

## LANDSCAPE MANAGEMENT

### LEGISLATION

# Supreme Court will review case of applicator vs. city

WASHINGTON — A case heard by the U.S. Supreme Court on April 24 will affect the green industry. The case was to decide if local governments are permitted to restrict pesticide and other chemical applications, or if state or federal laws override local ordinances.

The high court was to hear an appeal stemming from Casey, Wisc., and the state's Office of Public Intervenor.

With local governments nationwide often enacting stricter pesticide laws than those contained in the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), the Casey suit is seen by many to be precedent-setting. Conflicting court rulings from state supreme courts and federal appeals courts have also clouded the issue.

In "Wisconsin Public Intervenor vs. Mortier," the Supreme Court could uphold or reverse a March, 1991 Wisconsin State Supreme Court ruling which in a 4-3 vote upheld two previous lower court rulings that local pesticide regulations are pre-empted by federal and state laws.

In 1981, the City of Casey passed a resolution prohibiting pesticide and herbicide use on public lands and along roadways in the

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*The continuing battle as local governments try to preempt federal authority will reach a head this spring when the highest court in the land listens to arguments.*

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adjacent township. In 1983, a similar law regarding herbicides was included a public hearing clause.

A July, 1984 local resolution modifies procedures for herbicide application on public lands or private lands which the public might use. It also specifies aerial application procedures.

In the specific case before the court, local landowner Ralph Mortier applied to the township to spray 20 acres to prepare the site for Christmas tree plantings. Casey officials denied Mortier's permit, but allowed him to spray 10 acres by hand.

Mortier challenges the local ordinance which was updated in 1985 to include all pesticides and fungicides not included in the original law.

Mortier has been supported by the Wisconsin Forestry/Rights-of-Way/Turf Coalition. The state's

Office of Public Intervenor represents the city.

In May, 1988, a U.S. Circuit Court of Appeals voided the Casey regulations, ruling federal and state laws pre-empt local ordinances. That decision was upheld by the Wisconsin Supreme Court in March, 1990.

Russel R. Weisensel, executive director of the Forestry/Rights-of-Way/Turf Coalition, says that allowing such local controls makes it impossible for pesticide applicators to operate.

"If special local laws are needed, they should be part of an overall state plan," says Weisensel.

The coalition is a division of the Wisconsin Agri-Business Council, Inc.

"We are also concerned what this means for agriculture as well," says Weisensel, arguing a single farm tract could stretch over two or more local ju-



**Weisensel: local controls would make it impossible to operate.**

risdictions with differing application laws.

But Tom Dawson, the intervenor in the case, says the central issue is "whether local governments will continue to exercise their traditional role of protecting their areas locally.

"The floodgates are not about to open and even if that (were true), the answer is not pre-emptive regulations. It is uniformity (in regulations) that everyone can be familiar and comfortable with," says Dawson.

—Jack Simonds □



These Pennsylvania lawn care operators were among those who took the time to visit Washington, D.C. for "Day on the Hill." From left to right are Larry Ellmaker; Neal DeAngelo; Mike Kravitsky, III; Doug Loon, assistant to Sen. Arlen Specter; Mark Phipps; David White of Coron Corp.; and Ken Clemmer.

#### LEGISLATION

## LCOs lobby in D.C. for standardization

WASHINGTON — The Professional Lawn Care Association of America (PLCAA) came here in March to make a stand. On its agenda was national certification and training of pesticide applicators, and affirming jurisdiction of the government's major pesticide-use law.

About 200 lawn care and pest control operators and product manufacturers were here to lobby for re-

sponsible pesticide regulations, during what could be the green industry's most important legislative year ever.

PLCAA believes certification and training amendments are keys to the re-authorization of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). That re-authorization is expected later this summer.

In *Casey v. Wisconsin*,

## EPA official envisions stricter laws in future

WASHINGTON — Victor Kimm has told members of two pesticide groups that there exists an "increased responsiveness" by lawmakers to pass stricter laws governing pesticide use.

Kimm is an EPA deputy assistant administrator for pesticides and toxic substances. He spoke to members of the Professional Lawn Care Association of America and the National Pest Control Association during an annual "Day on the Hill" presentation here.

"In many instances," said Kimm, "such legislation is more stringent than federal requirements.

"I think that change is a function of and related to the attitude of the citizens." Kimm added that he has seen "increased sensitivity, questioning and concerns" over pesticide-related issues.

"Most legislation in the environmental area allows for increased stringency at the state and local level," said Kimm. "We're likely to see that pattern continue."

