

**WISCONSIN**  
**CHRISTMAS TREE**  
**PRODUCERS ASSOCIATION**

VOLUME THIRTY-EIGHT,  
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# Quarterly Journal



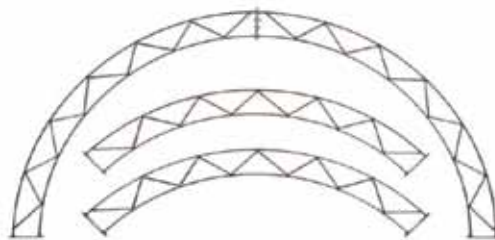


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North Country Christmas Inc. PH: 715-856-5784  
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Wausaukee WI 54177  
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Vice President: Joey Swanson 2023  
Swanson's Evergreen Nursery PH: 920-883-7267  
W7484 Valerio Rd  
Niagara WI 54151  
swansonsevergreennursery@gmail.com

Past President: Dean Lemke 2024  
Central Wisconsin Evergreens Inc. M: 715-218-2626  
N2160 Hwy 17, Merrill WI 54452  
deancwe@gmail.com

Jon Andreas 2024  
Steigerwaldt Tree Farm PH: 715-453-3274, Ext. 347  
856 North 4th Street M: 715-574-0605  
Tomahawk WI 54487  
jon.andreas@steigerwaldt.com

Greg Hann 2023  
Hann's Christmas Farm PH: 608-835-5464  
848 Tipperary Rd M: 608-843-1393  
Oregon, WI 53575  
hannsfarm@hannschristmasfarm.com

Dan Hansen 2025  
Hansen Christmas Trees PH: 920-622-3872  
N4748 22nd Ave.  
Wild Rose, WI 54984  
dhhansen64@gmail.com

Carol Iczkowski 2023  
High Ridge Acres LLC PH: 715-446-3263  
204327 Yellow Birch Rd M: 715-630-8244  
Rosholt, WI 54473  
info@highridgeacres.com

Mike Martin 2024  
Highland Trees PH: 715-675-7585  
239507 Del Rio Rd, Wausau WI 54403  
h.treesmike@gmail.com

Katie Podgorski 2025  
Fritz's Mountain  
W3755 State Rd 64 PH: 715-574-1765  
Merrill, WI 54452  
fritzsmountain@gmail.com

### Executive Secretary & Designer/Editor:

Cheryl Nicholson  
W9833 Hogan Rd, Portage, WI 53901  
phone & fax 608-742-8663,  
info@christmastrees-wi.org  
www.christmastrees-wi.org; www.RealTree4me.com

## Contents

- 4..... Calendar
- 4..... Administrative News by Cheryl Nicholson
- 4..... In Memoriam: John Francis
- 5..... President's Message - John Grutza
- 6..... Tree-ivia
- 7..... In Memoriam: Arlene Handel
- 8..... Swanson's Evergreen Nursery
- 9..... Summer Convention
- 11... Chemically Speaking by Steve Rosenthal
- 12... Convention Tours
- 14... Convention Speaker Biographies
- 15... Hobby Loss Rules and the Capital Gain Method
- 17... Department of Agriculture, Trade and Consumer Protection
- 19... Spruce Budworm
- 22... Annual Seedling & Transplant Supplier Survey (RCTB)
- 23... Alice in Dairyland: Ashley Hagenow
- 24... What's Happening at National
- 26... Supreme Court ruling grants clarity and relief to small business owners on water rights
- 29... Buy/Sell/Trade & Trees, Nursery Stock, Boughs
- 30... Tree-ivia
- 30... Advertiser's Index

*Cover Photo by Dean Lemke, Central Wisconsin Evergreens, Merrill. The spring and early summer months have been terribly dry, so the water is on!*

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## Calendar

### August 2023

- 3 National CTA board meeting in Minnesota
- 4 National tree/wreath contests in Minnesota, NCTA 800-975-5920, info@realchristmastrees.org
- 4-5 Minnesota CTA summer convention and NCTA contests at Wolcyn Tree Farms & Nursery, Cambridge, MN. Contact: Ann Marie Theien at 218-606-0386, info@mncta.com
- 24 Board meeting, Niagara
- 24-26 Wisconsin summer convention at Swanson's Evergreen Nursery, Niagara

### October 2023

- 2 Board meeting, Merrill

### January 2024

- 21-23 Winter convention in conjunction with the fruit and vegetable growers, wine makers, grape growers, agri-tourism, and other ag groups; Kalahari Resort, Wisconsin Dells

### August 2024

- Wisconsin summer convention at Hanauer's Tree Farms, Shawano



# ADMINISTRATIVE NEWS

## BY CHERYL NICHOLSON

Where can I find trees? I am getting that question a lot, both from members and from other retailers, along with people who haven't yet but want to start retailing. And my answer is the same to them all-- not many, if any, available. I tell them to call the wholesalers and ask (knowing that they probably won't find any from what I hear). So, if you discover that you have trees to sell once you do a solid count, you won't have trouble finding a buyer. Keep me updated if you have trees that need a home.

I hope you have a way to keep your trees watered. After the 1988 drought, my dad installed a well and irrigation system on his farm, which was a good investment for the bottom line.

I look forward to seeing you all in Niagara at the summer convention. The program is good and the speakers should be very informative.

## In Memoriam: John Francis



John M. Francis died at the age of 82 on June 15, 2023 at his home in Rio, Wisconsin. He was born September 9, 1940 in Chicago, Illinois to Earl and Frances (LaForge) Francis. John served in the U.S. Marine Corps from 1959 to 1965 and married Wanda Svetlik on June 30, 1962 in Los Angeles. He worked as a carpenter and bought a farm which he and his wife farmed for many years. He attended the Dane County farmers market selling produce and flowers while also working as a mechanic at Oscar Mayer in Madison. He retired and then sold real estate for Century 21.

John married Susan (nee Lee) Morrison on June 6, 2010 and together served the Lions Club transporting for the Wisconsin Eye Bank. He loved the beauty of nature and was fond of taking on new projects, finding treasures to sell at his garage sales and mostly enjoyed talking to the folks stopping by.

John is survived by his wife, Susan, two sons Gerald (Mona) of Rio, Carl Francis of Columbus and one daughter Brenda Francis. Also one sister Pat (Fred) Holmes of McFarland and one brother Michael Francis of Portage. He was preceded in death by his parents; his wife Wanda, his son John Jr., his brother Steve (Pud); and 3 sisters, Jean Nolan, Sue Ellinger and Caroline Langer.

*John grew Christmas trees in the Rio area and was a member of WCTPA for years, joining in 1990. His son, Gerald, is now the owner of Francis Trees and became a member in 2007.*

# PRESIDENT'S MESSAGE – JOHN GRUTZA



Boy I'll tell ya, this Christmas tree thing is easy. Just put 'em in the ground, wait a few years, and bingo! Easy money. I'm glad I never have

to deal with root rot disease year after year. I don't have to worry about that late May night when the temperature dips down to 22 degrees. I don't have a deer herd that seems to have doubled overnight and have an incredible appetite for

Christmas trees.

Yeah, right! Those are just a few issues we are dealing with on our farm. I'm sure any of you can easily add to the list. That being said, we move forward, be creative, be inventive, and find solutions to our problems. I guess that's part of being a Christmas tree producer.

Summer is upon us and just like last year, it's starting out hot and dry. I'm praying to the "rain gods" every day. Hopefully our new plantings make it through.

Shearing season is just around the corner. I hope everyone can find enough help

to get the job done. We are finding it more difficult to find local help. The local factories are hiring younger as they can't fill their needs. This is taking away from our traditional nucleus of a teenage crew. I guess it's a sign of the times.

Even with all the issues that come with growing Christmas trees, I enjoy every day walking through the fields and accepting the challenge, whatever it may be.

I'll see you in August at Swanson's Evergreens for the summer convention. Now I'm heading out to make sure I shut that gate to the deer fence. Enjoy the Summer!



*Lady bugs are released in the balsam fir to feed on aphids. At right, the trees are watered from this tank while driving over the rows. Photos by Dean Lemke, Central Wisconsin Evergreens, Merrill.*





## Blast from the Past

### Tree Shortages Possible

December 1977

A spokesman for the National Christmas Tree Association (John Koch of PA) said that Christmas tree prices paid to growers were 5-6 percent higher than the previous year, as were retail prices for artificial trees according to the country's biggest manufacturer.

