

**ILLINOIS POLLUTION CONTROL BOARD**

**MINUTES OF REGULAR BOARD MEETING  
OCTOBER 29, 1992 CHICAGO, ILLINOIS**

All Board Members were present.

An Opinion and Order was adopted in #90-182, Ronald & Susan Tex, by a vote of 5-2. Messrs. R.C. Flemal and J. Theodore Meyer dissented, and M. Nardulli concurred. (GTG)

An Interim Order was adopted in #90-187, Herman Prescott, by a vote of 7-0. (RCF)

An Opinion and Order was adopted in #AC 91-31 (Docket B), Randall Loveless, by a vote of 6-1. J. Theodore Meyer dissented. (JCM)

An Opinion and Order was adopted in #92-54, ESG Watts, by a vote of 7-0. (MN)

Dr. Flemal presented a draft Resolution in #RES 92-2, In the Matter of: Clean Air Act Rulemaking Procedures pursuant to Section 28.5 of the Environmental Protection Act, as added by P.A. 87-1213. Motion to amend by J. Theodore Meyer carried by a vote of 4-3, with J. Anderson, G. Tanner Girard, J. Theodore Meyer and M. Nardulli for it, and R.C. Flemal, B. Forcade, and J.C. Marlin against it. The resolution was then adopted by a vote of 6-1. R.C. Flemal dissented, and B. Forcade, J.C. Marlin, and M. Nardulli concurred. (JTM)

In R92-7, Use of Recycled Paper, an Adopted Rule, Final Order, Opinion and Order was adopted by a vote of 7-0. (JTM)

Petitioner's motion for an extension of time to file its reply was granted until December 15, 1992 in #AS 91-10, Cabot Corporation, by a vote of 7-0. (JA)

Petitioner's motion to dismiss was granted in #AS 92-5, D & L Landfill, Inc., by a vote of 7-0. (BF)

So that the Board may know how to proceed with Petitioner's pending motion for reconsideration of a July 30, 1992 Board Order, an Order directing the parties to file status reports to be received by the Board no later than November 16, 1992, was adopted in #90-135, The Grigoleit Company, by a vote of 7-0. (JA)

An Order granting Respondents' motion to strike that portion of the Complainant's brief referencing other proceedings, denying the motion to strike portions of the brief that allegedly contain a new position, granting the motion to strike but only as to the costs of the project, granting Complainant's motion to reopen evidentiary hearings, directing the hearing officer to set a hearing to address certain issues, and instructing the Clerk of the Board to forward

a copy of the Order to Mr. Greg Zak of the Illinois Environmental Protection Agency, was adopted in #90-146, Village of Matteson, by a vote of 6-1. J. Theodore Meyer dissented. (BF)

By a vote of 7-0, Mr. Robert D. Larson's motion to withdraw as the attorney for the Respondent was granted, and the Board reserved ruling on Complainants' motion pursuant to 35 Ill. Adm. Code 101.280 until such time as the Board makes a final decision in #90-149, Carl and Alice Madoux et al. (GTG)

An Order granting Petitioner's motion to file its status report instanter, instructing the Hearing Officer to establish a schedule by which all hearings are to be completed on or before January 30, 1993 and to submit a scheduling order to the Board, authorizing the Hearing Officer to modify the scheduling of hearings by filing a new scheduling Order with the Board in the event an appropriate waiver of the decision deadline is received, and advising the parties that if an additional waiver is filed, the Board would expect the filing of an updated status report on or before January 15, 1993, was adopted in #91-52, Atwood Industries, by a vote of 7-0. (BF)

By a vote of 7-0, Petitioner's motion to voluntarily dismiss was granted, but the Board declined to grant Petitioner leave to reinstate its variance in that such action is unnecessary in #91-235, Marsco Manufacturing. (JA)

Petitioner's motion to dismiss was granted in #92-17, Tim's Standard/Freeport, by a vote of 7-0. (MN)