Kimm also promised that industry would see more testing of pesticides over the next decade, as all pesticides are put through a re-certification process.

Kimm urged LCOs to watch the reregistration process carefully, "because you want to be sure these are open processes."

The EPA, according to Kimm, wants to keep restricted use pesticides "in the hands of the professionals, and is interested in stronger certification and training requirements, areas which the PLCAA and other state lawn care associations have been making strides."

—Terry McIver □

the Supreme Court will judge whether or not local pesticide regulation is preempted by FIFRA (see related story, page 8).

"If local governments are allowed to regulate pesticides," said Robert Rosenberg, director of government affairs for the National Pest Control Association, "and the onus of congressional intent is lifted, it's our belief that there will be thousands of local regulations, and they will not be consistent."

Certification and training amendments are improvements the PLCAA has long wanted to see in FIFRA.

"We know how important certification and training are for members," said Tom Delaney, PLCAA's director of government affairs. "We feel the federal government has to come along with some of the safety requirements that we (PLCAA) have.

"They have to beef up their programs...not only for the technicians. Anybody that's commercially applying a pesticide for hire needs to be certified."

Both sides of the issue are winning supporters. According to Delaney, 11 states and the U.S. Attorney General have filed *amicus curiae* ("friend of the court") briefs, stating their support for local power: Alabama, Hawaii, Illinois, Kansas, Maine, Michigan, Missouri, Nevada, Pennsylvania, Utah and Vermont.

States on record as favoring FIFRA laws governing locally are Oregon, Arkansas, Iowa and Louisiana.

At presstime, California was reportedly also ready to fall in line as being opposed to increased local power. Delaney urges LCOs to encourage legislators in those states to file briefs in favor of FIFRA.

If the high court decides to support local pesticide regulations, there is not much the industry can do. If FIFRA is allowed to continue as local law, LCOs can spend more time running their businesses and less time in court.

—Terry McIver □

#### PRODUCTS

## Atrazine worry prompts recall

WILMINGTON, Del. — Concern over possible atrazine content has caused Du Pont to announce an immediate stop sale and recall of its Benlate 50DF, Benlate 1991 DF and Tersan 1991 DF fungicides sold in the U.S.

Du Pont advises all dealers and distributors to cease sale of these products immediately, and to notify any Benlate and Tersan customers of the recall. Du Pont says any grower, nurseryman, golf course superintendent, horticulturist, university tester or applicator who has these products should return them to the point of purchase and obtain credit.

According to Du Pont, the level of atrazine that may be contained in Benlate and Tersan poses no human health or food safety problems, but could result in injury to plants.

Sale of the products will be withheld until they have been determined to be atrazine-free.

For more information, contact Du Pont at (800) 441-7515. □



Dr. Roger Yeary (left) of ChemLawn and Dr. Douglas Linz of the University of Cincinnati report on ChemLawn study.

#### PESTICIDES

## ChemLawn's applicators prove healthy

COLUMBUS, Ohio — The ChemLawn Corp. released a study March 7 which shows its applicators are a healthy group.

The study, begun in *continued on page 12*



**STUDY** from page 11  
1987, assessed the health of 100 specialists who apply pesticides and fertilizers as a part of their jobs. Those studied had been working with pesticides for at least nine years.

"The study answers many concerns that people have about the health effects of long-term exposure to landscape care products that are properly handled and applied," says Dr. Roger Yeary, ChemLawn's vice president of Health, Safety and Environmental Affairs.

"The results speak for themselves. The study showed no long-term adverse health effects attributable to the specialists' work with chemicals."

The findings were released by Dr. Douglas Linz of the Occupational and Environmental Medicine Group of the University of Cincinnati Medical Center, where the study was conducted. Linz had participated in the study.

Workers were reviewed through a standardized occupational work history developed by an industrial hygienist. Physical exams and laboratory evaluations were also performed.

Sought were known or potential adverse health effects from exposure to insecticides, herbicides, fungicides and fertilizers.

The study also showed the group exhibited minor work-related ill effects.

ChemLawn asked for a follow-up examination on 26 specialists who exhibited nerve conduction velocity test results that were initially difficult to interpret because of a lack of a control group.

A later comparison with Cincinnati municipal sewer district workers, completed in 1990, does not show association between job exposure to pesticides and nerve conduction measurements.

ChemLawn will not release detailed information until the Occupational and Environmental Medicine Group publishes its findings in a scientific journal. □



An "intensive care unit" was set up around the tree (left) to control temperature and humidity. The actual wound created by a chainsaw is shown above.