Koch said there was a possibility of some spot shortages of trees. Wholesalers bought up all the trees early in the season, indicating they expected demand to be bigger than supply. Growers will sell about 27 million live trees this year, about the same as last year.

Can you guess the most popular species? They were the Scotch pine and Douglas fir, followed by balsam fir.

A six-foot Scotch pine sold for \$4.25-5.25 wholesale, and double that at the retail end.

The article also mentioned that the USDA has a voluntary grading system for trees, which some growers use and tag their trees according to quality- shape, density, freshness, and absence of defects.

In the artificial tree industry, appearance is also a key factor for buyers. On industry spokesman said realism was the most important consideration, or the better the tree, the faster it sells, as it looks more like a live tree.

### Governor's Tree Presentation Postponed

On Thursday, December 8th, 1977, the state received heavy snowfall, closing schools and roads the next day. Milwaukee received the largest amount of snowfall from the storm, 9.7 inches, while Green Bay had 7.6 inches and Madison, 7 inches. Madison police said snow drifts blocked many side streets. Although the city schools and UW-Madison remained open, the presentation of the official state Christmas tree to Acting Governor Martin Schreiber was postponed from Friday until the following week so members of the Wisconsin Christmas Tree Growers Association would not have to travel to Madison on slippery roads.

*Continued on page 7*



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Colorants

The grower to present that tree that year was Gene & Candy Gress, Gress Evergreen Nursery, Polar.

“On behalf of the Wisconsin Christmas Tree Producers Association and the Eugene Gress family, we present this Fraser fir Christmas tree to you, Governor Schreiber, and the People of Wisconsin to enjoy this Christmas season,” said Candy. The Fraser fir stood in the reception room. Gene didn’t attend because he was at his retail lot in New Orleans.

This was the third time they had the privilege of adorning the Capital with one of their prize trees. “Having taken over the business from his father in 1970, Gene now has 160 acres of trees and the only member in the association who has his own Fraser fir seed trees. His father, Willard, got his first Fraser seed from a supplier in North Carolina about 1950. Since that time, the Gress Evergreen Nursery has sold Fraser seedlings along with balsam, spruce, Norway pine, Scotch pine and white pine.” Although Gene was in a warmer climate and didn’t have the honor of presenting the People’s tree, he had his own show when a customer brought her TV friends for an interview on the retail lot. It was a great opportunity for the industry and Gress’s four retail lots.

*(Excerpts from WCTPA News Bulletin, Jan. 1978)*

## Drought in 1988

The Green Bay Press Gazette reported that in the summer of 1988 Christmas trees did not escape the searing heat and drought. Growers lost 95 percent of the 1988 planting, along with 45% of the 1987 stock.

## In Memoriam: Arlene Handel



Arlene K. Handel, 86, of Medford, passed away on Saturday, January 21, 2023.

Arlene was born on September 4, 1936 to Clarence and Elsie (Schaefer) Danen in the town of Deer Creek. She graduated from Medford High School and went to work at Farmers State Bank in Stetsonville. She married Roger Handel on June 7, 1958; he preceded her in death on September 29, 2009. In 1979 she started to work for Medford National Bank, later Fidelity Bank. She worked there for 20 plus years until her retirement.

Arlene was a member of the Stetsonville American Legion Women’s Auxiliary, Medford BPW, United Way Board Member, 1995 MACC Employee Excellence Award winner, and as a co-owner of Handel Evergreen Farms, a founding charter member of the Wisconsin Tree Growers Association. In her spare time she enjoyed bowling, casino trips, reading, snowmobiling and family time at Wil-O-Acres.

Arlene is survived by three sons, Doug (Sue) Handel, David (Jane) Handel and Al (Toni) Handel, all of Medford; two daughters, Karen (Brad) Dahlvig of Medford and JoAnn Handel of Aurora, IL. She is further survived by six granddaughters, Ember (Dan) Shmitt of New York City, Katie Lindemann of Oshkosh, Ellen (Travis) Dowden of West Bend, Laney (Ben) Hemer of Wauwatosa, Maxx (Tim Meerstein) Handel of Medford and Alexis Handel-Erdrich of Aurora, IL; three grandsons, Eric (Megan) Dahlvig, Quay Handel and Chase Handel, all of Medford; step-grandson, Nick Wisnewski of Omaha, NE and 6 great-grandchildren and 6 step-great-grandchildren.

Arlene was preceded in death by her parents; husband, Roger Handel; son, Daniel Handel; granddaughter, Franny Handel; sister, Delores (Nick) Henrichs; two brothers, Norman (Agnes) Danen and Michael (Kathy) Danen; brother-in-law Gerald (Eileen) Handel; sister-in-law, Marian (Robert) Hansen.

The family expresses their gratitude to the staff at Country Gardens and Hope Hospice for their compassionate care. Memorial donations in Arlene’s name may be given to Hope Hospice.

*Roger and Arlene Handel were founding members of WCTPA in 1954. Their son Doug owns the tree farm in Medford.*

## Membership Numbers

As of March 1977, WCTPA had 213 paid members, 23 were new members and 10 were reinstated (meaning they were once members that became inactive, but now have re-joined).

In June 2023, we had 157 members: 143 full active members (8 new), 1 associate member (new), 13 exhibitor members, and 14 extra mailing/retired members.

# Swanson's Evergreen Nursery

NIAGARA, Wis. — Swanson's Evergreen Nursery in rural Niagara has tapped into a trend that expands its scope beyond growing trees and aims to create an "experience" for retail customers.

Most people in the region know the business for its Swanson's Big Red Barn, W7484 Valerio Road in Niagara, a place that late in the year transforms to offer a pumpkin patch, coffee shop, rides and other attractions for the holidays.

"It's something for the surrounding communities," said Brenda Swanson, whose husband Peter and son Joey now operate the business.

This new role even has a name: "agritainment."

But their rural Niagara property didn't start that way.

The farm was established in 1989, when Peter and Brenda Swanson purchased land just south of the small northeast Wisconsin city on the Michigan border.

They initially grew Christmas trees they sold at Storheim's restaurant in Iron Mountain, Mich., which Peter Swanson has owned and operated for 27 years.

They switched to primarily a nursery operation in 2013 when son Joey Swanson — then a high

school junior — joined his father in overseeing the evergreen business.

"He knew early what he wanted to do," Brenda Swanson said of her son's career decision.

They now have 8 acres on the main site and a total of 50 plantable acres in Marinette County. It annually produces about 200,000 to 250,000 young evergreens — primarily balsam, Fraser and Canaan fir, plus white pine — grown from plugs for other farms to raise into Christmas trees. This is up from perhaps 10,000 in the early years, Joey Swanson said.

The younger Swanson also has started a seed orchard he hopes will help genetically develop a more cold-tolerant balsam, less vulnerable to frost that can stunt their growth. He explained the fuller, more popular balsams favored for Christmas tend to be southern varieties.

"We need a tree this far north that can handle this climate better," Brenda Swanson said.

In addition, last year they produced about 750 trees of 7 to 8 feet for Christmas lots and even school fundraisers, they said.

But that all takes a back seat each fall to what they do on Valerio Road in Niagara, where they've added several buildings over the years to bring in retail customers.

*Swanson...Continued on page 9*





**It's why Swanson's Evergreen Nursery from Aug. 24-26 will host the Wisconsin Christmas Tree Producers Summer Convention** that will highlight its farm-related tourism and entertainment activities.

The "agritainment" side of the business came about after the family began selling a few of their harvest-age Christmas trees at their Storheim's restaurant in Iron Mountain, they said. The site in later years had reindeer and Santa as well, which gave the Swansons a good indication what a more extensive holiday attraction might do.

That led to setting up the Big Red Barn, the Swansons said — though they admit to some initial misgivings on shifting to a more rural location.

"I thought, 'Nobody will come out to Niagara,'" Brenda Swanson said.

They began by updating the existing barn built earlier on the Niagara property, concentrating on creating a Christmas experience capable of luring people off U.S. 141.

"We love Christmas, so we wanted to make it magical," Peter Swanson said.

