

## LANDSCAPE MANAGEMENT

### LEGISLATION

# High court says localities may regulate pesticides

WASHINGTON, D.C.—The U.S. Supreme Court ruled unanimously that local governments may regulate pesticide use on public lands, private lands subject to public use, or in aerial applications, as the final act of *Wisconsin Public Intervenor v. Mortier* was played out June 24th.

What does this mean for the professional pesticide applicator? According to Deb Strohmaier, director of public relations for ChemLawn: "It might not be as difficult to manage (for companies that) are just servicing one or two communities," but ChemLawn, for one, must be concerned about "all the individual possibilities in 45 states."

In two preceding court battles, representatives for the lawn care industry had argued that the 1972 Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) pre-empted such local regulation.

Allen James, executive director of Responsible



"Trouble" states where localities have tried in the past to pass local legislation, according to the PLCAA.

Industry for A Sound Environment (RISE), says the court determined that neither FIFRA's language nor its history "provided sufficient justification for pre-empting local regulation of pesticides."

"The decision creates an unworkable framework for the regulation of pesticides," says Ralph Engel, president of the Chemical Specialties Manufacturers

Association (CSMA). "Jurisdictions by the tens of thousands now have the authority to impose regulations."

Tom Dawson of the victorious Wisconsin Public Intervenor's office calls that "a garbage argument." He says that many town supervisors are themselves farmers, who would not inflict undue hardship on their own livelihoods.

Case Western Reserve University law professor William Marshall in Cleveland, Ohio—who is familiar with the case—says a salvo of new regulations will not necessarily follow the decision.

"All the opinion does is say that the federal law allowed for localities to engage in additional kinds of restrictions if they wanted to," says Marshall. "That's neither an incentive nor a disincentive for localities."

Strohmaier doesn't expect a rash of local action, but suspects certain areas of the U.S. previously active against pesticides to now be motivated further. Strohmaier suspects that more legislative activity will occur next spring, as companies gear up for the new season.

Dawson says he hopes that perhaps now the pesticide industry will agree to "help draft model ordinances."

—Terry McIver □

WASHINGTON, D.C.—What remains to be seen in the epilogue to the Wisconsin/Mortimer courtroom drama is the amount of legislative action to be taken by communities.

"The ruling," says CSMA's Ralph Engel, "makes it extremely important that Congress

## Congress may intervene

once and for all closely re-examine the issue of local preemption, and expressly state in FIFRA that local jurisdictions are preempted from regulating pesticides—products that are already heavily and effectively regulated on a

national level."

Congress would certainly be pressured further to amend FIFRA, if what results is indeed a "patchwork quilt" of divergent laws. Justice Byron White, in writing for the court, concluded that "Congress

is free to find that local regulation does wreak havoc, and enact legislation with the purpose of preventing it."

Allen James says RISE will consider whether it will seek a FIFRA amendment immediately, or wait for localities to begin passing laws.

—T.M. □



## It's time to act—now!

HAZELTON, Pa.—PLCAA president Neal DeAngelo of Lawn Specialties expects the Supreme Court's ruling to have "immediate impact" as local municipalities resurrect past, failed initiatives. An example is Pennsylvania's Packer Township, which tried to initiate a pesticide ban 18 months ago.

Although DeAngelo expects "some activity" in the way of ban initiatives, he does not believe pesticide bans will ever catch on.

DeAngelo insists that industry must take "immediate action," preferably by joint efforts between the PLCAA and state lawn care associations.

"If we can nip a lot of these (proposed laws) in the bud, and stop them from ever beginning in the



Neal DeAngelo

first place," says DeAngelo. "I think we'll do our industry a great service."

DeAngelo says associations need financial support and time commitments to relay information, "whether it's just brochures, whether it's video tape programs, something that they can take to their local garden clubs and rotary clubs and borough officials to help educate them." —T.M. □

### PESTICIDES

## Pro golfer questions source of health woes: could it be pesticides?

An Oregon professional golfer has been told his health problems may be the result of pesticide ingestion from the course. However, questions remain about the mysterious case which has set off some alarms in the golf and green industries.

Golfer Peter Jacobsen has said his symptoms of dizziness, listlessness and fatigue may not be a sinus condition, but rather linked to the practice of putting golf tees into his mouth after they'd been used on the turf surface.

Jacobsen's case figured centrally in a mid-June (Salem, Ore.) editorial which condemns chemical use in many lawn care operations, terming his case a "living example of a problem that few realize and even fewer want to acknowledge: the danger of a perfect lawn."