## TREES

# Experts out on limb to save jumbo tree

MAGNOLIA SPRINGS, Ala. — New concepts in tree care are the keys to saving a 500-year-old jumbo Southern live oak.

Last fall, the 27-foot circumference trunk was girdled by a chainsaw-toting vandal in the wake of a property dispute. The tree (*Quercus Virginiana*), which is 65 feet tall with a crown spread of 150 feet, faces a life-threatening battle as summer heat approaches.

Initial grafting efforts consisted of 138 small bridge grafts, while supplemental grafts amounted to 65 large bridge grafts. In addition, 32 smaller offspring trees were grafted on the main plant.

"We were trying to graft in the winter—which is unheard of," reports Stan Revis, a Crestview, Fla. forester who is working to save the tree. Revis says that 30 university experts have been solicited for their opinions.

"We're having to take what makes sense and try it," he says.

The grafts are an example. "The bark on this tree is four inches thick. Nobody's tried to graft with bark that thick before."

Pencil-sized live oak twigs were used. Like straws, the scions were lined up with the cambium

and inserted within the damaged area to allow the flow of water and nutrients.

A highly fibrous peat product supplied by the Canadian Sphagnum Peat Moss Association was placed around the grafts as a bandage.

Thirty two trees are grafted below and above the stricken area. The potted offspring are bent over with one side grafted below the wound and the other side attached above the gash. Other potted saplings may be grafted onto overhanging limbs.

Scrub oaks under the canopy were removed to avoid robbing the tree of additional nutrients.

"We took a radar sounding to see where the root structure was," recalls Stan Foote of the Committee to Save the Tree. They extended about 40 feet past the crown, and a six-inch layer of peat moss and mulch was placed around the tree.

A tree that's near death will secrete a hormone causing it to produce more seeds to reproduce itself. Therefore, this jumbo tree is likely to have a bumper crop of acorns this year. But acorns can rob a tree of about 15 percent of its nutrients, so Revis would like to limit the tree's acorn production.

He's counting on using water to wet the pollen and soak it right out of the sky. "We have a sprinkler system set up on top of the tree, and when the pollen starts flying we're going to run the sprinkler system 10 minutes every hour for 24 hours a day," he says.

The sprinkler system is a 65-foot telephone pole that's leaned up the tree. Attached is a firehose-like setup that's fed by a 140-foot well.

"The sprinkler head is a way to cool the tree in the heat of the summer," Foote adds.

Also, the heat pump in the 'intensive care unit' will be replaced by an air conditioner to keep the tree cool. "We've got to get the tree through the summer or it's not going to live," Revis cautions.

—James E. Guyette □

## ENVIRONMENT

# Ice storms blister East and Midwest

FAIRPORT, N.Y. and BATTLEFIELD, Ind. — Severe ice storms last month ravaged central Indiana and then felled about 100 mature oak and beech trees at Oak Hills Country Club in New York.

Oak Hill, considered one of the top 100 U.S. golf courses and site of the 1989, 1968 and 1956 U.S. Open championships, was expected to open the season on schedule April 18. About 65 of the mature trees fell in wooded areas the public does not visit.

continued on page 14

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Many trees destroyed at Oak Hill were in out-of-bounds areas; nonetheless, a massive clean-up ensued.

### ICE from page 12

Still, the damage claimed two trees at the course's notable "Hill of Fame" where one tree dedicated to comedian Bob Hope and another honoring Arnold Palmer, Gary Player and Jack Nicklaus were lost.

The damage severity at first astounded Hahn, but outside help was hired for clean-up and pruning, and normal seasonal staffers were reassigned.

"Mother Nature took a long time to make Oak Hill beautiful. She did a lot of damage in a short period of time," Hahn says.

"It was kind of ironic. In its own way, at first the sight was beautiful: the area had kind of a crystal look. But then there was the damage's ugliness."

As of mid-March, Hahn's crews were "moving along pretty well" as greens, tees and fairways were largely unharmed. Volunteers were also assisting in clearing away debris.

Hahn is no stranger to nature's fickleness. In 1989, just prior to the U.S. Open, Oak Hill was drenched by three inches of rain. And in 1983, the course iced up overnight.

"This was the worst as far as devastation," Hahn notes. "But we'll get it cleaned up and go on from there. You can't dwell on it."

The Indiana ice storm hit a 19-county area in the north central part of the state, taking out "everything smaller than my wrist" says Daniel Skinner,

a Fort Wayne landscaper who drove through Battlefield, Ind. afterward.

Areas in the storm's wake have been declared federal disaster areas by Pres. George Bush. Six died and 43 were injured.