Since 2015, they've added about a building a year — a commercial kitchen, sweet shop, gift shop — primarily built by Joey and Peter Swanson.

These buildings remain shuttered much of the year while the business concentrates on its nursery work.

But come fall, the Big Red Barn

*Swanson...Continued on page 10*

# Summer Convention

August 24 - 26, 2023

**We'll see you at  
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### **Comfort Inn**

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Joey Swanson said that these are the closest hotels to the farm, and are nice ones. There are other resorts and hotels in the area which you can find online.

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springs to life for PumpkinFest, which takes place from 10 a.m. to 5 p.m. every Saturday through October and now is their busiest time of the year.

"Doing the fall was the best thing we ever did," Peter Swanson said.

During that time, the Swansons have a pumpkin patch, corn maze, wagon rides pulled by a tractor, massive inflatable "jumping pillow" akin to a bounce house, a carnival-like "monster truck" ride, express train ride, pedal car track and kids' game room.

For the bakery and coffee shop, Peter Swanson cranks out apple pies, apple cider donuts, apple crisp, pumpkin pie in a cup, caramel apples, jumbo cookies, fudge, cinnamon rolls and bread — all homemade.

It's a lot of work, he said, which is why the Big Red Barn only opens for one day each week during PumpkinFest. But a typical PumpkinFest Saturday



can draw in 1,000 visitors, the Swansons said. They'll hire a few people — high school students, retirees — to assist.

Christmas at The Big Red Barn begins just after Thanksgiving, with the business on Saturdays offering a restaurant open from 10:30 a.m. to 3:30 p.m., choose-and-cut trees, fresh-made evergreen wreaths and "kissing balls," as well as an opportunity to visit Santa in the loft. Live reindeer are on site through much of the season.

They have some Sunday hours as well through mid-December,

*Continued on page 12*



# CHEMICALLY SPEAKING BY STEVE ROSENTHAL

DRY, DRY, DRY ??????

2023 will go down as having one of the driest spring/summer seasons in the near history. I would have to go back to 1988 to remember it being this dry. Growers that planted new trees this spring have already seen losses due to lack of rainfall. The sad part is as of this writing the forecast for moisture looks bleak.

Weed control with preemergent products will also be an issue with the dry conditions. Most preemergent products require an inch of moisture to be activated. The next option is to spray a post emergent products, but weeds will not take in herbicides if they are not actively growing. Growers should probably wait for a chance of rain to develop. The problem with waiting is that the weeds may get to large and spraying will not work. Not a good situation. Darn MOTHER NATURE!!

INSECTS, INSECTS, INSECTS

More good news. If our weather conditions stay dry the chance for increased insect activity remains. Growers should continue to monitor plantations for mites, aphids, etc. If the weather stays hot the insects can develop more rapidly than normal which also means the greater possibility of damage. GDD's or growing degree days are what determines the development of most insects. Don't hesitate to make an application because the window for spraying may have passed.

PRICES, PRICES, PRICES

In the last article I wrote in my crystal ball forecast about the supply situation and prices for a number of agricultural products. Growers have seen fertilizer and chemical prices drop but have seen the supply situation become better than a year ago. The fertilizer prices change on a daily basis and sometimes more often than that. Equipment and parts are still in tight supply with prices still high. Time delays are common with some taking 6-12 months to get. Hard to say what the future will bring.

HELP, HELP, HELP

If anyone is in the market for hardworking new employees - GOOD LUCK! I really would

like to know what happened to all the people that left the job market due to COVID. I am sure everyone has seen the HELP WANTED signs in most communities - Some of the signs even offer bonuses to apply and get hired. I really don't see this situation improving in the future.

THOUGHT FOR THE DAY!!

Companies have been working to make meat out of grass - cows have been doing it for years.

2023 SUMMER CONVENTION

Plan on attending the summer convention at Swanson's Evergreen Nursery in Niagara, Wisconsin. The dates are from August 24 - August 26, 2023. Please come and support your exhibitors that support you! See you there.

REMEMBER - ALWAYS READ THE LABEL!!

See you in the next article!!!!

Steve Rosenthal is vice-president of TH Agri-chemicals, Inc., Box 265, Plainfield, Wis. 54966 (715) 335-6343 Email: srosenthal@charter.net

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Continued from page 10

but with only the sweet shop and gift shop open, along with the trees and greenery available for purchase.

The business hosts Christmas parties, too, and school events.

It makes for a busy three months, but "it's just fun," Brenda Swanson said.

They acknowledge their approach may not fit other farms. Having an established restaurant in Iron Mountain made a difference, along with a ready finance source to help fund their expansions. Doing much of their own construction work kept costs down as well.

Location makes a difference, too, they said, adding they probably would do better if

farther south on U.S. 141.

But other agricultural businesses don't have to invest to their extent, either, the Swansons said. They know of a few places that set up a single table or stand to sell extra merchandise during the holidays.

"It seems like each year we're getting bigger and bigger," Brenda Swanson said.

*Written by Betsy Bloom,  
managing editor of the Iron  
Mountain Daily News.  
P.O. Box 460  
215 E. Ludington  
Iron Mountain, MI 49801  
906-774-2772, ext. 240  
bbloom@ironmountaindailynews.  
com*

## Tours

### Nursery Tour- Friday after Lunch -Wagons to Back Field

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IFA)--Frozen (Thaw plants)  
to Ground

Mechanical Transplanter 6  
row

Bed Preparation

Irrigation Set up

Pre - Emergent Weed  
Application --Chemicals Used-  
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- Ranch Systems – Pump  
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Rain Gauge, Frost  
Protection Temperatures,

Continued on page 13

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### OverHeat Temperatures

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Winterizing

Spring Harvest

- Number of Crew Members
- Wagons, Bin, Tractors, Digger
- Sorting, Root Pruning, Sizing, Packaging, Cooler Storage, Shipping

### Saturday Tours/Demos

Seed Orchard Talk

- Jim Rockis
- Purpose of the Orchard
- Process to start it
- Layout, grafting, premium selections, time frame

Wholesale Field

### Pumpkin Patch

Wreath and Kissing Ball

Overview Q&A

- Explain our process, what works for us
- Pricing of kissing balls, wreaths
- Fraser or Balsam Boughs

Home Farm Field Demos

- Scott Reuess
  - Chemical Observations
- Jutek 3point sprayer/mower Demo – Joey

Our Farm Layout

- How it started, lack of inventory, where we are going today

### Agri-tainment

Swanson's Big Red Barn

– Christmas Events and Pumpkin Fest

How we got to where it is today

Established, Different Buildings, Additions, Reindeer, What works and what doesn't

Sweet Shop, Gift Shop, Barn

Gift Shop- where we get merchandise, local vendors

Sweet Shop- Menu

Barn – Menu, Santa in Loft Christmas, Seating for Pumpkin Fest

Rides, Game Zone, Pedal Cars, Corn Maze, Jumping Pillow, Wagon, Other Activities



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Presentation: Genetics 101 & 102, Recognizing Seed Source, Choosing the Proper Seed, Consistency in Collection and Tracking Seed, Swanson Balsam Fir Orchard (Tour)

Jim Rockis has been a part of the Christmas tree industry for over 35 years. Mr. Rockis is the owner of Reliable Source Seeds & Transplants, which supplies a variety of seed and transplant materials to the Christmas tree and nursery industry throughout the country. Jim's state-of-the-art seed processing facility is located in Smithfield, Pennsylvania, where he also owns and operates Quarter Pine Tree Farm, a choose and cut farm of Canaan fir, Douglas Fir, Concolor Fir, and other species. He owns a farm in West Virginia where he grows Fraser Fir and maintains over 14 different seed orchards. Jim has championed the genetic improvement of Christmas tree species throughout his career by working partnerships with universities, producer cooperatives, and individual growers. Rockis is an engineering graduate of the University of Missouri-Rolla.

## Jeremy Irish

USDA Deer Management Program (Fence Program)

Presentation: Program Details, Requirements, Program Terms

## Jeff Maroszek & Joe Vanhulle

Oconto-Marinette County District

Conservationist USDA Service Center -

Lena Field Office

410 ½ E. Main St.

