

ILLINOIS POLLUTION CONTROL BOARD

**MINUTES OF REGULAR BOARD MEETING
JULY 30, 1992 CHICAGO, ILLINOIS**

All Board Members were present save Dr. R.C. Flemal who was on vacation.

An Order directing that Petitioner's Material Safety Data Sheets continue to remain confidential; dismissing the case; directing that the trade secret Statement of Justification filed July 20, 1992, be placed in a new docket, as a new case, PCB 92-110; and relinquishing jurisdiction, was adopted in #90-135, The Grigoleit Company, by a vote of 6-0. B. Forcade concurred. (JA)

An Opinion and Order incorporating by reference the PCB 90-135 Opinion and Order of June 4, 1992 and the dismissal order of today, July 30, 1992; directing the Clerk of the Board to physically transfer the Material Safety Data Sheets, the documents being claimed as trade secrets, from the PCB 90-135 record into PCB 92-110; denying in its entirety the claim for trade secret protection by the Petitioner for the Material Safety Data Sheets seized by the Agency on January 26, 1990; directing the Clerk of the Board and the Agency to continue to protect as confidential the Material Safety Data Sheets until further action of the Board; notifying the Petitioner that the Agency will cease protecting the article, or the page, part or portion thereof, as a trade secret unless the Board is served with notice of the filing of a petition for review within 35 days from the date of notice to the owner, was adopted in #92-110, Trade Secret Claim by The Grigoleit Company, by a vote of 6-0. B. Forcade concurred. (JA)

An Opinion and Order was adopted in #90-201, David L. and Margo Dravis, by a vote of 6-0. (GTG)

An Opinion and Order was adopted in #91-243, Smith Oil Company, by a vote of 6-0. (GTG)

An Opinion and Order was adopted in #AC 92-35, Capitol Bank & Trust et al., by a vote of 6-0. (JCM)

In R91-24, Exemptions from the Definition of VOM, an Adopted Rule, Final Order, Opinion and Order was adopted by a vote of 6-0. B. Forcade concurred. (JA)

Default Orders were adopted in these Administrative Citations by a vote of 6-0: ##92-40, David Futrell; 92-42, Robert D. Wright; 92-43, Illinois National Bank of Springfield; 92-44, H/L Disposal Company; 92-46, Larry Esterlen; 92-47, Donald Sickles; 92-49, Lincoln/Logan Landfill.

Respondent's motion to reconsider a May 7, 1992 Default Order was denied in #AC 92-24, White & Brewer Trucking, by a vote of 6-0. (JCM)

An Order directing the Petitioner to file an updated status report on or before December 1, 1992, was adopted in #AS 88-2, Stepan Company, by a vote of 6-0. (JCM)

Agency motion for an extension of time in which to file its response to the petition was granted until August 5, 1992, in #AS 90-2, Shell Oil Company, by a vote of 6-0. (GTG)

An Order directing the Respondent to update the Board on the status of the bankruptcy proceeding by filing a status report on or before January 31, 1993 and to file subsequent status reports every six months thereafter, was adopted in ##89-87, -44, Moline Corporation, by a vote of 6-0. (BF)

Respondents' motion to amend the Board's February 27, 1992 final Opinion and Order was granted in #89-169, John and Jean Zarlenga, by a vote of 6-0. (JA)

A joint petition to discontinue monitoring was granted in #90-146, Village of Matteson, by a vote of 6-0. (BF)

An Order directing the parties to file an updated status report on or before November 1, 1992, was adopted in #90-196, Heico, by a vote of 6-0. (GTG)

An Order denying Complainant's motion for summary judgment, denying Complainant's request for summary judgment as to Count IV of the Complaint, granting Complainant's request for summary judgment as to Count XII, and denying Complainant's motion to strike Respondent's answer to the first amended Complaint, was adopted in #91-53, Enamelers and Japanners, by a vote of 6-0. (GTG)

An agreed motion to modify a May 7, 1992 Board Order was granted in #91-56, Douglas Furniture, by a vote of 4-1. J. Theodore Meyer dissented and B Forcade abstained. (GTG)

Petitioner's motion for reconsideration or for clarification of a June 4, 1992 Board Order was granted in #91-83, Village of Lincolnwood, and upon reconsideration the Board declined to grant the relief requested by a vote of 5-1. J. Anderson dissented. (MN)