"It was as if the trees had been topped out. Limbs were down everywhere," recalls Skinner.

Heavier trees "looked like they'd been cleanly cut," he says. Softer poplars appeared more sheared.

Skinner's Landscape Services clients largely were unaffected by the storm, but Skinner says his company followed the general rule of not touching plants until ice melts.

Steve Goodwin agrees. He is a supervisor, arborist and sales representative for Bartlett Tree, Ft. Wayne.

Goodwin says 99 percent of the trees in the area were likely affected by the ice. Originally about 10 crews from his company were sent into the region around Battlefield, but within two weeks crews were reduced to five or six.

His biggest concern was for homeowners who don't attend to tree repair because damage wasn't immediately visible. Ice-related tree damage, says Goodwin, can lead to disease and insect infestation.

Goodwin says few stands of trees were left unaffected and ice coatings of an inch or more glazed hardwoods like oak, hickory and hard maple, along with softer trees.

—Jack Simonds □



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## EVENTS

### MAY

**15: North Carolina Turf and Landscape Field Day**, N.C. State University Turf Field Center, Raleigh, N.C. Contact: C.H. Peacock, or R.H. White, Box 7620, NCSU, Raleigh, NC 27695-7620; (919) 737-7615.

**18-19: Certification testing for landscape contractors**, Valencia Community College, Orlando, Fla. Contact: Florida Nursery Growers Assn., 5401 Kirkman Rd., Suite 650, Orlando, FL 32819; (407) 345-8137.

**18-21: Intl. Society of Arboriculture, Western Chapter Conference and Trade Show**, Modesto, Calif. Contact: Allen Lagarbo, 801 11th St., Modesto, CA 95353; (209) 577-5344.

### JUNE

**5-6: IPM Workshop, "Incorporating Biological Controls"**. Contact: The Ball Institute, (708) 231-3600.

**6-7: Florida Ornamental Growers Association Seminar and Trade Show**, Altamonte Springs, Fla. Contact: Barbara C. Poole, exec. secretary, P.O. Box 7560, Sun City, FL 33586-7560; (904) 463-7666.

**12: Lofts Field Day**, Lofts Research Farm, Chimney Rock Road, Martinsville, N.J. Contact: Marie Pompei, (908) 560-1590.

**19: Lofts Field Day**, Lofts Research Farm, Wilmington, Ohio. Contact: David Goodwin, (513) 382-1127.

### GOLF

## NGF issues critique of 'Forbes' article

JUPITER, Fla. — National Golf Foundation President/CEO Joseph Beditz has responded to a *Forbes* magazine article which was critical of NGF growth figures.

According to Beditz, *Forbes*'s Dec. 24, 1990 article, "Extrapolation Madness," erred in its comments on golf industry sales, golf development failures and the growth of demand for the game. According to Beditz:

- No more than 10 to 20 golf courses a year go out of business. That's 0.1 percent.

- Rounds played—not number of golfers—is the primary indicator of demand.

- During the 1980s, the golf industry enjoyed one of its most prosperous decades ever, with sales on average increasing 10 percent per year.

"We have to guard against those who will misinterpret normal adjust-

ments in our industry and its growth cycles," says Beditz.

The *New York Times* followed up on the *Forbes* article. A *Times* article noted that, though the need remains in the U.S. for new golf courses, construction of real estate developments that feature golf courses has slowed. According to the *Times*, "some golf course developers fear that they are going through the same cycle as hotel and office developers—a rush to build followed by a glut and a crash."

The NGF (which predicts 150 to 200 new courses this year) believes that municipalities must pick up the slack by building more public courses, says NGF director of communications Bill Birbaum.

The primary purpose of the NGF, headquartered here, is to encourage the growth of golf in the United States. □





J. Michael Poellot: superintendents must keep courses environmentally safe, use environmentally safe products.

#### GOLF

### Golf courses can add to environment

LAS VEGAS — Golf courses and the environment go hand-in-hand, according to J. Michael Poellot, who spoke on the subject at the International Golf Course Conference and Show here.

"With proper design, construction and maintenance, golf courses cannot only coexist in our increasingly fragile environment, but they can enhance it," said Poellot, president of JMP Golf Design Group in Saratoga, Calif. "Golf courses actually help preserve our precious open space.

"For every 150-acre golf course that turns the area into a lush rolling landscape of trees, turfgrass and wildflowers, there are 5,000 acres of land being paved in concrete or asphalt."

