

MINUTES OF REGULAR BOARD MEETING
JUNE 23, 1992 CHICAGO, ILLINOIS

All Board Members were present.

An Opinion and Order was adopted in #AS 91-7, Decatur Sanitary District, by a vote of 7-0. (GTG)

An Opinion and Order was adopted in #92-36, City of Lake Forest, by a vote of 6-1. J. Anderson dissented. (JCM)

In R91-3, Safe Water Drinking Act Update, USEPA Regulations (July 1, 1990 through December 31, 1990), an extension of time Order was adopted by a vote of 7-0. (JA)

In R92-1, RCRA Update, USEPA Regulations (July 1, 1991 through December 31, 1991), an extension of time Order was adopted by a vote of 7-0. (JA)

Default Orders were adopted in these Administrative Citations by a vote of 7-0: ##92-34, W.W. Sanitation; 92-36, Ruth and Steve Sheppard; 92-38, Richard Haan, Jr..

Motion for reconsideration of an April 23, 1992 Board Order filed by Respondent, Southern Illinois Asphalt Company, was denied in #AC 89-224(B), John Vander, by a vote of 7-0. (JCM)

An Order granting leave to the Respondent to file an affidavit on or before July 7, 1992 to support its letter received by the Board on May 7, 1992, and directing the Complainant to file its response, if any, on or before July 21, 1992, was adopted in #AC 92-24, White & Brewer Trucking, by a vote of 7-0. (JCM)

Agency motion to withdraw was granted in #AC 92-45, Leroy Brown & Sons, by a vote of 7-0. (JCM)

An Order directing the Agency to file its response to the petition on or before July 23, 1992, was adopted in #AS 90-2, Shell Oil Company, by a vote of 7-0. (GTG)

An Order directing the parties to file an updated status report on or before October 1, 1992, was adopted in #AS 91-8, Reynolds Metals Company, by a vote of 7-0. (GTG)

An Order staying the proceedings until the completion of the bankruptcy case and requesting Petitioner to update the Board on the status of the bankruptcy proceeding by filing status reports as the circumstances warrant, was adopted in ##89-87, -44, Moline Corporation, by a vote of 7-0. (BF)

An Order directing the parties to file an updated status report on

or before September 15, 1992, was adopted in #89-178, Olin Corporation, by a vote of 7-0. (GTG)

As the parties have arranged a July status call with the hearing officer, an Order leaving the filing of a further status report up to the discretion of the hearing officer, was adopted in #90-24, Rock-Ola Manufacturing Corporation, by a vote of 7-0. (GTG)

An Order construing the appellate court's mandate to mean that the site location of Petitioner is considered approved and that no further action by the Board or the City Council of the City of Harvey is necessary, was adopted in #90-53, Industrial Fuels and Resources, by a vote of 7-0. (JA)

An Order directing the hearing officer to schedule an additional evidentiary hearing as expeditiously as possible, was adopted in #90-108, Joseph and Pamela Stratton, by a vote of 7-0. (JTM)

Pursuant to a joint motion for waiver of hearing on the Stipulation and Proposal for Settlement, an Order directing the Clerk of the Board to cause publication of the required newspaper notice, was adopted in #90-161, Columbia Quarry Company, by a vote of 7-0. (JCM)

An Order directing the parties to file an amended status report to be received by the Board on or before July 7, 1992 or the matter will be subject to dismissal, was adopted in #90-196, Heico Incorporated, by a vote of 7-0. (GTG)

An Order directing the parties to file an updated status report on or before September 15, 1992, was adopted in #90-198, Commonwealth Edison Company, by a vote of 7-0. (GTG)

An Order directing the hearing officer to schedule a hearing on or before July 15 and to complete hearings by August 15, 1992, and authorizing the hearing officer to modify this schedule by order in the event that an additional waiver of the decision date is received, was adopted in #90-215, Spraying Systems Company, by a vote of 7-0. (GTG)

Agency motion for leave to file its recommendation instanter was granted, but the Board declined to cancel the hearing in #91-10, Amoco Oil Company, by a vote of 7-0. (GTG)