Lena, WI 54139

Phone: (920) 829-5406 ext. 125

Mobile Device (Call/Text): (920) 360-4996

Email: [jeff.maroszek@usda.gov](mailto:jeff.maroszek@usda.gov)

NRCS Irrigation Management Programs

Presentation: Cost Sharing Program Requirements, Program Terms, Etc.

Jeff will give a brief introduction to the programs available to tree producers. Specifically, he will discuss the improvements to the irrigation system that have been done at Swanson's Evergreen Nursery through NRCS's Environmental Quality Incentives Program (EQIP). These type of programs are available to tree producers to help offset the cost of upgrading/repairing existing systems that are causing a negative effect on the environment. Jeff will walk you through the steps to determine if your farm may be eligible and how to apply for these programs.

## Scott Reuss

Crops and Soil Educator

Extension Marinette County

Resource Center, Second Floor

1926 Hall Avenue

Marinette, WI 54143-1717

Phone: 715-732-7510 or toll free: 877-884-4408

Email: [scott.reuss@wisc.edu](mailto:scott.reuss@wisc.edu)

UW-Madison Crops and Soils Educator, serving the educational needs for farms in Marinette and Oconto Counties for 27 years.

Presentation: Nutrition Management Practices, Weed Control Options, Chemical Options/Comparisons – In Field



# Hobby Loss Rules and the Capital Gain Method

*By Andrew Bosserman, CPA*

Christmas tree growers who show a business loss on their tax return should not be worried about the hobby loss rules, so long as their farm shows an overall net profit.

I've received a number of questions over the years dealing with the application of the hobby loss rules if a grower elects capital gain treatment (which will save most growers thousands of dollars in taxes).

Most of these questions go something like this:

"We've been using the capital gain method which has saved us thousands of dollars of taxes over the years. However,

our tax preparer says if we show a loss every year on our Schedule F, then the IRS will reclassify our business as a hobby. Is this correct?"

Short answer: No! A Christmas tree grower should not be worried about showing a tax loss on their return due to capital gain method. Keep reading to learn why!

## **Hobby v. Business Refresher**

As a quick refresher, a Christmas tree grower may owe additional taxes if the IRS classifies their Christmas tree farm as a "hobby" rather than a "business."

A business is an activity that is (1) entered into primarily

for profit and is (2) regularly and continuously carried on. Conversely, a hobby is an activity that is not engaged in for profit.

The benefit of a business classification is that any loss is fully deductible against other income, including wages or other business profits. However, a hobby classification results in no tax deduction for a loss. Any income from a hobby is taxable, while few, if any, tax deductions are permitted.

The IRS presumes an income-generating activity is a business if it shows a profit

*Continued on page 16*



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three out of five years.

There are also nine factors (detailed in Treas. Reg. § 1.183-2) the IRS applies when determining whether an income-generating activity is a business or a hobby.

### Capital Gain Method & the Hobby Loss Rules

Christmas tree growers who elect capital gain treatment often show a business loss every year that is offset by a large long-term capital gain reported elsewhere on the tax return. This occurs because qualifying Christmas tree sales are taxed as long-term capital gains, while most expenses are deducted against ordinary income.

In applying the hobby loss rules to a Christmas tree farm that elects capital gain treatment, the IRS should combine the capital gains with the other business income and expenses to determine if a loss is generated.

Treas. Reg. § 1.183-

1(e) includes capital gains in the definition of “gross income” for hobby loss purposes. Therefore, the capital gain and farm loss should be combined when applying the hobby loss rule.

When the capital gain and farm loss are combined, the Christmas tree farm often shows a net overall profit, which will avoid application of the hobby loss rules because IRC § 183 only applies to losses.

### Conclusion

Christmas tree growers should not be concerned about the

hobby loss rules if they elect capital gain treatment, so long as their Christmas tree farm shows an overall net profit. Even if their farm doesn't show an overall profit, growers can avoid application of the hobby loss rules if by meeting as many of the nine factors detailed in Treas. Reg. § 1.183-2.

Andrew Bosserman, CPA  
3608 Johnny Cake Lane  
Charlotte, NC 28226  
Bosserman CPA, PLLC  
419-343-7630

<https://andrewbosserman.com>  
<https://www.linkedin.com/in/andrewbosserman/>



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 Wisconsin Department of Agriculture, Trade and Consumer Protection MK-FC-101 (06/21)



  
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# CHRISTMAS TREE NEWS

## What's Bugging You?

### DATCP Rule Change Creates New Exterior Elongate Hemlock Scale Quarantine, and 2022 Spongy Moth Trapping Data Results in New Douglas County Quarantine

DATCP's permanent rule changes to ATCP 21 (AKA Clearinghouse Rule CR 22-022), relating to Plant Inspection and Pest Control took effect 07/01/2023. This permanent rule change, which has been in the works since 2020, rescinds quarantines for pine shoot beetle (ATCP 21.12), emerald ash borer (ATCP 21.17), and thousand cankers disease (ATCP 21.21), revises quarantines for hemlock woolly adelgid (ATCP 21.16)

and *Phytophthora ramorum* (ATCP 21.19), and creates a new exterior quarantine for elongate hemlock scale (EHS) in WI known as ATCP 21.23. Reasons for quarantining EHS included the dozens of times inspectors have detected it on cut fir Christmas trees, fir wreaths, and hemlock nursery stock from out-of-state, coupled with the fact that EHS had never been detected on the landscape in Wisconsin. Other reasons for the regulation are that EHS is hard to control with pesticides and because it seriously impacts tree health. Special thanks to Derek Ahl of Northern Family Farms for the input he provided on this rule change over the past three years as a member of the ATCP 21 Advisory Committee, as well as Dean Lemke from Central Wisconsin Evergreens for

appearing at the 2022 ATCP 21 public hearing.

In preparation for the EHS exterior quarantine, staff are developing an EHS Compliance Agreement, which will be needed for any business, including Christmas tree dealers, wreathmakers, and nursery dealers before they can import Fraser fir, balsam fir or hemlock (the favorite hosts of EHS) from the infested area, which includes many eastern states (CT, DE, GA, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV). The agreement ensures that stock will be inspected and found to be free of EHS, or effectively treated to kill EHS, in its state of origin prior to entering WI. It also includes requirements to notify DATCP of incoming shipments to allow for inspections, and recordkeeping requirements. We are hopeful that this proactive regulation will protect our Christmas tree industry and our unique, native hemlock and balsam fir forests in Wisconsin for years to come.

In other news, DATCP also worked with APHIS earlier this year to add Douglas County to the quarantine area for spongy moth (formerly gypsy moth), a familiar pest with a new name. The quarantine, which took effect April 10, marks the 53rd county in the state regulated for spongy moth, after trapping data showed it to be well established, with 15,375 moths

*Continued on page 18*

**In preparation for the EHS exterior quarantine, staff are developing an EHS Compliance Agreement, which will be needed for any business, including Christmas tree dealers, wreath makers, and nursery dealers before they can import Fraser fir, balsam fir or hemlock from the infested area**



caught in Douglas County in 2022. Items regulated by the spongy moth quarantine include nursery stock, cut Christmas trees, firewood, logs, and outdoor household items. If your business transports any regulated article out of the 53 county quarantined area in the eastern two thirds of the state, but not outside of Wisconsin, contact DATCP to obtain a state spongy moth compliance agreement. If your business ships regulated articles out of Wisconsin, contact USDA-APHIS for a federal compliance agreement. The agreement specifies risk mitigation requirements and is renewed annually. There is no cost to your business. Because the warm, dry weather will likely allow the spongy moth outbreak to continue in Wisconsin in 2023, all Wisconsin businesses (whether in Douglas County or not) should encourage their staff to learn how to identify this pest and control it if needed. DATCP's online spongy moth