An Order directing the Petitioner and the Agency to provide a status report to be received by the Board no later than November 16, 1992, reminding the parties that they are obligated, pursuant to the Board's September 21, 1992 Order, to contact the Hearing Officer if they wish to hold another hearing in the matter, and that if there is no second hearing and if no waiver of the current decision deadline is forthcoming, the Board intends to make a final determination in the matter by December 11, 1992, was adopted in #92-23, The Grigoleit Company, by a vote of 7-0. (JA)

Complainant's motion to dismiss with prejudice was granted in #92-38, Stacy G. Howard, by a vote of 7-0. (MN)

Petitioner's motion for summary judgment was denied and the Agency's cross-motion for summary judgment was granted and the docket was closed in #92-87, Ramada Hotel, O'Hare, by a vote of 5-2. Messrs. J. Theodore Meyer and M. Nardulli dissented. (JCM)

These cases were discussed and ordered held to November 19, 1992 for further discussion or possible decision: ##90-148, B & M Steel Service; 90-149, Straders Logging & Lumber Mill; AS 91-6, Dart Container Corporation; AC 91-55 (Docket A and B), Vernon Abert;

92-81, James Lynch; 92-111, Russell L. Bacon.

Because of the time constraints and unusual complexities involved in the identical in substance rulemaking, the Board on its own motion adopted an Order that directed that a copy of the draft final Order in the rulemaking be sent to the Illinois Environmental Protection Agency (Agency) for its review prior to Board adoption on November 19, 1992, and instructing its Senior Attorney to make "response time" arrangements with the Agency so as to assure that there is sufficient time for the Board to react to any Agency concerns in the Final Opinion and Order prior to adoption of R91-3, Safe Drinking Water Act Update (July 1, 1990 through January 31, 1991). The vote was 7-0. (JA)

This regulatory matter was discussed and ordered held to November 19, 1992 for further discussion or possible decision: R91-20, Potentially Infectious Medical Waste, Proposed Rule, First Notice, Opinion and Order.

So that the Board may know how to proceed with Petitioner's pending motion for reconsideration of a July 30, 1992 Board Order, an Order directing the parties to file status reports to be received by the Board no later than November 16, 1992, was adopted in #92-110, The Grigoleit Company, by a vote of 7-0. (JA)

Agency motion to file the record instanter was granted in #92-118, Ideal Heating Company, by a vote of 7-0. (JTM)

An Order granting the Agency's motion to file the record instanter, granting the Petitioner's motion to supplement the record, and directing the Agency to file an amendment to the record no later than November 30, 1992, which shall include all materials that were before the Agency when it considered Petitioner's reimbursement application, was adopted in #92-122, F & R Enterprises, by a vote of 7-0. (GTG)

Agency motion to file the record instanter was granted in #92-123, Chemrex, Inc., by a vote of 7-0. (JA)

An Order denying Respondent's motion for leave to file its October 16, 1992 motion to strike and dismiss instanter, denying the motion to dismiss and strike embedded within Respondent's October 15, 1992 filing as untimely filed, and denying Respondent's October 27, 1992 motion for leave to file its reply to Complainants' motions as moot, was adopted in #92-127, City of Des Plaines, by a vote of 7-0. (RCF)

Agency motion to dismiss was denied in #92-134, Lone Star Industries, by a vote of 7-0. (BF)

By a vote of 7-0, an Order was adopted pursuant to Petitioner's motions regarding the affidavit of James A. Smith, regarding filing

of Appendices to a Biological Report, regarding service on the Illinois Environmental Protection Agency and motion for clarification of an October 16, 1992 Board Order in #92-142, Illinois Power Company. (GTG)

In amended petitions these actions were taken by a vote of 7-0: ##86-4, City of Morris, held for Board consideration of Petitioner's Petition for Permanent Exception; 92-120, Amerock Corporation, held for an Agency Recommendation.

