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AUGUST 1991, VOLUME 30, NUMBER 8

LANDSCAPE MANAGEMENT



On the cover: Soil aeration is practiced by Grayling Ross of Custom Lawns in Olmsted Falls, Ohio. Photo by Wayne Rayburn, HW/R Productions.

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COVER STORY: SOIL AERATION EQUIPMENT

by Jack Simonds. A wide variety of soil aeration tools have entered the market in recent years, filling every conceivable turf aeration need.

LEVELLING THOSE LOWBALLERS

by Terry McIver. In the Northeastern U.S., a 12-week season means that normal problems with lowballers are compressed and magnified. Successful landscapers still compete, though.

△ △ LATE-SEASON FERTILIZATION

by L.B. McCarty, Ph.D. Objectives of proper fertilization include year-round turf production, adequate vegetative growth and quality shoot growth.

SUPERS IN WARM-SEASON AREAS BEWARE! by Jack Simonds, Bentgrass establishment in warm regions

by Jack Simonds. Bentgrass establishment in warm regions has never been—and probably never will be—easy. No matter how many golfers ask for it.

MANAGING STRESS

by Rudd McGary, Ph.D. Job stress is one of the banes of being a manager. But there are ways to relieve the day-to-day stress the job causes. Here are some suggestions.

A SELF-SUFFICIENT CREWS

by Phil Christian. Front line people need to be empowered to respond to changes in our businesses. Highly productive, on-site crews can work to a higher standard than ever before.

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He gave our 1200 the test we couldn't

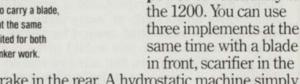
We couldn't go out and build 27 golf holes to test the durability of our 1200 Bunker and Field Rake. That's why we went to talk to John McWhite. Because that's exactly what McWhite did at the Buck Creek Golf Plantation near Myrtle Beach, South Carolina.

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> shaping much of the course with it before we were through.

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The 1200's mechanical transmission and ability to carry a blade. cultivator and rake at the same time make it well-suited for both construction and bunker work.

NOTHING RUNS LIKE A DEERE



"Turn, turn, turn," wrote The Byrds. "There is a season..."

The recent U.S. Supreme Court decision signals what could become an immense change in the way pesticide applicators are allowed to do business. Unless you've been on Mars, or had your head stuck in the sand for the past couple of months, you know that the high court ruling allows states and municipalities to enact regulations to supplement the Federal Insecticide, Fungicide and Rodenticide Act (see "Green Industry News").

This is not good news. As a matter of fact, it could put many small lawn care and landscape companies out of business.

Consider the plight of the company that applies pesticides to four or five large properties in each of six or seven communities. A worst-case scenario would have that company lobby its cause with six or seven city councils, comply with six or seven different sets of regulations, and maintain six or seven sets of application records.

How does the green industry cope with this action? Legally, there is no recourse to a Supreme Court decision. Well, maybe there is a viable alternative.

What the justices said with this decision is that the intent of FIFRA is to allow local regulations. This, then, is the law.

What we can read into the decision—a 9-0 whitewash at that—is that the judges are giving our U.S. Senators and Congressmen a much-needed kick in the pants. Since 1972, FIFRA has been a comprehensive regulatory statute that has been largely unworkable on many levels. The government's legislative branch has potted around for nearly six years now with proposed amendments that would make it a much more effective piece of legislation. But our law-makers have not yet been able to push through any of the much-needed changes.

The Supreme Court justices are telling the Senate and House:

"You made the law. You don't like it, you change it."

It's the same message our legislators have been hearing for years from the agricultural community, the Environmental Protection Agency, the green industry, agricultural and chemical manufacturers, and just about everyone else with a vested interest in the application of pesticides.

Maybe one of these days our legislators will get the message. Until then, all the professional pesticide applicator can do is cross his or her fingers, then comply with the legislation that is bound to be passed by the Podunk Centers and Burgervilles of the country.

It's the law.

Jerry Roche

Jerry Roche, editor

LM

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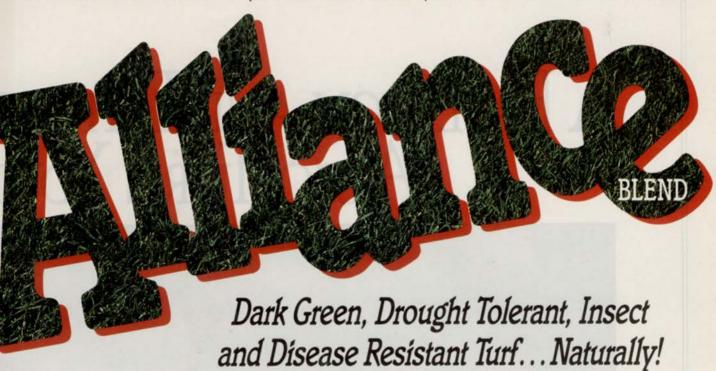
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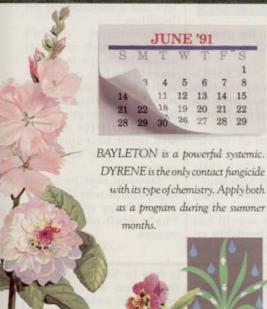
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GREEN INDUSTRY NEWS

AUGUST, 1991, VOLUME 30, NUMBER 8

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 Chem-Lawn: "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 reexamine 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.* □

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