An Order granting the Agency's motion for leave to file its status report instanter and directing the parties to file another status report with the Board to be received by the Board no later than November 1, 1992, was adopted in #91-87, Olin Corporation, by a vote of 6-0. (GTG)

Petitioner's motion to voluntarily withdraw its appeal was granted in #91-196, Safety-Kleen Corporation, by a vote of 6-0. (BF)

Petitioner's motion for summary judgment was granted, and the Agency's cross-motion for summary judgment was denied, in #91-202, Sherex Chemical Company, by a vote of 6-0. B. Forcade concurred. (MN)

Petitioner's request for the return of its oversized exhibits was granted in #91-256, Gallatin National Company, by a vote of 6-0. (JTM)

An Order denying Respondent's motion for summary judgment or to dismiss; striking those portions of Count I alleging violation of Ill. Rev. Stat. 1991 ch. 111-1/2, par. 1011; striking those portions of Count II alleging violation of Ill. Rev. Stat. 1991 ch. 111-1/2, par. 1020; dismissing Count IV alleging violation of 35 Ill. Adm. Code 731.150(a); dismissing Count V alleging violation of 35 Ill. Adm. Code 731.160, was adopted in #92-33, Erich J. Mandel, by a vote of 6-0. B. Forcade concurred. (JTM)

Petitioner's motion to reconsider was granted, and upon reconsideration, the Board reaffirmed its June 23, 1992 Opinion and Order in #92-36, City of Lake Forest, by a vote of 5-1. J. Anderson dissented. (JCM)

Respondent's motion to strike was granted in #92-67, Escast, Inc., by a vote of 5-1. B. Forcade dissented. (JA)

Agency motion to file the Record Instantly was granted in #92-86, Mercantile Bank of St. Louis, by a vote of 6-0. (JA)

These cases were discussed and ordered held to August 13, 1992 for further discussion or possible decision: ##90-182, Ronald & Susan Tex; AS 91-5, Elizabeth Street Foundry; AC 91-31 (A & B), Randall Loveless; 91-153, Clyde R. Dace; 91-194, Residents of Cedarville; 92-31, City of Roodhouse; 92-53, Martin Oil Marketing; 92-55, Stephen A. Smith; 92-62, Galesburg Cottage Hospital; 92-91, City of Aledo.

These regulatory matters were discussed and ordered held to August 13, 1992 for further discussion or possible decision: R91-28, RACT Amendments: Expansion of Chicago MSA, Adopted Rule, Final Order, Opinion and Order; R91-30, RACT Amendments: Stage II Vapor Recovery, Adopted Rule, Final Order, Opinion and Order.

This amended petition was accepted for hearing by a vote of 6-0: #92-81, James Lynch.

In new cases these actions were taken by a vote of 6-0: ##92-80, Lake County Forest Preserve District v. Neil Ostro, Janet Ostro, and Big Foot Enterprises, accepted for hearing and Respondents'

motion to strike complaint for environmental remediation and civil penalties was denied, **Order by J. Anderson**; 92-101, Shell Oil Company (Wood River Manufacturing Complex) v. EPA, accepted for hearing, **Order by B. Forcade**; 92-102, Moline/Dutchway Dry Cleaners v. EPA, accepted for hearing, **Order by B. Forcade**; 92-103, City of Freeport v. EPA, accepted for hearing, **Order by B. Forcade**; 92-104, Roger Malkey, d/b/a Malkey's Mufflers v. EPA, accepted for hearing, **Order by B. Forcade**; 92-105, Weyerhaeuser Company v. EPA, accepted for hearing, **Order by B. Forcade**; 92-106, American Fly Ash Company (Indian Creek, Renwich, and Newport Landfills) v. EPA, additional information requested, **Order by J. Anderson**; 92-107, Department of the Army, U.S. Army Engineer District, Rock Island v. EPA, **held for Agency Recommendation**; 92-108, The OK Trucking Company v. EPA, accepted for hearing, **Order by B. Forcade**; 92-109, Archer Daniels Midland Company v. EPA, accepted for hearing, **Order by B. Forcade**; 92-111, Russell L. Bacon v. EPA, accepted for hearing, **Order by M. Nardulli**; 92-112, James River Paper Company, Inc. v. EPA, accepted for hearing and Petitioner's motion for leave to appear for Charles S. Carter and Olivia N. Biss granted, **Order by B. Forcade**; 92-113, Indian Refining Limited Partnership v. EPA, provisional variance granted and Petitioner advised that the Clerk of the Board will maintain certain confidential business information attached to the Agency's Recommendation in a secured file pursuant to 35 Ill. Adm. Code 120, **Order by J.C. Marlin**; 92-14, Waste Management of Illinois v. EPA, provisional variance granted, **Order by J.C. Marlin**; R92-8, Petition of the Illinois Chapter of the Sierra Club, et al. for Amendments to 35 Ill. Adm. Code Subtitle C, **ordered held to August 13, 1992 for further consideration**; R92-9, R88-26 Safe Drinking Water Act Phase I Correction Docket, **Docket Reserved**.