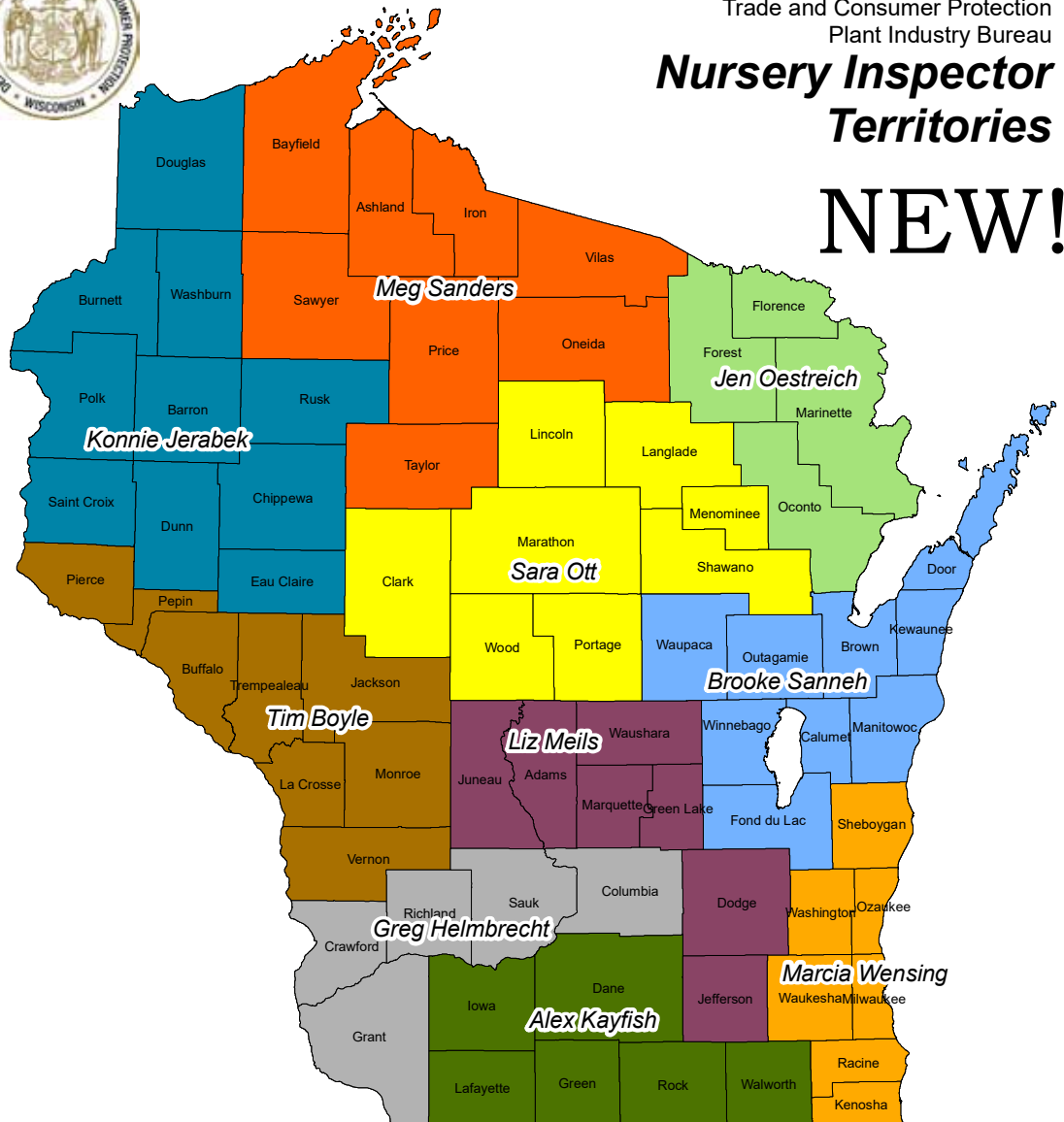
ID training can accomplish that goal, and it is available on YouTube at <https://tinyurl.com/mothid23>. For more information on state and federal quarantine regulations and corresponding contacts, please visit <https://plantpests.wi.gov>.



Wisconsin Department of Agriculture,  
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Elizabeth.Meils@wi.gov - 608-516-7617

\*Georgia.Meysembourg@wi.gov - 608-977-0069

Jennifer.Oestreich@wi.gov - 715-701-1375

Sara.Ott@wi.gov - 608-516-5486

Megant.Sanders@wi.gov - 715-891-8158

Brooke.Sanneh@wi.gov - 608-235-7861

Marcia.Wensing@wi.gov - 262-468-1309

\*Assigned to help cover SE WI, May-October  
Updated March 2023



# Spruce Budworm



## Spruce Budworm on Balsam Fir

Source: WDATCP Newsletter, June 2023

Christmas trees are an important crop in Wisconsin, consistently placing in the top ten Christmas tree-producing states in the US. One of the most popular Christmas trees grown is the balsam fir. To help keep these beautiful and fragrant trees thriving, now is a good time to be on the lookout for spruce budworm infestations. Although named for its correlation to spruce trees, spruce budworm is also found on balsam firs. Spruce budworms are native to Wisconsin, with populations that rise and fall in periodic outbreaks.

Spruce budworm caterpillars feed on new needles in the spring before pupating in mid-June and emerging as moths soon after. Adult moths mate and lay eggs on the underside of tree needles for the winter before hatching in the following spring. It is more common for matured balsam fir and spruce to be the preferred host, but spruce budworms can also defoliate younger trees.

If defoliated, balsam fir and spruce cannot produce a succession of new needles in the same year. Defoliation happens at a higher level in the upper portions of trees. Needle loss occurring every spring for more than a couple of years will be noticeable by bare branches throughout the tree leading to tree death.

Some budworm populations will collapse once they have exhausted the food source in an area. For example, in native Wisconsin stands, population collapse is happening where severely defoliated trees are now dead or dying. Remember that balsam fir stands or stands with high numbers of balsam fir are often more severely impacted.

While outbreaks occur every 30-50 years, each outbreak lasts an average of 10 years. The current outbreak began in 2012, but unfortunately, it appears populations are continuing, and it is unclear when they will collapse again.

## Management

Created August 2015 by WI DNR Forest Health Staff

Spruce budworm (*Choristoneura fumiferana*) is a native insect that feeds primarily on spruce and balsam fir trees. Outbreaks occur every 30-50 years and last 10 years on average. The last outbreak in Wisconsin occurred from 1970-1980. A new outbreak started in far northern Wisconsin in 2012 with damage observed from Ashland County east to Marinette County. Damage has become more widespread and severe and over time is expected to increase as the outbreak intensifies in coming years.

## Biology

Spruce budworm is an early season defoliator native to the Great Lake States. Outbreaks occur on a 30-50 year cycle and typically last 10-15 years.

Caterpillars are pale yellow to dark brown with cream-colored spots and a shiny black head.

Caterpillars begin feeding on new needles in May or early June. Full-grown caterpillars are approximately 1 inch long by mid-June. Pupation occurs in mid- to late-June. Spruce budworm moths emerge around mid-July, mate, and lay eggs. Tiny caterpillars hatch within 1-2 weeks and overwinter in cocoon-like

*Budworm...Continued on page 20*



*Spruce budworm caterpillar feeding on balsam fir needles.*



*Spruce budworm adult moths, showing both the rusty color phase, and the grey color phase.*

structures on twigs of balsam fir or spruce.

Defoliated trees appear dull brown from a distance. When examined close up, partially consumed needles and/or webbed clusters of clipped-off needles entangled in silk are visible. By August, rain and wind may wash off web-entangled needles causing trees to appear greener. Repeated defoliation can cause top mortality of the tree and eventually whole-tree mortality.

## Susceptible tree species

In Wisconsin, mature and over-mature balsam fir and white spruce are the preferred hosts of spruce budworm. Black spruce, tamarack, hemlock, and pine species are occasionally defoliated if intermixed in stands dominated by balsam fir and white spruce.

## Management Options – forests and plantations

Monitor: Spruce and balsam fir should be

monitored for defoliation and top mortality during spruce budworm outbreaks to determine when salvage should occur. Mature balsam fir (60+ years old) and spruce (70+ years old) are at risk of top mortality after 3 consecutive years of defoliation. Off-site plantations, unthinned plantations, stands that are otherwise stressed, and stands with higher balsam fir components may be particularly susceptible.

Salvage: If top mortality is observed, or if more than 75% of the current-year foliage is missing, the stand should be salvaged. Contact a forester for recommendations on salvage harvests. Do not leave spruce or balsam fir as residual trees in salvaged stands, since they maintain the spruce budworm population and allow defoliation of spruce and fir regeneration. Spruce and balsam fir can be regenerated on appropriate sites. Consider delaying regeneration until the outbreak is approaching the end.

