

ILLINOIS POLLUTION CONTROL BOARD
May 18, 1984

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 84-11
)
CORNBELT FS, INC.)
an Illinois Corporation,)
)
Respondent.)

ORDER OF THE BOARD (by J. D. Dumelle):

This matter comes before the Board upon a May 4, 1984 motion to dismiss or transfer Count VI to the Circuit Court filed on behalf of Cornbelt FS, Inc. Cornbelt FS argues that the imposition of a monetary penalty for the killing of fish constitutes a cause of action to which a right to a trial by jury attaches. The Illinois Environmental Protection Agency responded in opposition stating that such a right does not attach where the cause of action is one "unknown to the common law" [Ford v. Environmental Protection Agency, 9 Ill. App. 3d 711, 719, 292 N.E. 2d 540 (1973)], and that the cause of action here is a special statutory proceeding unknown at common law. The Board agrees and the motion is hereby denied.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board hereby certify that the above Order was adopted on the 18th day of May, 1984 by a vote of 6-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board