These Administrative Citations were accepted by the Board:
 #92-54, EPA v. Jim Mayo; 92-55, County of Christian v. Max Wayman and Carlotta Wayman; 92-56, EPA v. Jeral Miller, d/b/a Miller Trucking and Excavating; 92-57, EPA v. Western Lion, Limited; 92-58, EPA v. Charles R. Dixon.

Because a Petition for Review was filed, this Administrative Citation will be set for hearing: #92-50, Lincoln/Logan Landfill, Inc..

No action was taken by the Board on this Amended Adjusted Standard: #92-2, We-Shred-It, Inc..

This new Adjusted Standard was accepted for hearing by a vote of 6-0.

Minutes of the July 9, 1992 Minutes were approved by a vote of 6-0.

All other matters not disposed of as listed were ordered held to August 13, 1992 for possible consideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above Minutes were approved this 13th day of August, 1992, by a vote of 6-0.

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

ILLINOIS POLLUTION CONTROL BOARD
FINAL AGENDA
JULY 30, 1992 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-045
10:30 A.M.

ADDENDUM

DECISIONS:

92-110 In the Matter Of: Trade Secret Claim of The
Grigoleit Company (JA)

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

DECISIONS:

- 90-135 The Grigoleit Company (JA) (SEE NEW CASE # PCB
92-110) _____
- 90-201 David L. Dravis & Margo Dravis (GTG)

- * 91-243 Smith Oil Company (GTG) (due)

- AC 92-35 Sangamon County v. Capitol Bank & Trust et al.
(JCM) _____
- R91-24 Exemptions from the Definition of VOM, Adopted
Rule, Final Order, Opinion and Order (JA) (SEE
MOTIONS ALSO) (JA)

AC DECISIONS:

- 92-40 David Futrell _____
- 92-42 Robert D. Wright _____
- 92-43 Illinois National Bank of Springfield et al.

- 92-44 H/L Disposal Company _____
- 92-46 Larry Esterlen _____
- 92-47 Donald Sickles _____
- 92-49 Lincoln/Logan Landfill _____

* INDICATES VARIANCE OR PERMIT APPEAL

MOTIONS:

- AC 92-24 White & Brewer Trucking - Respondent's motion to reconsider May 7, 1992 Default Order (5/26), Respondent's Affidavit in response to June 23, 1992 Board Order (7/2), Complainant's response to respondent's motion to reconsider (7/22) (JCM)
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- AC 92-39 Leslie Norman Fred - motion to vacate July 9, 1992 Default Order (7/17) (JCM)
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- AS 88-2 Stepan Company - status report in response to April 9, 1992 Board Order (7/29) (JCM)
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- AS 90-2 Shell Oil Company - Agency motion for extension of time to file its response (7/22) (GTG)
-
- 89-87) Moline Corporation - Petitioner's status report in
89-44) response to June 23, 1992 Board Order (7/20) (BF)
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- 89-169 John Zarlenga & Jean Zarlenga - Respondents' expedited motion to amend the Board's February 27, 1992 final Opinion and Order (7/7), Complainants' response to motion to amend Final Opinion and Order (7/23) (JA)
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- 89-177 CWM Chemical Services - Petitioner's status report in response to April 23, 1992 Board Order (7/22) (JTM)
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- 90-135 The Grigoleit Company - Petitioner's statement of justification in response to June 4, 1992 Board Order (7/20) (JA)
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- 90-146 Village of Matteson - joint petition to discontinue monitoring (7/28) (BF)
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- 90-196 Heico - updated status report in response to June 23, 1992 Board Order (7/8) (GTG)
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MOTIONS: (Cont'd)