In new cases these actions were taken by a vote of 7-0: ##92-119, Yolanda Price v. South Shore Villa Condominiums and Quality Management Service, Inc., held for **duplicitous/frivolous determination**; 92-145, Thomas J. Konkel v. City of Crest Hill, accepted for hearing, Clerk of the Board directed to provide Complainant with copies of opinion and orders in a prior case, Dutton v. City of Crest Hill, PCB 79-110, and the Complainant was ordered to provide the Board with information on what relationship there is between the problems identified in 1979 in the prior case, and the problems alleged today, specifically the Board requests a statement on the geographic locations involved in both areas and any interconnections of the sewer system, **Order by B. Forcade.**

By a vote of 6-0, new case #92-154, Shell Oil Company (Western Springs) v. EPA was accepted for hearing, J. Anderson abstained, **Order by G. Tanner Girard.**

In these other new cases these actions were taken by a vote of 7-0: ##92-155, Continental White Cap, Inc. v. EPA, accepted for hearing, **Order by R.C. Flemal**; 92-156, Citizens Against Regional Landfill v. The County Board of Whiteside County and Waste Management of Illinois, Inc., accepted for hearing, **Order by B. Forcade**; 92-157, Greenville Airport Authority v. EPA, accepted for hearing and the Board directed the parties attention to its recent holdings in Harlem Township v. IEPA, (October 16, 1992), PCB 92-83, and Ramada Hotel, O'Hare v. IEPA, (October 29, 1992), PCB 92-87, **Order by J.C. Marlin**; 92-158, Estate of Larry Junkin, by Patricia Junkin, Executrix v. EPA, accepted for hearing, **Order by B. Forcade**; 92-159, City of Elmhurst v. EPA, provisional variance granted, **Order by J.C. Marlin**; 92-160, Lawrence Brothers, Inc. v. EPA, provisional variance granted, **Order by J.C. Marlin**; 92-161, National Steel Corporation, Granite City Division v. EPA, accepted for hearing, **Order by B. Forcade**; 92-162, Village of Winnetka v. EPA, provisional variance granted, **Order by J.C. Marlin**; 92-163, DJM Oil Company, Inc. v. EPA, accepted for hearing, **Order by B. Forcade.**

These Administrative Citations were accepted by the Board: ##92-70, Sangamon County v. Delmar Donley; 92-71, EPA v. Edwin & Elizabeth Tessmer; 92-72, EPA v. W.W. Sanitation, Inc. and Jacwil, Inc.; 92-73, County of Jackson v. Robert Ellis.

Amended Adjusted Standard #92-9, Conversion Systems, was accepted and held for an Agency Recommendation.

Minutes of the October 16, 1992 Board Meeting were approved by a vote of 7-0.

All other matters not disposed of as listed were ordered held to November 19, 1992 for possible consideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Minutes were approved this 19th day of November, 1992, by a vote of 7-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD  
FINAL AGENDA  
OCTOBER 29, 1992 CHICAGO, ILLINOIS  
CONFERENCE ROOM 9-040  
10:30 A.M.

ADDENDUM

NEW CASES:

92-163 DJM Oil Company, Inc. v. EPA

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ILLINOIS POLLUTION CONTROL BOARD  
FINAL AGENDA  
OCTOBER 29, 1992 CHICAGO, ILLINOIS  
CONFERENCE ROOM 9-040  
10:30 A.M.