An Order denying Petitioner's second amended motion for summary judgment but granting the procedural motions to file, was adopted in #91-18, Illinois Central Railroad, by a vote of 7-0. (JA)

Agency motion for leave to file the Agency's answer instanter was granted in ##91-28, -92-2, Acme Steel, by a vote of 7-0. (JA)

An Order denying Petitioner's motion to reschedule the hearing date

but authorizing the hearing officer to reschedule hearing in the event an appropriate waiver is received, and advising the parties that if the hearing is cancelled, the Board would expect the filing of an updated status report on or before September 15, 1992, was adopted in #91-52, Atwood Industries, by a vote of 7-0. (GTG)

Petitioner's motion to withdraw its petition for review was granted in #91-70, Commonwealth Edison Company, by a vote of 7-0. (BF)

An Order staying the proceeding pending the outcome of the action in the Circuit Court, instructing the Petitioner to inform the Board promptly of any changes in the current status of the action presently before the Circuit Court, and to submit quarterly status reports every 90 days, was adopted in #91-75, Community Consolidated School District No. 15, by a vote of 7-0. (BF)

An Order directing the parties to file another status report with the Board to be received by the Board no later than July 15, 1992, was adopted in #91-87, Olin Corporation, by a vote of 7-0. (GTG)

An Order directing the parties to file an updated status report on or before September 15, 1992, was adopted in #91-122, Condecor, by a vote of 7-0. (GTG)

An Order directing the parties to file an updated status report on or before September 15, 1992, was adopted in #91-137, Amoco Oil Company, by a vote of 7-0. (GTG)

An Order directing the parties to file a status report on or before September 15, 1992, which shall include an estimated date for the completion of the action, was adopted in #91-139, R. Lavin & Sons, by a vote of 7-0. (GTG)

An Order directing the parties to file an updated status report on or before September 15, 1992, which shall contain an estimated date for the conclusion of the matter, was adopted in ##91-158, -179, Commonwealth Edison Company, by a vote of 7-0. (GTG)

An Order directing the parties to file an updated status report on or before September 15, 1992, which shall contain an estimated date for the conclusion of the matter, was adopted in ##91-178, -180, Commonwealth Edison Company, by a vote of 7-0. (GTG)

An Order directing the parties to file an updated status report on or before September 15, 1992, which shall contain an estimated date for the conclusion of the matter, was adopted in #91-199, Commonwealth Edison Company, by a vote of 7-0. (GTG)

Petitioner's motion to withdraw its petition for appeal review was granted with prejudice in #91-221, Manito/Waddell Airport, by a vote of 7-0. (BF)

Petitioner's motion to withdraw was granted in #91-232, Lyons/Paulina Kerpec Trust #103, by a vote of 7-0. (BF)

Petitioner's motion for rehearing or reconsideration was denied in #92-1, Russell L. Bacon, by a vote of 7-0. (MN)

Agency motion to extend the time to file the record was granted until June 30, 1992, in #92-43, Safety-Kleen Corporation, by a vote of 7-0. (JCM)

Agency motion to file the record instanter was granted in #92-60, Kean Oil Company, by a vote of 7-0. (JA)

Agency motion to file the record instanter was granted in #92-62, Galesburg Cottage Hospital, by a vote of 7-0. (JA)

Agency motion to extend the time to file the record was granted until July 30, 1992, in #92-76, Meyer Steel Drum, by a vote of 7-0. (JCM)

Agency motion to file the record instanter was granted in #92-83, Harlem Township, by a vote of 6-1. J. Theodore Meyer dissented. (JA)

These cases were discussed and held to July 9, 1992 for further discussion or possible decision: ##AC 91-31(A&B), Randall Loveless; 91-193, Park Crematory, Inc.; 92-42, Burwell Oil Service; 92-49, Bernard Miller.

In amended petitions these actions were taken by a vote of 7-0: ##90-27, Shell Oil Company, 120-day decision time clock restarted with its filing; 92-63, Department of the Air Force, held for an Agency recommendation.