- 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), Complainant's request for summary judgment as to Counts IV and XII of its amended complaint (7/2), Respondent's response to Complainant's request for summary judgment (7/15), Complainant's reply to Respondent's response to Complainant's request for summary judgment (7/23) (GTG)
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- 91-56 Douglas Furniture - agreed motion to modify May 7, 1992 Board Order (7/22) (GTG)
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- 91-83 Village of Lincolnwood - Petitioner's motion for reconsideration or clarification a June 4, 1992 Board Order (7/9) (MN)
-
- 91-84 Indian Refining Limited Partnership - status report in response to April 23, 1992 Board Order (7/27)
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- 91-87 Olin Corporation - Petitioner's status report in response to June 23, 1992 Board Order (7/20), Agency motion to file status report instanter (7/23) (GTG)
-
- 91-196 Safety-Kleen Corporation - Petitioner's motion for voluntary withdrawal of appeal (7/24) (BF)
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- 91-202 Sherex Chemical Company - Petitioner's motion for summary judgment (6/5), Agency motion to file response to Petitioner's motion for summary judgment Instanter and Agency cross-motion for summary judgment (6/25), Petitioner's reply in support of its motion for summary judgment and response to the Agency's cross-motion for summary judgment (7/6) (MN)
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MOTIONS: (Cont'd)

- 91-256 Gallatin National Company - Petitioner's request for return of oversized exhibits (7/24) (JTM)
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- 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) (JTM)
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- 92-36 City of Lake Forest - Petitioner's motion to reconsider June 23, 1992 Board Order (7/1), Agency response to Petitioner's motion to reconsider (7/8) (JCM)
-
- 92-54 ESG Watts - Petitioner's motion for summary judgment (7/16), Agency response to Petitioner's motion for summary judgment (7/28)
-
- 92-67 Escast, Inc. - Respondent's motion to strike (5/29) (RCF)
-
- 92-86 Mercantile Bank of St. Louis - Agency motion to file Record Instante (7/20) (JCM)
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- R90-1 (C) Toxic Air Contaminants List - motion to schedule hearing filed by the Sierra Club, Coalition for Consumer Rights and the Chicago Lung Association (6/17) (JCM)
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- R91-24 Exemptions from the Definition of VOM - Agency motion to expedite decision (7/23) (JA)
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DISCUSSIONS:

- 90-182 Ronald & Susan Tex (MN) _____
- AS 91-5 Elizabeth Street Foundry (GTG) _____
- AC 91-31 Randall Loveless (JCM) _____
(A & B)
- 91-153 Clyde R. Dace (JA) _____

DISCUSSIONS: (Cont'd)

- 91-194 Residents of Cedarville, Interim Opinion and Order
(BF) _____
- * 92-31 City of Roodhouse (JA) (due 9/17) _____
- * 92-53 Martin Oil Marketing (BF) (due 9/3)

- * 92-55 Stephen A. Smith (JTM) (due 8/13) _____
- * 92-62 Galesburg Cottage Hospital (JTM) (due 8/13)

- * 92-91 City of Aledo (JCM) (due 10/1) _____
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REGULATORY DISCUSSIONS:

- R91-28 RACT Amendments: Expansion of Chicago MSA, Adopted
Rule, Final Order, Opinion and Order (RCF)

- R91-30 RACT Amendments: Stage II Vapor Recovery, Adopted
Rule, Final Order, Opinion and Order (RCF)

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AMENDED PETITIONS:

- 92-81 James Lynch (filed 7/17) _____
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NEW CASES:

- 92-80 Lake County Forest Preserve District v. Neil Ostro,
Janet Ostro, and Big Foot Enterprises (See also
Respondents' motion to strike complaint for
environmental remediation and civil penalties (7/7;
Complainant's response to Respondents' motion to
strike (7/17) (JA)

- 92-101 Shell Oil Company (Wood River Manufacturing
Complex) v. EPA _____

NEW CASES: (Cont'd)