Spraying: Spruce budworm outbreaks can be active for 10 years or more. It generally does not make economic sense to spray forest

*Continued on page 21*





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stands of spruce and balsam fir to prevent defoliation, as it is expensive and most affected stands can be salvaged. Spraying may be an appropriate option when it is necessary to delay salvage harvests for 2-5 years. Christmas tree plantations can be protected by spraying Btk or other appropriate insecticides.

## Management Options – homeowners / yard trees

**Removal:** Trees that have lost more than 75% of their foliage will not recover well, and may be attacked by bark beetles or armillaria root disease. Trees with top mortality, or that have lost more than 75% of their foliage and continue to decline, should be removed. Hazard trees should be removed by qualified (e.g., professional and/or certified) tree removal companies. Contact the appropriate



*Defoliation of current year needles, showing how caterpillars web together needles that were clipped off during feeding.*

service provider about removal of trees under or near power lines.

**Spraying:** Private property owners interested in protecting older spruce and balsam fir for aesthetic purposes may choose to spray Btk, either aerially or from the ground, early in the spring. Btk is a caterpillar-specific insecticide and only one application is necessary. The spray should occur when shoots have elongated  $\frac{1}{2}$  -  $\frac{3}{4}$  inch (about the time the bud caps fall off) and small spruce budworm larvae are present.

Note: if you are spraying a small acreage

surrounded by non-sprayed balsam fir and spruce stands, the effects of your spray may be reduced as caterpillars can migrate in from surrounding stands.



*Severe defoliation by spruce budworm can occur wherever spruce and balsam fir are present, in both plantations and mixed stands.*

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# ANNUAL SEEDLING & TRANSPLANT SUPPLIER SURVEY

In 2022 the Christmas Tree Promotion Board (CTPB) surveyed major seedling and transplant growers/suppliers to collect data that would provide a picture of the size and direction of Christmas tree production across the United States. This voluntary survey asked the supplier, to the best of their knowledge, to list the number of seedlings and transplants sold, or planted on their own operation, that were intended for use as Christmas trees. This data provides an estimate of the number of Christmas trees being planted in the field each year, and potentially harvested in the years to come. Plant listings were broken down into categories

by species, and into seedlings and transplants. Seedlings are described as a 1-0, 2-0 or 3-0. Transplants are commonly designated as 2-1, 2-2 or as plug-1 or plug-2. There are many factors to consider when reviewing this data on the number of seedlings and transplants sold for intended use as Christmas trees. Post-planting seedling mortality rates vary greatly between species, growing regions, and years due to climatic conditions. The age of seedling or transplant that is planted in the field varies by species. While we received many responses, there were some suppliers who chose not to participate. We added a line item for estimated seedling and transplant production from survey nonresponses. Please take these factors into consideration when analyzing this information. This will be an annual survey with the goal to develop an accurate picture over time.

	Transplants	Seedlings
Fraser Fir	7,627,467	6,728,000
Balsam Fir	1,298,241	651,500
Canaan Fir	1,387,987	1,232,000
Concolor Fir	251,743	356,000
Korean Fir	195,040	188,000
Douglas Fir	2,314,300	979,400
Nordmann Fir	1,084,065	494,000
Noble Fir	4,496,356	666,400
Grand Fir	415,395	143,900
Turkish Fir	393,010	276,950
Other Fir <sup>1</sup>	232,504	249,000
	Transplants and Seedlings	
Scotch Pine	707,140	
Red Pine	242,375	
Austrian Pine	66,850	
Virginia Pine	203,900	
White Pine	850,509	
Other Pine <sup>3</sup>		
	Transplants	Seedlings
Colorado Blue Spruce	320,620	393,500
White Spruce	108,295	168,200

Norway Spruce	430,465	906,100
Black Hills Spruce	191,905	126,750
Other Spruce <sup>2</sup>	10,795	71,500
Leyland Cypress <sup>3</sup>		
Other Cypress <sup>3</sup>		
Estimate of Unreported (Species not specified) <sup>4</sup>	2,900,000	
Totals	39,360,162	

<sup>1</sup>Fralsam, Cork Bark, Momi, Korean X Balsam

<sup>2</sup>Number of seedlings and transplants combined to avoid disclosure of data for individual operations

<sup>3</sup>Serbian, Meyer, Engelman

<sup>4</sup>Withheld to avoid disclosure of data for individual operations

<sup>5</sup>Estimate of seedling and transplant production based on survey nonresponses. Estimate derived from industry sources.



## Ashley Hagenow Selected as the 76th Alice in Dairyland



MADISON, Wis. – The Wisconsin Department of Agriculture, Trade and Consumer Protection

(DATCP) has selected Ashley Hagenow of Poynette as Wisconsin's 76th Alice in Dairyland. In this position, Hagenow will work for the contract year as a full-time communications professional for DATCP, educating the public about the importance of agriculture in Wisconsin.

Hagenow has a Bachelor's degree in agricultural communication and marketing, with minors in animal science and agricultural and food business management.

"I have always loved connecting with others about agriculture, and Alice has the ability to connect with a wide variety of consumers to share more about this dynamic industry and the hardworking individuals who make it possible," Hagenow said.

**Door County will be the venue for the next tree cutting event in November. Members who have a field of trees there should let me know. I work with DATCP to find a grower to have the event.**

## About Alice in Dairyland

Alice in Dairyland is a full-time communications professional for the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP). The Alice program is supported by several partner organizations including Dairy Farmers of Wisconsin, Kettle Moraine Mink Breeders Association, Wisconsin Corn Promotion Board, Wisconsin Potato Promotions and Auxiliary, Ginseng Board of Wisconsin, the Wisconsin Beef Council, and Goodman's Jewelers. For more information about the Alice in Dairyland program, visit <https://www.aliceindairyland.com/> and follow Alice online on Facebook, Twitter, and Instagram.

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# WHAT'S HAPPENING AT NATIONAL

## **NCTA Educating Fire Officials**

NCTA exhibited at the National Fire Prevention Association Conference & Expo June 19 – 21, 2023 in Las Vegas which was attended by fire officials from around the country. It is critically important that the farm-grown Christmas tree industry engages with fire officials to provide education about the proper care of farm-grown Christmas trees and influence fire codes that may impact Christmas trees. NCTA members George and Wendy Richardson manned NCTA's booth at the show.

## **Legislative Update**

*By Craig Regelbrugge*

(June) NCTA's legislative priorities include improving federal crop disaster programs (TAP & NAP) to better fit Christmas tree production. Working with our lobbying partner, AmericanHort, as a member of the Specialty Crop Farm Bill Alliance, we are seeking to bring these changes about in the next Farm Bill. Early stage drafts of the Farm Bill are being written, NCTA and AmericanHort are engaged in that process.

(May) Is the Farm Bill really important to Christmas trees and horticulture more generally? Dr. Gary Chastagner at Washington State University has often said that Farm Bill programs such as the Plant Pest and Disease Mitigation and Disaster Prevention Program, and Specialty Crop Block Grant Program, have been essential to his efforts to fund his program

of research important Christmas tree production and consumer challenges. And, this Farm Bill cycle gives an opportunity to advance some of the disaster assistance fixes championed by growers in the South.

Also on our legislative priority list is tax policy. Threats in the tax realm are less intense in a divided Congress, but there are some priorities to discuss. The Tax Cuts and Jobs Act of 2017 phased out direct expensing of research and development investments as of January 1, 2022. Instead, such expenses are required to be capitalized and amortized over five years. A number of our members have flagged this as a significant concern. A bill is being pursued that would give businesses the choice of direct expensing or capitalization.

Also on the tax front, NCTA and AmericanHort have joined in efforts to support full and permanent estate tax repeal. However, action on this issue is not likely anytime soon.

The slim margins of party control in both chambers have presented some interesting opportunities to overcome regulatory overreach using the Congressional Review Act (CRA). The CRA allows Congress to nullify new rules if a simple majority votes to do so, as was recently the case with the Waters of the U.S. (WOTUS) rule. However, President Biden retains his veto, so the WOTUS issue will continue to be battled out in the courts for some time to come.

On the workforce front, the divided Congress dims chances for significant visa reform. An

historic opportunity slipped by last year, when the Senate failed to act on its version of the Farm Workforce Modernization Act. Meanwhile, we saw mostly hostile H-2A program changes take effect last year. More recently, the Labor Department has modified the rules under which H-2A program wages are set. The recent changes will dramatically increase growers' costs if workers are performing specialized duties such as driving trucks or on-farm construction.