In new cases these actions were taken by a vote of 7-0: #92-80, Lake County Forest Preserve District v. Neil Ostro, Janet Ostro, and Big Foot Enterprises, Respondents motion for an extension of time in which to answer the complaint was granted in part until July 7, 1992, and the Board pointed out to the Respondents that there is no decision deadline in enforcement cases, and the case was held for duplicitous/frivolous determination, **Order by J. Theodore Meyer**; 92-86, Mercantile Bank of St. Louis, N.A., Personal Representative of the Estate of Ullus Gudder v. EPA, accepted for hearing, **Order by B. Forcade**; 92-87, Ramada Hotel O'Hare v. EPA, accepted for hearing, **Order by B. Forcade**; 92-88, Southern Food Park, Inc., accepted for hearing, **Order by B. Forcade**; 92-89, Lawrence Brothers, Inc. v. EPA, Agency motion to extend the time to file the record granted until August 28, 1992 and accepted for hearing, **Order by J.C. Marlin**; 92-90, Robertson-Ceco Corporation v. EPA, accepted for hearing, **Order by B. Forcade**; 92-91, City of Aledo v. EPA, held for an Agency recommendation; 92-92, North Shore Sanitary District v. EPA, held to July 9, 1992 for further

consideration; 92-93, People of the State of Illinois v. International Supply Company, Clerk of the Board directed to cause publication of the required newspaper notice, and parties advised that the Board will reserve ruling on its request for relief from hearing after the 21 day statutory period has passed, Order by J.C. Marlin.

These Administrative Citations were received by the Board: ##92-44, EPA v. H/L Disposal Company, d/b/a Brickyard Disposal & Recycling, Inc.; 92-45, EPA v. Leroy Brown and Sons, Inc. (**See also Motions Agenda**); 92-46, St. Clair County v. Larry Esterlen, President Mt. Hope Cemetery Association; 92-47, EPA v. Donald Sickles; 92-48, Sangamon County v. Delmar Donley and Don Chem, Inc. (**See also AC Appeals**); 92-49, Logan County Health Department v. Lincoln/Logan Landfill, Inc.

Since Petitions for Review were filed, these Administrative Citations will be set for hearing: ##92-37, Gerald B. Miller; 92-48, Delmar Donely and Don Chem, Inc..

New Adjusted Standard #92-5, Petition of D & L Landfill, Inc. and D & L Disposal, Inc. was held to July 9, 1992 for possible consideration.

In new Adjusted Standard #92-6, Petition of C.J. Goodall Tire Company, Inc., these actions were taken by a vote of 5-1: Petitioner's agreed request for consent to representation by Mark P. Miller, former Board assistant, was granted and the Petitioner was directed to file its petition with the required filing fee within 45 days of the date of the entry of the order or the docket will be subject to dismissal, J. Anderson dissented and J.C. Marlin abstained, **Order by M. Nardulli.**

Minutes of the June 4, 1992 Board Meeting were approved by a vote of 7-0.

Minutes of the June 15, 1992 Special Board Meeting were approved by a vote of 6-0. Board Member G. Tanner Girard abstained.

Complainant's motion to reconsider a hearing officer ruling was denied in #92-26, Dale & Deborah Dettlaff, by a vote of 7-0.
(JTM)

This amended Adjusted Standard was ordered held to July 9, 1992 for possible consideration: #92-3, Jefferson Smurfit Corporation.

All other matters not disposed of as listed were ordered held to July 9, 1992 for possible consideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Minutes were approved this 9th day of July, 1992, by a vote of 6-0.

Dorothy M. Gunn
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD
FINAL AGENDA
JUNE 23, 1992 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-040
10:30 A.M.

ADDENDUM

MOTIONS:

92-26 Dale & Deborah Dettlaff - Complainant's motion to
reconsider Hearing Officer ruling (6/19) (JTM)

AMENDED ADJUSTED STANDARDS:

92-3 Jefferson Smurfit Corporation (filed 6/22)

ILLINOIS POLLUTION CONTROL BOARD
FINAL AGENDA
JUNE 23, 1992 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-040
10:30 A.M.

