



Pesticide Ruling Harmful to Agriculture

By Russ Weisensel

EDITOR'S NOTE: *Russ Weisensel hardly needs any introduction to WGCSA members. As the executive director of both the Wisconsin Agri-Business Council and the Forestry/Rights-of-Way/Turf Coalition, he is one of the most articulate and best informed spokesman in all of agriculture. He has been a meeting speaker for the WGCSA, the keynote speaker for our Wisconsin Golf Turf Symposium and this spring addressed a meeting of the Greater Milwaukee Area Country Club Association. He is equally comfortable in front of an urban group or a rural gathering.*

Below are Russ' thoughts about the recent U.S. Supreme Court decision in the Town of Casey suit.

Federal and state governments have a comprehensive set of laws and administrative rules to regulate the manufacturing, packaging and application of pesticides. Hundreds of pages of well-thought-out rules are in place. A number of these regulations establish standards which include variances to meet local needs to protect humans, to protect groundwater and to limit "target" pesticides and crops.

In Wisconsin, Ag 29, Ag 30 relating to atrazine and NR 107 are excellent examples of specific rules governing pesticide applications. The recent decision of the U.S. Supreme Court, however, states that under existing federal law each local unit of government can enact its own pesticide-use regulations.

Town of Casey officials view their ordinance as a simple "right-to-know" rule to inform people what is being sprayed. The ordinance requires a permit 60 days prior to the application of any pesticide on public lands, or private lands subject to public use, and for any aerial application. This 60-day advance notice alone precludes any kind of an integrated pest management program where a pesticide application is made only after field scouting or when conditions warrant specific targeted appli-

cation, e.g. for army worms.

The Casey ordinance also is not just a simple permitting process, but in effect requires a mini-environmental impact statement to be filed with each permit. The town, by forbidding the pesticide application on half of Mr. Mortier's land, in effect made it impossible for him to grow trees.

Both the Wisconsin Department of Agriculture, Trade and Consumer Protection and the Department of Natural Resources have authority and major programs dealing with our pesticide rules. The heads of these departments each made comments prior to the Supreme Court ruling:

• Alan Tracy, secretary, DATCP—
"...We believe that state pesticide regulations are also responsive to local health and environmental concerns.... We are concerned that a widespread regulation of pesticides by local governments could lead to an unworkable patchwork of duplicative or inconsistent local requirements..."

• C.D. Besadny, secretary, Wisconsin DNR—"The department's position is that local ordinances inconsistent with state pesticide laws are pre-empted.... I believe that it is in the state's best interest that the town of Casey efforts to regulate pesticide use fail..."

Taken to its logical conclusion following last month's Supreme Court ruling, the state of Wisconsin Department of Transportation would have to seek some 55 different town permits just to apply Roundup around sign posts on Highway 51 from Iron Mountain, Mich., to South Beloit, Ill. (That's the same herbicide homeowners use around trees to make lawn mowing easier.)

An aerial applicator would have to check with every town board prior to treating any farmer's crops for army worms, or forests for gypsy moth. Any local unit of government could prohibit timely or effective applications.

Based on the Casey ordinance, a Wisconsin farmer may have to apply for a different local permit for each and every pesticide he or she used in each

and every township in which land is operated. Both pesticide use and the application methods could change at the town line.

In 1984, the National Association of State Departments of Agriculture passed a resolution which stated: "...Local pesticide ordinances could threaten the historic federal/state relationship and could create an unending hodgepodge of pesticide restrictions which would totally destroy uniform pesticide regulation in this country..."

The Supreme Court ruling widely opened the door for the potential of 1,900 different pesticide regulations in every township, county and village across this state. The impact of this ruling on agriculture, forestry, rights of way maintenance, aquatic nuisance control, lawn care and indeed all other types of pest control including that relating to public health may now be legal, but it is not good public policy.

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