

SCOTUS won't review pesticide cancer labeling lawsuit

By **MATEUSZ PERKOWSKI**
Capital Press

The U.S. Supreme Court will not review a \$25 million jury verdict that faulted Monsanto for not warning about the alleged cancer risk of its Roundup glyphosate herbicides.

The nation's court has let stand a 9th U.S. Circuit Court of Appeals ruling that pesticide manufacturers claim will allow for a hodgepodge of state labeling requirements for farm chemicals.

In 2019, a jury found that Monsanto was liable for failing to warn about the product's alleged cancer risks in a lawsuit brought

by Edwin Hardeman, who claimed Roundup caused his non-Hodgkin's lymphoma.

Since then, Monsanto has tried to overturn the \$25 million legal judgment awarded to Hardeman, arguing that federal pesticide labeling regulations should have blocked the case from going to trial.

The 9th U.S. Circuit Court of Appeals rejected Monsanto's legal arguments last year, ruling that the federal pesticide label doesn't conflict with cancer risk warnings required in California.

Monsanto and other pesticide manufacturers urged the Supreme Court to review the 9th Circuit's ruling, arguing it will effectively allow juries

to decide different labeling requirements under the laws of the 50 states.

While the legal dispute pertains specifically to Roundup glyphosate herbicides, the pesticide industry expects it to serve as a "bellwether" for thousands of federal cases and "countless other products."

Though EPA has "exhaustively" studied glyphosate for decades and determined a cancer warning for glyphosate herbicides is "unwarranted," the 9th Circuit ruling allows for a California-specific label that refutes that conclusion, according to Monsanto.

Inconsistent labels will sow confusion among pes-

ticide users and create onerous costs for manufacturers, since the case will establish a precedent for thousands of similar lawsuits, the company said.

That concern is shared by CropLife America, an organization representing pesticide manufacturers, which says the pre-emption questions "reach well beyond this particular case."

The 9th Circuit's decision will allow EPA's findings to be "overridden by lay juries under state law," creating liabilities for pesticide manufacturers in many other lawsuits, the group said.

While the 9th Circuit characterized the cancer warning as a "minor modification"

to the pesticide label, juries could force manufacturers to add false cancer warnings to products, threatening to push chemicals that are "safe and economically vital off the market," CropLife said.

"There is a real-world costs, in both economic and public health terms, to 'crying wolf,'" the group said.

Originally, the U.S. Environmental Protection Agency stood with Monsanto in arguing that the \$25 million judgement is problematic, but it changed its mind due to the change in presidential administrations and the 9th Circuit's reasoning.

State governments are pre-empted from allowing pesticide uses that are

prohibited by federal label restrictions, but federal law doesn't preclude state-level warnings for "chronic health risks like carcinogenicity," the federal government said.

The Supreme Court specifically asked the federal government to weigh in on the case before the justices deliberated on whether to review the 9th Circuit's ruling on June 16.

When the EPA shifted its position, Monsanto said it amounts to a "new national policy" that embraces an unworkable "50-state approach" to pesticide labeling.

The nation's highest court denied Monsanto's petition for review on Jun 21.

Court tells EPA to review glyphosate's link to cancer

By **DON JENKINS**
Capital Press

The 9th U.S. Circuit Court of Appeals has ordered the Environmental Protection Agency to reconsider whether glyphosate, the world's most widely used pesticide, is unlikely to cause cancer.

The ruling, on June 17, targeted the EPA's conclusion in 2016 that dozens of studies provided substantial evidence that there is no link between glyphosate, the active ingredient in Roundup, and "numerous cancer outcomes."

The EPA hedged on non-Hodgkin lymphoma, saying it was unable to draw conclusions on the link between that type of cancer and glyphosate based on the available information.

Writing for a unanimous three-court panel, Judge Michelle Friedland said the agency can't find glyphosate unlikely to cause cancer, while being uncertain about its connection to non-Hodgkin lymphoma.

Friedland referred to chlorpyrifos, another widely used pesticide that the 9th Circuit prodded the EPA to ban because the agency hesitated to declare it safe in all uses.

"We have previously held that an agency cannot rely on ambiguous studies as evidence of a conclusion that the studies do not support," Friedland wrote.

The EPA said it would review the decision. Environmental groups that brought the suit hailed the decision.

The ruling has no immediate effect on glyphosate's uses. The EPA is scheduled to finish a review on applications under the Federal Insecticide, Fungicide and Rodenticide Act in October.

Friedland noted the EPA could again conclude that

glyphosate is unlikely to cause cancer, but its explanation will have to be different.

Bayer, the pharmaceutical company that bought glyphosate-developer Monsanto, said in a statement that it was confident the EPA will continue to conclude herbicide is safe and not carcinogenic.

"Importantly, the current product registrations remain in place and growers and other users can continue to use the products based the current label instructions," Bayer stated.

The American Farm Bureau and other agricultural groups intervened in the lawsuit, arguing glyphosate was one of the most thoroughly studied pesticides in the world and there was strong evidence of its safety.

The EPA — under the Obama, Trump and Biden administrations — embraced that position.

The agency said that while some of its science advisers were concerned about a link between glyphosate and non-Hodgkin lymphoma, other scientists strongly disagreed.

Study shortcomings — such as sample size, missing data and relying on subjects recalling their exposure — clouded findings, the EPA said.

At a court hearing in January, Friedland foreshadowed her ruling by questioning the logic of declaring glyphosate safe while saying its link to non-Hodgkin lymphoma was inconclusive.

"It seems like there's an incoherence in the explanation," she said.

The court also ruled the EPA violated the Endangered Species Act when it issued a preliminary decision in 2020 to renew glyphosate's registration.