DECISIONS:

- AS 91-7 Decatur Sanitary District (GTG)

* 92-36 City of Lake Forest (JCM) (due)

R91-3 SWDA, Update (July 1, 1990 through December 31,
1990), Reason for Delay Order (JA)

R92-1 RCRA Update, USEPA Regulations (July 1, 1991
through December 31, 1991), Reason for Delay Order
(JA)

AC DECISIONS:

- 92-34 W.W. Sanitation_____
92-36 Ruth & Steve Sheppard_____
92-38 Richard Haan, Jr._____

MOTIONS:

- AC 89-224 John Vander - motion for reconsideration of April
23, 1992 Board Order filed by Southern Illinois
Asphalt Company (6/8) (MN)

AC 92-24 White & Brewer Trucking - Respondent's motion to
reconsider May 7, 1992 default order (5/26)

* INDICATES VARIANCE OR PERMIT APPEAL

MOTIONS: (Cont'd)

- AC 92-45 Leroy Brown & Sons - Agency motion to withdraw
(6/18) (JCM) _____
- AS 90-2 Shell Oil Company - Petitioner's status report in
response to April 9, 1992 Board Order (6/15) (GTG)

- AS 91-8 Reynolds Metals Company - Petitioner's status
report in response to March 11, 1992 Board Order
(6/10) (GTG) _____
- 89-87) Moline Corporation - Board Order (BF)
89-44) _____
- 89-178 Olin Corporation - joint status report in response
to April 9, 1992 Board Order (6/15) (GTG)

- 90-24 Rock-Ola Manufacturing - Petitioner's status report
in response to April 9, 1992 Board Order (6/15)
(GTG) _____
- 90-53 Industrial Fuels - Board Order (JA)

- 90-108 Joseph & Pamela Stratton - Board Order (JTM)

- 90-161 Columbia Quarry Company - joint motion for waiver
of hearing on Stipulation and Proposal for
Settlement (6/11) (JCM) _____
- 90-196 Heico - status report in response to April 23, 1992
Board Order (6/15) (GTG) _____
- 90-198 Commonwealth Edison Company - status report in
response to June 4, 1992 Board Order (6/19) (GTG)

- 90-215 Spraying Systems - joint status report in response
to April 23, 1992 Board Order (6/15) (GTG)

- 91-10 Amoco Oil Company - Agency motion to file
Recommendation Instantner (6/10) (GTG)

MOTIONS: (Cont'd)

- 91-18 Illinois Central Railroad - Petitioner's motion for summary judgment and Memorandum in support of motion for summary judgment (6/4), Petitioner's motion for leave to file instanter corrected Memorandum in support of motion for summary judgment (6/5), Petitioner's motion for leave to file instanter the second corrected Memorandum in support of motion for summary judgment (6/9), Agency's response to Petitioner's motion for summary judgment (6/19), Petitioner's motion for leave to file reply to the Agency's response to Petitioner's motion for summary judgment (6/22) (JA)
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- 91-28) Acme Steel - Agency motion for leave to file Agency
92-2) Answer Instanter (6/16) (JA)
-
- 91-52 Atwood Industries - Petitioner's motion to reschedule the hearing date (6/10) (GTG)
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- 91-53 Enamelers and Japanners - Complainant's motion for summary judgment (5/19), Complainant's motion to strike Respondent's answer to first amended complaint (5/26), Respondent's motion for leave to file answer to the original complaint instanter (6/4), Respondent's answer to Complainant's motion for summary judgment (6/4), Complainant's reply to Respondent's answer to Complainant's motion for summary judgment (6/15)
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- 91-70 Commonwealth Edison Company - Petitioner's motion to withdraw Petition for Review (6/19)
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- 91-75 Community Consolidated School District - Petitioner's status report in response to April 9, 1992 Board Order (BF)
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- 91-87 Olin Corporation - joint status report in response to April 9, 1992 Board Order (6/15) (GTG)
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- 91-122 Condecor, Inc. - joint status report in response to April 9, 1992 Board Order (6/11) (GTG)
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MOTIONS: (Cont'd)