**DECISIONS:**

- 90-182 Ronald & Susan Tex (GTG)  
\_\_\_\_\_
- 90-187 Herman Prescott, Interim Order (RCF)  
\_\_\_\_\_
- AC 91-31 Randall Loveless (JCM) \_\_\_\_\_  
(B)
- \* 92-54 ESG Watts (MN) (due) \_\_\_\_\_
- RES 92-2 In the Matter of: Clean Air Act Rulemaking  
Procedures Pursuant to Section 28.5 of the  
Environmental Protection Act, as added by P.A.  
87-1213, Resolution of the Board (RCF)  
\_\_\_\_\_
- R92-7 Use of Recycled Paper, Adopted Rule, Final Order,  
Opinion and Order (JTM) \_\_\_\_\_

**MOTIONS:**

- AS 91-10 Cabot Corporation - Petitioner's motion for  
extension of time to file its reply (10/13)(JA)  
\_\_\_\_\_
- AS 92-5 D & L Landfill, Inc. - Petitioner's motion to  
dismiss petition (10/21)(BF)  
\_\_\_\_\_
- 90-135 The Grigoleit Company - Petitioner's motion for  
reconsideration of July 30, 1992 Board Order (9/3),  
Agency response to Petitioner's motion for  
reconsideration (9/14)(JA)  
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**\* INDICATES VARIANCE OR PERMIT APPEAL**

**MOTIONS: (Cont'd)**

- 90-146 Village of Matteson - Respondents' motion to strike portions of Complainant's Reply Brief (10/5), Complainant's response to Respondents' motion to strike portions of Reply Brief, Complainant's motion to reopen evidentiary hearings and Complainant's motion to strike portions of Respondents' Brief (10/9), Respondents' response to Complainant's motion to strike a portion of Respondents' Brief (10/16) (BF)
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- 90-149 Carl Madoux & Alice Madoux - Complainants' motion pursuant to Section 101.280 (10/1), motion for leave to withdraw as counsel (10/7) (GTG)
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- 91-52 Atwood Industries - Petitioner's motion to file status report instanter (10/15) (BF)
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- 91-235 Marsco Manufacturing - Petitioner's motion to voluntarily dismiss variance petition with leave to reinstate (10/20) (JA)
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- 91-243 Smith Oil Company - Petitioner's motion to compel (10/19) (GTG)
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- 92-17 Tim's Standard/Freeport - Petitioner's motion to dismiss appeal (10/19) (MN)
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- 92-23 The Grigoleit Company - Board Order (JA)
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- 92-38 Stacy G. Howard - Complainant's motion to dismiss with prejudice (10/16) (MN)
- 
- 92-87 Ramada Hotel, O'Hare - Petitioner's motion for summary judgment and Memorandum in support of Petitioner's motion for summary judgment (9/11), Agency's cross-motion for summary judgment, response to Petitioner's motion for summary judgment and Memorandum in support of Agency's cross-motion for summary judgment (10/7), Petitioner's response to Agency's cross-motion for summary judgment (10/9) (JCM)
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**MOTIONS: (Cont'd)**

- 92-110 The Grigoleit Company - Petitioner's motion for reconsideration of July 30, 1992 Board Order (9/3) (JA)
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- 92-118 Ideal Heating Company - Agency motion to file Record Instanter (10/23) (JTM)
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- 92-122 F & R Enterprises - Agency motion to file Record Instanter (10/2), Petitioner's motion to supplement the record (10/6) (GTG)
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- 92-123 Chemrex, Inc. - Agency motion to file Record instanter (10/16) (JA)
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- 92-127 City of Des Plaines - Respondent's motion for leave to file motion to strike and dismiss Instanter (10/16), Complainants' reply to affirmative matters set forth in answer to complaint for relief (10/22), Complainants' response to Respondent's motion for leave to file motion to strike and dismiss (10/23), Respondent's motion for leave to file reply to Complainants' response to Respondent's motion for leave to file motion to strike and dismiss (10/27), Complainants' response to Respondent's motion to file a reply (10/28) (RCF)
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- 92-134 Lone Star Industries - Agency motion to dismiss (10/14), Petitioner's response to Respondent's motion to dismiss nad motion to stay filing of Agency recommendation (10/19), Objection (10/22) (BF)
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- 92-140 Motor Wheel Corporation - Petitioner's motion to stay (9/30) (BF)
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- 92-142 Illinois Power Company - Petitioner's motion regarding Affidavit of James A. Smithson, motion regarding filing of Appendices to Biological Report and motion regarding service on the Illinois Environmental Protection Agency (9/30), Petitioner's motion for clarification of October 16, 1992 Board Order (10/21) (GTG)
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**DISCUSSIONS:**

