ILLINOIS POLLUTION CONTROL BOARD
December 1, 2011

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 10-72
	)	(Enforcement - Land)
BYROM WARD, d/b/a WARD ELECTRIC,	)	
and TIMOTHY JAMES,	)	
	)	
Respondents.	)	

CONCURRING OPINION (by C. K. Zalewski):

I concur with the result in this enforcement case. The Board majority assessed a penalty of $7,000 against Timothy James as requested by the People but reduced Byrom Ward's penalty by $1,500 from $5,000 to $3,500. While I believe a penalty against both Respondents is warranted, I do not believe a reduction in Mr. Ward's penalty is supported by the record.

The majority states that "the Board . . . finds that a civil penalty of $7,000, twice the penalty assessed against Byrom Ward, is appropriate for Timothy James in light of his failure to assist in any subsequent compliance." But, the record does not demonstrate the extent of the costs incurred, the details of the remediation, or what if any economic benefit was accrued by respondents. In short, too many gaps in the record remain and too many questions are unanswered to warrant the $1,500 adjustment.

For these reasons, I respectfully concur with the majority opinion and order.

Carrie K. Zalewski

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the above concurring opinion was submitted on December 1, 2011.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board