According to Oregon Golf Course Superintendents Association president Dick Malpass, Jacobsen learned from a homeopathic doctor that some phosphosore E has settled in his liver. But Malpass says he has checked with Oregon State University officials who have told him that they'd not heard of the substance.

"We're just keeping our fingers crossed, waiting to see how this will be resolved," said Malpass in mid-June. "We've put out feelers. The main thing now is to find out if there is just such a chemical."

Therein lies the mystery.

Oregon State University toxicologist Terry Miller, contacted by Malpass, says he has never heard of phosphosore E.

"I can't find it anyplace,"

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# NEWS BRIEFS

**RETIREMENT INVESTMENTS...**Alabama has come up with a unique idea for developing new high-quality public golf courses: let state employees invest retirement funds. At least 12 championship-caliber courses are now planned. "Golf courses are a sound investment, so we've taken a leadership role in their development and construction," says Dr. David Bronner, CEO of Retirement Systems of Alabama.

**ON TO DALLAS...**The Golf Course Superintendents Association of America has moved its 1994 conference and show from Houston to Dallas. The show, Jan. 31 to Feb. 7 three years hence, was moved because it outgrew Houston's George R. Brown Convention Center.

**A UNIQUE IDEA...**The Grounds Management Association of Wisconsin added a unique public relations tool this year: sponsorship of a poster contest titled "Benefits of Turf." The competition was open to any sixth- through eighth-grader in the state, and 500 posters were received. Winners at each level received \$200 savings bonds, and the grand prize winner received an all-expense paid family trip to a Milwaukee Brewers baseball game, hosted by Brewers grounds manager Gary Vandenberg.

**A NATIONAL CELEBRITY...**Bill Thornton, president of Thornton Environmental Industries, Maineville, Ohio, has been named to the board of directors of the National Federation of Independent Business. The NFIB is the nation's largest small-business advocacy organization, headquartered in Washington, D.C. Founded in 1946 by Thornton's father, the company employs more than 150 people during the peak landscaping season.

**AWARD-WINNERS...**Nichols Lawn Service of Wichita, Kan. and the F.A. Bartlett Tree Expert Co. of Stamford, Conn. were recently winners of prestigious awards. Nichols was named 1991 Prime Contractor of the Year for four states by the Small Business Administration. President Larry Nichols was honored two months ago in Washington, D.C. Bartlett was one of four corporate recipients of the Green Star award presented by the Environmental Action Coalition of New York, N.Y. President Robert A. Bartlett Jr. accepted the award for the company's urban and suburban tree preservation programs.

**'OVER THERE'...**George Toma of Kansas City, turf consultant to the NFL, has been helping prepare playing surfaces in Japan and Germany this summer. Japan was to host an exhibition game between the Denver Broncos and the Seattle Seahawks on Aug. 4. Kansas City was to play the Los Angeles Rams there on Aug. 11. When Toma visited Tokyo's MacArthur Park, he was greeted by Tokyo Parks Department and other officials.

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but that doesn't necessarily mean it doesn't exist," says Miller.

He says he checked with the distributor of an insecticide believed to be the problem, as well as with the original supplier, but neither source had heard of the compound. Neither had a turf profes-

sor at the university.

The June 13 "Statesman-Journal" editorial, entitled "Oregon golfer an example...Perfect lawn can make you ill," says the Jacobsen case exhibits "what problems youngsters might have with toys, balls and other objects that have rolled about in their own yards." □

## PRODUCTS

# EPA registers new pre-, post-emergent

ST. LOUIS—Dimension herbicide, manufactured by Monsanto, received EPA registration in June.

Dimension controls crabgrass, goosegrass, fox-tail, spurge, oxalis and other weeds.

Product manager Jim Budzynski says it may be used for pre- and post-emergence weed control.

The active ingredient in Dimension, dithiopyr, is environmentally desirable in part because of low use

rates, the company says.

Budzynski says Dimension has provided longer crabgrass control than other pre-emergence herbicides, and does not interfere with fall overseeding.

Dimension can be applied over a wide variety of turfgrasses without damage to foliage or root systems, Monsanto says. The herbicide will also not injure ornamentals near treatment areas, according to the company. □

## TURFSEED

# New burning fees won't hurt buyers

TANGENT, Ore.—New field burning fees charged to seed harvesters will apparently have little immediate effect on seed prices.