- 91-137 Amoco Oil Company - Petitioner's status report in response to April 9, 1992 Board Order (6/16) (GTG)
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- 91-139 R. Lavin & Sons - Petitioner's status report in response to April 9, 1992 Board Order (6/15), Agency status report in response to April 9, 1992 Board Order (6/15) (GTG)
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- 91-158) Commonwealth Edison Company - status report in
91-179) response to April 9, 1992 Board Order (6/16) (GTG)
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- 91-178) Commonwealth Edison Company - status report in
91-180) response to April 9, 1992 Board Order (6/16) (GTG)
-
- 91-199 Commonwealth Edison Company - status report Board Order (6/16) (GTG)
-
- 91-202 Sherex Chemical Company - Petitioner's motion for summary judgment (6/5) (MN)
-
- 91-221 Manito/Waddell Airport - Petitioner's stipulation to withdraw petition for appeal (6/15) (BF)
-
- 91-232 Lyons/Paulina Kerpec Trust #103 - Petitioner's motion to withdraw (6/18)
-
- 92-1 Russell L. Bacon - Petitioner's motion for rehearing or reconsideration (5/21) (MN)
-
- 92-2 Acme Steel Company - Agency motion for leave to file Agency Answer Instanter (6/16)
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MOTIONS: (Cont'd)

- 92-33 Thaddeus Kulpaka - Respondent's motion to dismiss or for summary judgment (6/5), Complainant's response to Respondent's motion to dismiss or for summary judgment (6/15)
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- 92-43 Safety-Kleen Corporation - Agency motion to extend time to file Record (6/12) (JCM)
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- 92-60 Kean Oil Company - Agency motion to file Record Instanter (6/15) (JA)
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- 92-62 Galesburg Cottage Hospital - Agency motion to file Record Instanter (6/12) (JA)
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- 92-67 Escast, Inc. - Respondent's motion to strike (5/29)
-
- 92-76 Meyer Steel Drum - Agency motion to extend time to file Agency Record (6/10) (JCM)
-
- 92-83 Harlem Township - Agency motion to file Record Instanter (6/22) (JA)
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DISCUSSIONS:

- AC 91-31 Randall Loveless (JCM) _____
 (A & B)
- 91-193 Park Crematory, Inc. (BF) _____
- * 92-42 Burwell Oil Service (MN) (due 7/9)
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- * 92-49 Bernard Miller (JTM) (due 7/9)
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AMENDED PETITIONS:

- 90-27 Shell Oil Company (filed 6/15)
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AMENDED PETITIONS: (Cont'd)

92-63 Department of the Air Force (filed 6/4)

NEW CASES:

92-80 Lake County Forest Preserve District v. Neil Ostro, Janet Ostro, and Big Foot Enterprises (See also Respondents' motion for extension of time in which to answer (6/17) (JTM))

92-86 Mercantile Bank of St. Louis, N.A., Personal Representative of the Estate of Ullus Gudder v. EPA

92-87 Ramada Hotel O'Hare v. EPA

92-88 Southern Food Park, Inc. v. EPA

92-89 Lawrence Brothers, Inc. v. EPA (See also Agency motion to extend time to file Agency Record (6/22))

92-90 Robertson-Ceco Corporation v. EPA

92-91 City of Aledo v. EPA

92-92 North Shore Sanitary District v. EPA

92-93 People of the State of Illinois v. International Supply Company (See also agreed motion to request relief from hearing) (JCM)

NEW AC CASES:

92-44 EPA v. H/L Disposal Company, d/b/a Brickyard Disposal & Recycling, Inc.