- 90-148 B & M Steel Service (GTG)\_\_\_\_\_
- 90-149 Straders Logging & Lumber Mill (GTG)\_\_\_\_\_
- AS 91-6 Dart Container Corporation (JCM)\_\_\_\_\_
- AC 91-55 Vernon Abert (JCM)\_\_\_\_\_
- (A & B)
- \* 92-81 James Lynch (JTM) (due 11/19)\_\_\_\_\_
- \* 92-111 Russell L. Bacon (JA) (due 11/19)
- \_\_\_\_\_

**REGULATORY DISCUSSIONS:**

- R91-3 Safe Drinking Water Update, USEPA Regulations (July 1, 1990 through December 31, 1990), Adopted Rule, Final Order, Opinion and Order (motion for leave of the Board to give the Agency time to review the draft Order for final scrutiny) (JA)
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- R91-20 Potentially Infectious Medical Waste (RCF)
- \_\_\_\_\_

**AMENDED PETITIONS:**

- 86-4 City of Morris (filed 10/21) (RCF)\_\_\_\_\_
- 92-120 Amerock Corporation (filed 10/19) (JTM)
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**NEW CASES:**

- 92-119 Yolanda Price v. South Shore Villa Condominiums, and Quality Management Service, Inc. (See also Complainant's response to September 3, 1992 Board Order filed 9/25; Respondent's response to September 3, 1992 Board Order filed 10/14) (JCM)
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**NEW CASES:** (Cont'd)

- 92-145 Thomas J. Konkel v. City of Crest Hill  
\_\_\_\_\_
- 92-154 Shell Oil Company (Western Springs) v. EPA (GTG)  
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- 92-155 Continental White Cap, Inc. v. EPA (RCF)  
\_\_\_\_\_
- 92-156 Citizens Against Regional Landfill v. The County  
Board of Whiteside County and Waste Management of  
Illinois, Inc. (BF) \_\_\_\_\_
- 92-157 Greenville Airport Authority v. EPA (JCM)  
\_\_\_\_\_
- 92-158 Estate of Larry Junkin, by Patricia Junkin,  
Executrix v. EPA  
\_\_\_\_\_
- 92-159 City of Elmhurst v. EPA (Provisional Variance) (JCM)  
\_\_\_\_\_
- 92-160 Lawrence Brothers, Inc. v. EPA (Provisional  
Variance) (JCM) \_\_\_\_\_
- 92-161 National Steel Corporation, Granite City Division  
v. EPA  
\_\_\_\_\_
- 92-162 Village of Winnetka v. EPA (Provisional Variance)  
(JCM) \_\_\_\_\_

**NEW AC CASES:**

- 92-70 Sangamon County v. Delmar Donley \_\_\_\_\_
- 92-71 EPA v. Edwin & Elizabeth Tessmer \_\_\_\_\_
- 92-72 EPA v. W.W. Sanitation, Inc. and Jacwil, Inc.  
\_\_\_\_\_
- 92-73 County of Jackson v. Robert Ellis \_\_\_\_\_

AMENDED ADJUSTED STANDARDS:

92-9            Conversion Systems (filed 10/19) (JA)

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MINUTES:

October 16, 1992

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PENDING CASES ASSIGNED:

\* 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)  
89-44) Moline Corporation (BF)  
89-87)  
\* 89-171 Pekin Energy Company (MN) (open waiver)  
\* 89-177 CWM Chemical Services (JTM) (open waiver)  
AS 90-4 Granite City (JTM)  
\* 90-31 R. Lavin & Sons, Inc. (RCF) (due 6/17)  
90-137 Laidlaw Waste Systems (JTM) (Appellate Court  
Remand) (JTM)  
90-146 Village of Matteson (BF)  
90-170 Goose Lake Association (JA)  
90-187 Herman Prescott (RCF)  
AS 91-3 Peoria Disposal (MN)  
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 6/17)  
\* 91-17 B.F. Goodrich Corporation (RCF) (due 3/25)  
91-30 Susan Curtis & Marcy Diesing (JCM)  
AC 91-45 Rochelle Disposal Service (JCM)  
91-50 Karl & Helen Christ (MN)  
AC 91-55 Vernon Abert (JCM)  
\* 91-56 Douglas Furniture (JA) (due 2/4)  
\* 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)  
91-183 Thomas & Barbara Sneed (JTM)  
91-194 Residents of Cedarville (BF)  
91-195 Scott A. & Karen Thomas (BF)  
\* 91-202 Sherex Chemical Company (MN) (due 4/8)  
\* 91-262 The Pumper, Inc. (GTG) (due 2/25)  
AC 92-3(B) Dennis Grubaugh (GTG)  
AS 92-3 Jefferson Smurfit (GTG)  
AS 92-4 Detroit Diesel Corporation (JA)  
AC 92-5(B) Ronald & Retha Rawe (BF)  
AS 92-6 C.J. Goodall Tire Company (GTG)  
AS 92-7 Illinois Power Company (BF)  
AS 92-8 Cabot Corporation (JA)  
AS 92-9 Conversion Systems, Inc. (JA)  
AS 92-10 Southern Illinois Power (BF)  
\* 92-10 Kelly Williamson Company (BF) (due 2/4)  
\* 92-23 The Grigoleit Company (JA) (due 12/3)  
92-26 Dale & Deborah Dettlaff (BF)

PENDING CASES ASSIGNED: (Cont'd)

AC 92-33 James Alexander (MN)  
AC 92-41 Lakewood Homes (BF)  
AC 92-48(B) Delmar Donley (GTG)  
AC 92-64 City of Rochelle (JCM)  
92-74 Kenneth & Cynthia Metvier (JTM)  
\* 92-88 Southern Park Food (BF) (due 12/17)  
\* 92-90 Robertson-Ceco (GTG) (open waiver)  
\* 92-92 North Shore Sanitary District (JCM) (due 12/17)  
\* 92-98 Reichhold Chemicals (JA) (due 12/17)  
\* 92-104 Roger Malkey (RCF) (due 3/25)  
\* 92-105 Weyerhaeuser Company (JCM) (open waiver)  
92-117 IEI Barge Services (RCF) (open waiver)  
\* 92-118 Ideal Heating Company (JTM) (due 1/21)  
92-119 Yolanda Price (JCM)  
\* 92-120 Amerock Corporation (JTM) (due 12/17)  
92-121 Minesota Mining & Manufacturing (JA)  
\* 92-122 F & R Enterprises (GTG) (due 1/21)  
\* 92-123 Chemrex, Inc. (JA) (due 12/17)  
\* 92-124 Mercantile Bank of St. Louis (BF) (due 12/17)  
\* 92-125 Mercantile Bank of St. Louis (BF) (due 12/17)  
\* 92-126 Safety-Kleen Corporation (MN) (open waiver)  
92-127 City of Des Plaines et al. (RCF)  
\* 92-130 Olin Corporation (JCM) (due 12/17)  
\* 92-131 Laidlaw Waste Systems (MN) (due 1/7)  
\* 92-132 LeRoy Brown & Sons (GTG) (due 1/7)  
\* 92-134 Lone Star Industries (BF) (due 1/7)  
\* 92-136 Safety-Kleen Corporation (MN) (open waiver)  
\* 92-140 Motor Wheel Corporation (BF) (due 1/21)  
92-142 Illinois Power Company (GTG)