"I don't think you'll see dramatic changes in prices," says Dave Nelson of the Oregon Fine Fescue Commission, which negotiated the fee system with state legislators.

"The cost to farmers will probably go up by as much as \$35 an acre," says Nelson. "On a 1000-pound yield, that's going to be 3-1/2 cents a pound."

Jim Enyart of Turf Seed, Inc., is more cautious. He says it's too early to say which way prices will go. But he sees no drastic change in prices this year.

"Until we get some viable alternatives (to burning), it's hard to say. Everybody's talking like

it's going to drive the price up, but I'd reserve judgment until we have to start reducing the burning."

This year under the new fee schedule, 180,000 acres may be burned and 75,000 acres may be propane flamed, each at a cost of \$8 an acre. Burnable acreage will decrease to 40,000 by 2001 when an additional 75,000 acres may be propane flamed, provided particulate matter discharge does not go beyond a proscribed minimum.

"There will be more stability over the long run, but not much effect on prices in the short run," says Steve Tubbs of Turf Merchants, Inc.

Tubbs says the burn legislation might ultimately hurt bluegrass yields, because burning is especially beneficial to bluegrass. □

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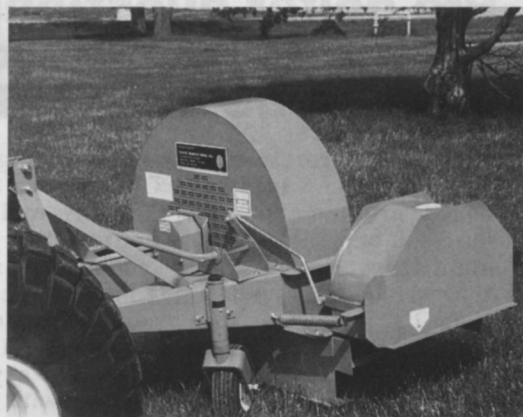
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### Model 31

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Model 61



Model 31

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## LEGISLATION

### Local pesticide regs tough to enforce, don't make sense

MAYFIELD VILLAGE, Ohio—Enforcement of a pre-notification law here has authorities, LCOs and homeowners confused.

"The ordinance...is really quite unenforceable," says Phil Fogarty, president of the Ohio Lawn Care Association and Crowley Lawn Service, Inc. in Cleveland. The company

operates in the village.

"I don't know how we're going to police it," says Gus Amendola, Mayfield's building commissioner charged with enforcing a 1987 pre-notification law. That law requires that all abutting property owners be given 24 hours notice before pesticide applications by

either professionals or homeowners.

According to law director, Fred P. Ramos, applicators will be notified of the law: "We want to be fair. We don't want to be citing people tomorrow, says Ramos."

Amendola says he was told to start enforcement immediately.

"I'm a little skeptical," says Amendola, "because the 24-hour notice will be difficult." He expects notices to be placed in

mailboxes. "Someone could put the notice in the mailbox at 2 o'clock in the morning and then come back and spray at 8 a.m. How do I know what time they (put the notice in the mailbox.?)"

Citizens who work during the day are another concern. "People will not get their mail until they come home," Amendola points out.

Also, it's against federal law to place non-mailed items in mailboxes.

Fogarty is trying to come up with a sensible ordinance that can be used in Mayfield and surrounding communities. "I'm attempting to get these cities to sit down with the industry and environmental people and work something out," he says. Fogarty admits that he has a tough job when it comes to seeking suitable pesticide ordinances. The co-host of a gardening radio show, Fogarty is bringing 2,4-D developer, Wendell Mullison, to town. The plan was to have Mullison meet with local officials, yet one mayor up for reelection this fall told Fogarty that he wouldn't be seen in public with Mullison.

Fogarty still hopes a solution can be negotiated. "I'm trying to get something accomplished, not draw battlelines," he says.

—Jim Guyette □

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## EVENTS

### AUGUST

**13: Associated Green Industries of Northeastern Ohio summer field day, Great Lakes Evergreens, Madison, Ohio. Contact: AGI, (216) 572-2784.**

**15: The Wisconsin Nurserymen's Association, summer field day and trade show, Lied's Nursery Farms, Sussex, Wisc. Contact: (414) 246-7445.**

**21: Michigan Nursery and Landscape Assoc., field day, The Cottage Gardens, Inc., Lansing, Mich. Contact: MNLA, 819**

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