- 92-102 Moline/Dutchway Dry Cleaners v. EPA (BF)

- 92-103 City of Freeport v. EPA

- 92-104 Roger Malkey, d/b/a Malkey's Mufflers v. EPA

- 92-105 Weyerhaeuser Company v. EPA (BF)

- 92-106 American Fly Ash Company (Indian Creek, Renwich,
and Newport Landfills) v. EPA

- 92-107 Department of the Army, U.S. Army Engineer
District, Rock Island v. EPA

- 92-108 The OK Trucking Company v. EPA (BF)

- 92-109 Archer Daniels Midland Company v. EPA (BF)

- 92-110 The Grigoleit Company v. EPA (JA) (See PCB #90-135
ON DECISIONS AGENDA; Petitioner's Statement of
Justification in response to a June 4, 1992 Board
Order filed 7/20; Agency response to Petitioner's
Statement of Justification filed 7/27) (JA)

- 92-111 Russell L. Bacon v. EPA

- 92-112 James River Paper Company, Inc. v. EPA (See also
Petitioner's motion for leave to appear for Charles
S. Carter and Olivia N. Biss filed 7/27)

- 92-113 Indian Refining Limited Partnership v. EPA
(Provisional Variance) (Note: Letter accompanying
the Agency's Recommendation marked "Confidential"
is locked in Clerk's Office Security Files) (JCM)

NEW CASES: (Cont'd)

- 92-114 Waste Management of Illinois v. EPA (Provisional Variance) (JCM) _____
- R92-8 Petition of the Illinois Chapter of the Sierra Club, et al. for Amendments to 35 Ill. Adm. Code Subtitle C (See also Petitioners' request to submit only one copy of Exhibit C and request to waive 200 signature requirement on page 2 of Petition; Agency motion requesting the Board to require proper filing of the regulatory proposal filed (7/29))

- R92-9 R88-26 Safe Drinking Water Act Phase I Correction Docket (RESERVED)
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NEW AC CASES:

- 92-54 EPA v. Jim Mayo _____
- 92-55 County of Christian v. Max Wayman and Carlotta Wayman _____
- 92-56 EPA v. Jeral Miller, d/b/a Miller Trucking and Excavating _____
- 92-57 EPA v. Western Lion, Limited _____
- 92-58 EPA v. Charles R. Dixon _____
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AC APPEALS:

- 92-50 Lincoln/Logan Landfill _____
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AMENDED ADJUSTED STANDARDS:

- 92-2 We-Shred-It, Inc. (filed 7/13) (JCM)

NEW ADJUSTED STANDARDS:

92-7 Petition of Illinois Power Company (Vermilion Power Station) (See Objection of the Illinois Chapter of the Sierra Club to the petition for adjusted standards filed 7/14; request for hearing by Clark W. Bullard, Director, The Committee on the Middle Fork of the Vermilion River filed 7/20; Petitioner's Affidavit of Thomas L. Davis and Certificate of Publication filed 7/27)

MINUTES:

July 9, 1992 _____

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)
 90-108 Joseph B. & Pamela J. Stratton (JTM)
 90-135 The Grigoleit Company (JA)
 90-137 Laidlaw Waste Systems (JTM) (Appellate Court
 Remand) (JTM)
 * 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)
 90-187 Herman W. Prescott (BF)
 AS 91-3 Peoria Disposal (MN)
 AS 91-9 City of East Moline (RCF) (due 1/21)
 * 91-10 Amoco Oil Company (RCF) (open waiver)
 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 91-45 Rochelle Disposal Service (JCM)
 91-50 Karl & Helen Christ (MN)
 * 91-75 Community Consol. School Dist. No. 15 (BF) (open
 waiver)
 * 91-86 Raymond & Mary Moore (JA) (due 3/25)
 91-157 The Grigoleit Company (JA)
 * 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)
 AC 92-3 Dennis Grubaugh (GTG)
 AS 92-2 We-Shred-It, Inc. (JCM)
 AS 92-3 Jefferson Smurfit (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)
 92-26 Dale & Deborah Dettlaff (BF)
 * 92-63 Dept. of the Air Force (JTM) (due 10/1)
 * 92-90 Robertson-Ceco (GTG) (due 10/1)