Adding insult to injury, if an H-2A job order is assigned a higher wage due, that higher wage applies to all workers employed under the job order regardless of how much time – if any – they spend actually doing the specialized job duties. There is an effort underway in Congress to nullify the rule using the Congressional Review Act, but it will be a challenge to get the votes, and avoid a Presidential veto. The National Council of Agricultural Employers is also challenging the new rule in the courts, but litigation is always highly uncertain. Per usual, the optimal solution would be bipartisan legislation that provides more clarity, certainty, and flexibility to program users.

## **NCTA Joins in Opposing H-2A Fee Increases**

NCTA joined on to a letter to the U.S. Citizenship and Immigrations Services voicing strong concerns about proposed fee increases to be imposed on H-2A employers.

*Continued on page 25*



The letter states: "This proposed fee increase comes at a time when American farmers are struggling with the cost of remaining in business, let alone the cost of participating in the H-2A program. Input costs such as fuel, electricity, seed, and fertilizer are all increasing, cutting into the bottom line of the American farmer."

## NCTA Supports Death Tax Repeal Act

NCTA joined the Family Business Coalition signing on to a letter of support for the Death Tax Repeal Act of 2023. The letter calls out that "The death tax is unfair. It makes no sense to require grieving families to pay a confiscatory

tax on their loved one's nest egg. Far too often this tax is paid by selling family assets like farms and businesses. Other times, employees of the family business must be laid off and payrolls slashed. No one should be punished for fulfilling the American dream. The negative effects of the estate tax make permanent repeal the only solution for family businesses and farms." Research

NCTA submitted a letter of support for the 2023 SCRI grant application A GIFT SEED: Accelerated Genetic Improvement of Firs Through Sequencing, Economics, Extension, & Diagnostics. This research project brings together Christmas tree researchers from around

the United States, including North Carolina, Washington, Oregon, Connecticut, Georgia, South Carolina, Michigan, and Pennsylvania. It will increase Christmas tree growers' knowledge of consumer preferences and be instrumental in developing new tools to help rapidly identify and breed genetically elite Christmas trees. The project will work to address challenges many growers are facing, which include problems with pests, diseases, drought, needle retention, and deer browse. NCTA has also agreed to be a member of Industry Mentors and Project Advisors for Christmas Tree (IMPACT) Research and Extension board if the project is funded.

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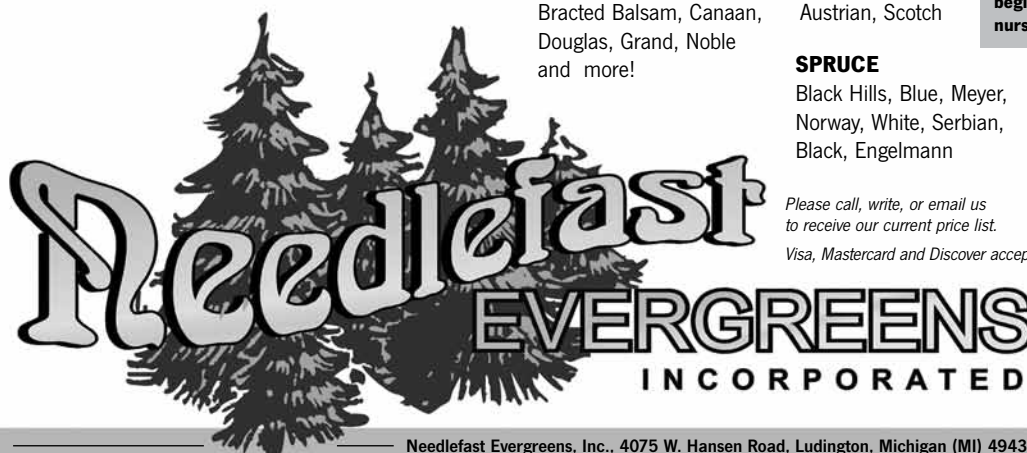
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# Supreme Court ruling grants clarity and relief to small business owners on water rights

On May 25, 2023, the U.S. Supreme Court issued a landmark decision regarding property rights for small business owners in the case *Sackett v. Environmental Protection Agency (EPA)*. The Court determined the EPA and the U.S. Army Corps of Engineers had exceeded their authority to regulate waters on private property under the Clean Water Act (CWA).

"Today's decision in *Sackett v. EPA* provides long-needed clarity for small business owners and landowners," said Beth Milito, Executive Director of the NFIB Small Business Legal Center. "The ever-changing standard and definition of 'waters of the United States' has disproportionately impacted small businesses, including farmers, ranchers, home builders, and contractors. The Supreme Court's ruling today affirmed the limits set by Congress and will rein in the extreme interpretation of the Clean Water Act."

This particular case hinged on the

appropriate test for determining if wetlands are "waters of the United States" (WOTUS). When a wetland is deemed to be a "water of the United States" it is subject to the EPA's jurisdiction, which means the owner of the land that contains that wetland is subject to bureaucratic and financial obstacles before they can improve their land. The Supreme Court's decision significantly restricts the EPA's jurisdiction going forward.

Under the CWA, the federal government maintains regulatory authority over certain bodies of water. The EPA and U.S. Army Corps of Engineers are charged with enforcing the CWA. For many years, different courts and administrations have offered their interpretation of what sort of jurisdiction the CWA grants the federal government over wetlands on private property.

<https://www.nfib.com/content/analysis/environmental-regulations/landmark-decision-u-s-supreme-court-limits-epas-authority-over-water-on-private-land/>

## Supreme Court curtails Clean Water Act

Amy Howe, Supreme Court curtails Clean Water Act, SCOTUSblog (May. 25, 2023, 11:40 AM), <https://www.scotusblog.com/2023/05/supreme-court-curtails-clean-water-act/> (This article was updated on May 25 at 12:55 p.m.)

The Supreme Court on Thursday established a more stringent test to determine whether the Clean Water Act applies to a wetland. The ruling was a setback for the Environmental Protection Agency

and a victory for an Idaho couple, Michael and Chantell Sackett, who have been battling with the federal government for over 15 years in their efforts to build a house on an empty lot near a large lake.

The Sacketts' legal battle began shortly after they began backfilling their property to prepare the lot, which is about 300 feet from Priest Lake, for construction back in 2007. The Sacketts received a notice from the EPA to stop work because their lot contains wetlands protected by the CWA, which bars the discharge of pollutants, including rocks and sand, into "navigable waters." The CWA defines navigable waters as "waters of the United States." The EPA reasoned that the wetlands on the Sacketts' lot fed into a non-navigable creek that then led to Priest Lake.

In agreeing that the Sacketts' lot is a wetland, the U.S. Court of Appeals for the 9th Circuit applied the test outlined by Justice Anthony Kennedy in *Rapanos v. United States*: whether there is a "significant nexus" between the wetlands and waters that are covered by the CWA, and whether the wetlands "significantly affect" the quality of those waters.

On Thursday the Supreme Court reversed the 9th Circuit's ruling. Instead, Justice Samuel Alito explained, courts should apply a more stringent test, outlined by four justices (including Alito, Chief Justice John Roberts, and Justice Clarence Thomas) in *Rapanos*, in which the CWA applies to a particular wetland only if it blends or flows into a

*Continued on page 27*



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neighboring water that is a channel for interstate commerce.

Alito pointed to the text of the CWA, emphasizing that the law's use of the term "waters" generally refers to relatively permanent bodies of water such as lakes and rivers. But when the law is read as a whole, Alito continued, it is clear that some "adjacent" wetlands will also qualify as "waters of the United States." This means, he wrote, that wetlands that are entirely separate from traditional bodies of water will not qualify. But the CWA will apply, Alito concluded, to wetlands that are "as a practical matter indistinguishable from waters of the United States" because they have a "continuous surface connection" with a larger body of water, "making it difficult to determine where the 'water' ends and the 'wetland' begins."

Under that test, Alito explained, the lower court's ruling must be reversed. "The wetlands on the Sacketts' property," he reasoned, "are distinguishable from any possibly covered waters."