The EPA should have consulted with the U.S. Fish and Wildlife Service and National Marine Fisheries Service about the pesticide's effect on animals, fish and plants, according to the court.

The court did not order any relief. The EPA is now consulting the other federal agencies. With the review due by October, a court order would have little impact, judges said.

Strike at West Coast ports unlikely

By **SIERRA DAWN MCCLAIN**
Capital Press

An association representing container terminal owners and a union representing 22,000 dockworkers are unlikely to reach a deal in contract negotiations before the current contract expires next month, but experts say a strike or lockout is unlikely.

Neither side foresees the conflict escalating into anything that would impede port operations or further hobble supply chains.

Shipping experts say they're cautiously optimistic that talks between the International Longshore and Warehouse Union and the Pacific Maritime Association will be resolved reasonably.

Negotiations began May 10 over the contract that governs wages, benefits and employment rules for the longshoremen who work at Pacific Maritime Association terminals. The existing agreement expires on July 1.

When the previous contract ended in mid-2014, it caused work slowdowns that cost businesses, including agricultural exporters, hundreds of millions of dollars. A deal was finally struck in 2015.

This time, however, both sides have been more vocal



Pacific Maritime Association

A group representing container shippers and the union representing dockworkers don't expect a strike or lockout this summer.

about their intention to avoid a fallout.

"Both the PMA and the ILWU agree that they are unlikely to reach a deal before the July 1 expiration of the current agreement," the groups said in a joint statement this week.

"This timing is typical, and cargo operations continue beyond the expiration of the current contract. Neither party is preparing for a strike or lockout, contrary to speculation in news reports."

Bill Mongelluzzo, editor of the Journal of Commerce and an expert on trans-Pacific trade, said that in all his years following contract

negotiations, he can't recall ever hearing a statement like that from both parties while negotiations were ongoing.

"Not reaching an agreement by July 1 does not mean a lockout or strike is imminent," Mongelluzzo told agricultural exporters at the Agriculture Transportation Coalition's annual conference in Tacoma.

Some shipping experts say they suspect President Biden put pressure on the groups not to further upend global supply chains during his visit to Southern California last week, where Biden met with both groups aboard the Battleship U.S.S. Iowa in

San Pedro.

One trade expert said Biden has made it clear that his administration "will not tolerate interruptions" to port productivity.

In their joint statement, the union and maritime association said they discussed supply chain congestion with the president during his visit and reaffirmed "their shared commitment to reach a collective bargaining agreement that is fair to both parties."

The contract is about more than wages and benefits. It's also about reaching an agreement over employment rules, including automation.

Shipping experts say automation is the main hot-button issue in the 2022 contract negotiations.

Some ports, looking to become more efficient, are exploring automation, including using driverless automated cranes and driverless yard tractors.

Previous contract negotiations, including in 2008, won terminal owners the right to use some forms of automation.

But the 2008 agreement was widely criticized by dockworkers. Since then, the ILWU has aimed to block most further attempts at automation.

Wildfire risk expected to be above normal

By **BRAD CARLSON**
Capital Press

BOISE — Much of the West will face an above-normal risk of big wildfires by late summer despite a wet spring in Oregon, Washington and Idaho.

"We have had a pretty wet and cold spring that has helped those drought conditions," said Nick Nauslar, U.S. Bureau of Land Management wildfire meteorologist at the National Interagency Fire Center in Boise. "But the underlying drought, and forecast warm and dry weather, are probably going to bring us back to normal to above-normal significant fire potential."

"There is above-normal



Nick Nauslar



Central Oregon Fire Information

The wet spring will delay some wildfire activity, but once the weather turns dry this summer, more fires are expected in much of the Northwest.

grass growth," he said. "In Oregon and Washington, and into Idaho and Nevada, that may be a factor in those areas in terms of increasing significant fire potential later this summer."

The fire forecast for June through September said

below-normal precipitation is likely across much of the Plains through the central Rockies and into the Northwest. Above-normal temperatures are expected across much of the contiguous U.S.

Central Oregon already has an above-normal risk of large fires. It is expected to expand in July to include southwest and southeast Oregon and southeast Washington, the report said. Above-normal temperatures and below-normal rainfall are likely from July through September.

Northern California's risk of large fires is above normal at the lower and middle elevations, excluding the coast.

It is expected to spread to all non-coastal elevations in July and August. Temperatures are expected to be near to below normal into July, and near to above normal in August and September. Precipitation that is near to below normal is expected through September.

Drought intensified in Southern California in the past month, and much of the state's central region remains in exceptional drought. Seasonal grasses have cured, but fuel loading is less uniform than usual following spotty late-winter precipitation.

Dry fuels and expected above-normal temperatures likely will bring an elevated risk of large fires to much of central California by August and possibly to higher elevations in the state's southern region in September.

The report said above-normal rain will help reduce the chances of large fires west of the Continental Divide for at least the first half of June and possibly later. Fine fuels could become ready to burn quickly if warm, dry conditions arrive.

Fire activity likely will increase in southern Idaho and Wyoming by August. Recent wet conditions delayed fuel curing and the start of fire season in that area.

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COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR
2015 CHEV SILV PK
VIN = 3GCUKREC3FG159120
Amount due on lien \$1415.00
Reputed owner(s)
RYAN & SHELLY SIEGEL
TOYOTA MOTOR CREDIT CORP

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2012 TOYT PRIUS 4D
VIN = JTDKN3DPXC3023307
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Reputed owner(s)
JOHN H & JULIE A WIRZ
TOYOTA MOTOR CREDIT CORP

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> LORELEI G MATTHEWS
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VIN = 1GCEC19078223374
Amount due on lien \$1535.00
Reputed owner(s)
VIKING ENGINEERING & CONSTRUCTION