NEW AC CASES: (Cont'd)

- 92-45 EPA v. LeRoy Brown and Sons, Inc. (SEE MOTIONS AGENDA)
- 92-46 St. Clair County v. Larry Esterlen, President Mt. Hope Cemetery Association_____
- 92-47 EPA v. Donald Sickles_____
- 92-48 Sangamon County v. Delmar Donley and Donchem, Inc. (SEE AC APPEALS)
- 92-49 Logan County Health Department v. Lincoln/Logan Landfill, Inc._____
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AC APPEALS:

- 92-37 Gerald B. Miller_____
- 92-48 Delmar Donley & Don Chem, Inc._____
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NEW ADJUSTED STANDARDS:

- 92-5 Petition of D & L Landfill, Inc. and D & L Disposal, Inc._____
- 92-6 Petition of C.J. Goodall Tire Company, Inc. (See also agreed request for consent to representation (6/8) (MN))_____
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MINUTES:

- June 4, 1992_____
- June 15, 1992 (Special Board Meeting)_____

PENDING CASES ASSIGNED:

* 85-140 Citizens Utilities Company (MN)
 * 85-166 Citizens Utilities Company (JTM) (open waiver)
 86-1 City of Peru CSO (JTM)
 86-2 City of LaSalle CSO (JTM)
 86-4 City of Morris CSO (RCF)
 86-161 Elizabeth Street Foundry (GTG)
 89-44) Moline Corporation (BF)
 89-87)
 * 89-171 Pekin Energy Company (MN) (open waiver)
 * 89-177 CWM Chemical Services (JTM) (open waiver)
 * 90-31 R. Lavin & Sons, Inc. (RCF) (due 12/17)
 90-53 Industrial Fuels (Appellate Court Remand) (JA)
 90-108 Joseph B. & Pamela J. Stratton (JTM)
 90-135 The Grigoleit Company (JA)
 * 90-143 Ohio Grain Company (GTG) (open waiver)
 90-146 Village of Matteson (BF)
 90-148 B & M Steel Service Center (GTG)
 90-149 Straders Logging & Lumber Mill (GTG)
 90-170 Goose Lake Association (JA)
 90-182 Ronald E. & Susan Tex (MN)
 90-201 David and Margo Dravis (GTG)
 AS 91-3 Peoria Disposal (MN)
 AS 91-5 Elizabeth Street Foundry (GTG)
 AS 91-9 City of East Moline (RCF) (due 1/21)
 AS 91-10 Cabot Corporation (JA)
 AS 91-11 Illinois-American Water Company (RCF) (open waiver)
 AS 91-12 Illinois-American Water Company (RCF) (open waiver)
 AS 91-13 City of Rock Island (RCF) (due 12/17)
 * 91-17 B.F. Goodrich Corporation (RCF) (due 12/17)
 91-30 Susan Curtis & Marcy Diesing (JCM)
 AC 91-31 Randall Loveless (JCM)
 AC 91-34(B) William S. Popejoy (RCF)
 AC 91-45 Rochelle Disposal Service (JCM)
 * 91-67 Manville Sales Corporation (GTG) (due 7/30)
 * 91-75 Community Consol. School Dist. No. 15 (BF) (open waiver)
 * 91-86 Raymond & Mary Moore (JA) (due 9/3)
 91-153 Clyde R. Dace (JA)
 91-157 The Grigoleit Company (JA)
 91-194 Residents of Cedarville (BF)
 * 91-202 Sherex Chemical Company (MN) (due 12/3)
 * 91-237 Laidlaw Environmental Services (RCF) (due 9/17)
 * 91-238 Laidlaw Environmental Services (RCF) (due 9/17)
 * 91-243 Smith Oil Company of Kankakee (GTG) (due 7/30)
 AC 92-3 Dennis Grubaugh (GTG)
 AS 92-4 Detroit Diesel Corporation (JA)
 * 92-10 Kelly Williamson Company (BF) (due 10/15)
 * 92-23 The Grigoleit Company (JA) (due 12/3)

PENDING CASES ASSIGNED: (Cont'd)

- * 92-28 CSX Transportation, Inc. (MN) (due 8/13)
- * 92-31 City of Roodhouse (JA) (due 8/13)
- * 92-55 Stephen A. Smith et al. (JTM) (due 8/13)