Alito rejected the "significant nexus" rule advanced by Kennedy in *Rapanos* and by the EPA in this case, describing it as "particularly implausible." Under the EPA's rule, Alito emphasized, it would be difficult if not impossible for many landowners to determine whether the CWA would apply to their property – an especially undesirable result when those landowners could face "severe criminal sanctions for even negligent violations" of the law.


Justice Clarence Thomas penned a separate concurring opinion that was joined by Justice Neil Gorsuch. Thomas contended that the Supreme Court's ruling in the Sacketts' case "curbs a serious expansion of federal authority that has simultaneously degraded States' authority and diverted the Federal Government from its important role as guarantor of the Nation's great commercial highways into something resembling 'a local zoning board.'" But, Thomas cautioned, Congress limited federal power under the CWA, and the EPA and the U.S. Army Corps of Engineers should "respect that decision."

And more broadly, Thomas characterized the court's cases interpreting the CWA as "indicative of deeper problems with the Court's" cases interpreting the Constitution's commerce clause, which gives Congress the power to "regulate Commerce with foreign Nations, and among the

several States, and with the Indian Tribes." When the Constitution was drafted, Thomas noted, the term "commerce" referred to "trade or exchange — not all economically gainful activity that has some attenuated connection to trade or exchange." But the Supreme Court, Thomas complained, has strayed from that "limited meaning" and "licensed federal regulatory schemes that would have been 'unthinkable' to the Constitution's Framers and ratifiers."

Four justices – Sonia Sotomayor, Elena Kagan, Brett Kavanaugh, and Ketanji Brown Jackson – agreed that the CWA does not apply to the wetlands on the Sacketts' lot, but they disagreed with the majority's reasoning. In an opinion joined by the three liberal justices, Kavanaugh contended that "[b]y narrowing the Act's coverage of wetlands to only adjoining wetlands, the Court's new test will leave some long-regulated adjacent wetlands no longer covered by the Clean Water Act, with significant repercussions for water quality and flood control throughout the United States." For example, Kavanaugh noted, under the court's new test, the wetlands on the other side of levees on the Mississippi River will not be covered by the CWA, even though they "are

Continued on page 28



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*Continued from page 27*

often an important part of the flood-control project” for the river. Moreover, Kavanaugh added, the court’s new test “is sufficiently novel and vague” that it will create precisely the kind of regulatory uncertainty that the majority criticized.

Instead, Kavanaugh would adopt a more expansive test, under which the CWA would apply to wetlands that are either next to a larger body of water or separated from such a body of water by a man-made or natural barrier, such as a dike or a beach dune. Because the wetlands on the Sacketts’ lot “do not fall into either of those categories,” Kavanaugh agreed that they would still not be covered by the CWA.

Kagan also wrote a brief opinion of her own, joined by Sotomayor and Jackson, in which she

criticized what she characterized as “the Court’s appointment of itself as the national decision-maker on environmental policy.” In her view, Congress deliberately drafted the CWA with a broad reach to “address a problem of ‘crisis proportions.’” Although the majority disagrees with that decision, she wrote, it cannot “rewrite Congress’s plain instructions because they go further than” the court would like. But that is precisely what the majority did here, she concluded, just as it did last year when it curtailed the EPA’s authority to regulate greenhouse gas emissions.

Damien Schiff of the Pacific Legal Foundation, who represented the Sacketts, said in a press release that Thursday’s decision “returns the scope of the Clean Water Act to its original and proper limits.” “Courts now have a clear measuring stick for fairness and

consistency by federal regulators. Today’s ruling is a profound win for property rights and the constitutional separation of powers,” Schiff said.

But Sam Sankar of the environmental group Earthjustice criticized the decision, saying that it “undoes a half-century of progress generated by the Clean Water Act. Almost 90 million acres of formerly protected wetlands now face an existential threat from polluters and developers.” “The Court’s decision to deregulate wetlands will hurt everyone living in the United States,” Sankar said.

This article was originally published at Howe on the Court.



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## Advertiser's Index

AgSource .....	27
Alpha Nurseries .....	ibc
Badger Seedling LLC.....	26
Bosch's Countryview Nursery .....	13
Fraser Knoll .....	6
Kirk Company .....	20
Mitchell Metal Products .....	ifc
Needlefast Evergreens .....	25
Northwoods Evergreen & Wire .....	12
Peak Seasons/Veldsma & Sons .....	28
Peterson's Riverview Nursery .....	16
Rural Insurance Companies .....	15
Santa's Wholesale Supply .....	30
Wahmhoff Farms Nursery.....	9
Wahmhoff Farms Nursery.....	11
Wahmhoff Farms Nursery.....	21
Wheeler's Laura Lane Nursery .....	23

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Kaibab, San Juan	12-18"	2-2	\$191	\$1,190
	18-24"	2-2	\$254	\$1,585
<b>Norway Spruce</b>	10-18"	2-0	\$68	\$355
<i>Picea abies</i>	14-20"	2-1	\$160	\$1,000
Lake States	16-24"	2-2	\$214	\$1,335
	24-36"	2-2	\$294	\$1,835
<b>White Spruce</b>	10-18"	2-0	\$65	\$340
<i>Picea glauca</i>	12-18"	2-1	\$156	\$970
Lake States	20-30"	2-2	\$256	\$1,595
<b>Serbian Spruce</b>	8-14"	2-0	\$79	n/a
<i>Picea omorika</i>	10-18"	2-1	\$165	n/a
Germany				
<b>Black Hills Spruce</b>	7-12"	2-1	\$159	\$990
<i>Picea glauca 'densata'</i>	8-16"	2-2	\$228	\$1,425
Black Hills, SD				

## Fir

<b>Fraser Fir</b>	7-12"	P+1	\$188	\$1,170
<i>Abies fraseri</i>	12-16"	P+2	\$292	\$1,825
Roan Mountain				
<b>Balsam Fir</b>	6-12"	P+1	\$168	\$1,050
<i>Abies balsamea</i>	8-12"	P+2	\$215	\$1,340
Nova Scotia, Lake States	12-16"	P+2	\$158	\$1,610
<b>Concolor Fir</b>	5-10"	2-0	\$70	\$365
<i>Abies concolor</i>	7-12"	2-1	\$166	\$1,035
San Isabel, Cibola	10-18"	2-2	\$240	\$1,495
<b>Canaan Fir</b>	8-16"	P+1	\$185	\$1,155
<i>Abies balsamea var. phanerolipsis</i>	10-18"	P+2	\$267	\$1,665
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<b>Douglas Fir:</b>	10-18"	2-0	\$64	\$335
<i>Pseudotsuga menziesii glauca</i>	10-20"	2-1	\$160	\$995
Lincoln	20-30"	2-2	\$236	\$1,475
<b>Korean Fir:</b>	6-9"	P+1	\$159	\$995
<i>Abies koreana</i>				

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Species	Size	Age	Per 100	Per 1000
<b>White Pine</b>	4-7"	2-0	\$58	\$305
<i>Pinus strobus</i>	7-10"	2-0	\$75	\$390
Lake States	10-18"	2-1	\$180	\$1,125
	18-30"	2-2	\$397	\$2,480
<b>Red Pine</b>	7-10"	2-0	\$64	\$335
<i>Pinus resinosa</i>	8-12"	2-1	\$148	\$920
Lake States	12-20"	2-2	n/a	
<b>Austrian Pine</b>	4-7"	2-0	\$56	\$290
	7-10"	2-0	\$69	\$360
<b>Scotch Pine</b>	6-10"	2-0	\$54	\$280
<i>Pinus sylvestris</i>	10-18"	2-0	\$63	\$330
<b>Ponderosa Pine</b>	6-12"	2-0	\$71	\$370
<i>Pinus ponderosa</i>				
Black Hills N.F.				
<b>American Larch</b>	6-12"	1-0	\$97	\$508
<i>Larix laricina</i>	12-18"	1-0	\$128	\$800
Ontario	18-30"	2-0	\$185	n/a
<b>Green Giant Arb's</b>	7-14"	RC+1	\$325	n/a
<i>Thuja plicata 'Green Giant'</i>				
<b>White Cedar</b>	7-12"	2-0, 3-0	\$77	n/a
<i>Thuja occidentalis</i>	8-14"	2-1	\$165	n/a
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