

Crop Production

Judge: state guilty of crop damage

A GROUP of six blueberry growers in Ottawa County is hopeful that they will be compensated for crop damage after a circuit court judge ruled in favor of their claim that road salt used to treat roads adjacent to their farmland had caused the damage.

Although the ruling is likely to be appealed, it is a significant victory for the plaintiffs, who first brought action against the Ottawa County Road Commission and the Michigan Department of Transportation in 2004.

Growers said the damage to crops has become increasingly significant in past years, extending hundreds of feet into the fields when excess salt becomes wind-borne. The growers believe the increased crop damage coincides with the 1,200% increase in the amount of salt the county uses to treat roads.

The increased use of salt is documented in county records, which show a total of 36,000 tons used in the winter of 2002-03, compared to less than 3,000 tons in 1988-89.

In addition to maintaining county-owned roads, OCRC contracts with MDOT to maintain state-owned trunk lines within the county.

Attorney Steve Afendoulis, representing the growers, claims the government's actions represented a partial taking of the farmers' property without just compensation in violation of the farmers' constitutional rights.

The claim filed against OCRC was dismissed in 2005. The blueberry farmers tried to appeal that decision, but the Michigan Court of Appeals ruled that the appeal was premature and needed to be brought after all issues in the companion case against the state of Michigan were decided.

Ruling says state liable

A circuit court judge recently ruled that the state's actions did not represent a partial taking of the farmers' property without just compensation. The ruling was consistent with the court's previous decision. However, the court ruled in favor of the farmers on their claim that the road salt represented a trespass-nuisance.

As a result, the state of Michigan will be held liable for damages caused by

Key Points

- Judge says road salt damaged growers' blueberry crop.
- Ottawa County Road Commission and MDOT are likely to appeal.
- May set a precedent for future claims concerning citizens' property.

road salt to the blueberry crops.

The state is permitted to take an immediate appeal. Afendoulis expects

that both the adverse ruling on the constitutional claims and the favorable ruling on the trespass-nuisance claim are likely headed to the Supreme Court because of the significance of this potential precedent.

"The societal issues presented are important," Afendoulis says. "This case represents a classic conflict between the rights of government and the rights of private citizens to enjoy their property for its intended purposes. The

government has an easement along the road to be used for maintaining the improved portion of the road. The salt damage, however, goes far beyond the government easement. When the government's actions render large sections of a farmers' property unfit for farming purposes, we believe that constitutes a taking by the government of private property without just compensation in violation of these farmers' constitutional rights."

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Crop Brief

Rust fungicide gets registration

U.S. EPA issued a Section 3 registration for the use of Quilt fungicide on soybeans. Produced by Syngenta Crop Protection, it was originally approved in 2005 for use as a Section 18 Quarantine Exemption on soybeans for control of Asian soybean rust. In addition to its use on soybeans, Quilt is also registered on a number of other crops, including rice, corn and cereals. The combination of the two ingredients also gives Quilt both preventive and curative qualities to help growers protect crops against ASR. For more information, including application and rate recommendations, consult your local Syngenta sales representative, or call the Syngenta Customer Center at 866-796-4368.