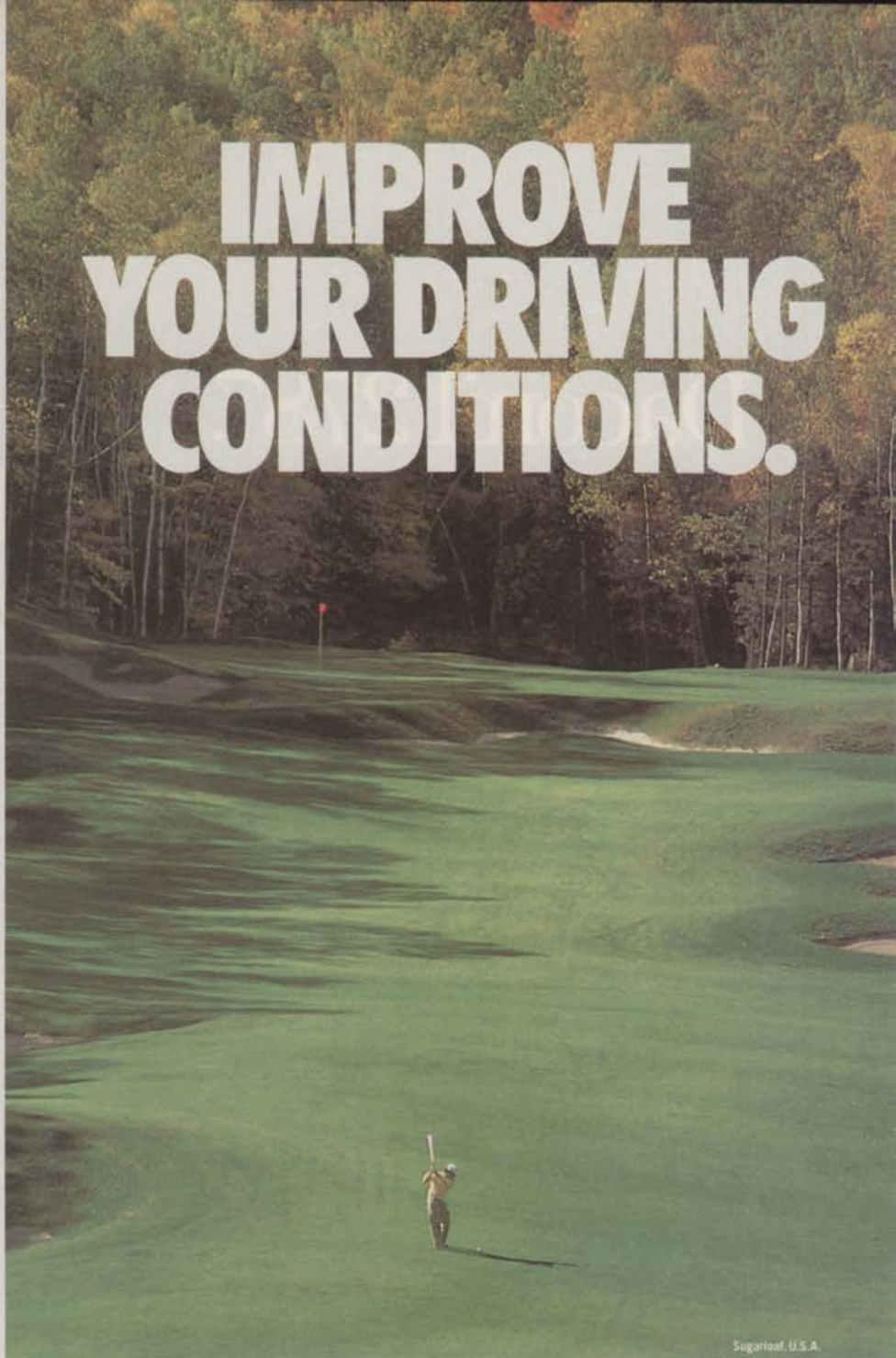
Poellot pointed to the environmentally safe use of pesticides as being one of the primary issues facing the golf industry.

"New technologies and state-of-the-art methods of design, construction and maintenance have made it possible to insure that almost no chemicals either leach into the groundwater or run off into surface water supplies," he noted.

"In addition to pesticide application, golf course superintendents play a key role in insuring that golf courses are environmentally safe. Without a program that maintains the course to the highest environmental standards, design and construction efforts will be useless."

Poellot concludes his speech by calling for industry standards that will become recognized worldwide as a "certification of acceptable environmentally-sensitive design, construction and maintenance." He said, "It's our responsibility to make golf available and affordable for future generations. And that means coexisting with the environment." □

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