



# AMERICAN SOD PRODUCERS ASSOCIATION

*James B. Beard*

*sod is made*

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Hastings, Nebraska

## Artificial Turf... It's Not The Answer!

The University of Minnesota Memorial Stadium in Minneapolis has just undergone a complete rebuilding of their football field. Originally 11,000 square yards of artificial turf was placed at a cost of \$600,000, or \$54.50 per square yard, according to Glenn Rehbein, ASPA Board member. Now they are taking up the artificial turf and selling it at \$2.75 per square yard, taking up the blacktop and rock under it, replacing it with sprinklers and drain tile, along with topsoil dirt and grass and the cost will be about \$125,000. The artificial turf has been used for only about five years. This is an increasing trend we see in football field development.

Wearing, fungus causing infection of burns to players, the lack of resiliency in the surface, and the complaints of players of poor footing offers real and new challenging opportunities for sod producers and suppliers.

## St. Paul Summer Meeting Presents Real Opportunities

Here are a few highlights of what you will be seeing and taking part in when you attend the St. Paul summer meeting, July 20-22.....

- \* Wednesday night exhibit area with displays of sod equipment and supply firms and two free drink tickets plus a cash bar.
- \* A free Continental Breakfast on Thursday morning, July 21st.
- \* Annual business meeting of ASPA and "What's Going on in the Sod Industry".
- \* Field demonstrations of irrigation equipment at Green-Glo Turf Farms in Blaine, Minnesota.
- \* A walk through and an opportunity to see a fine well-equipped shop with a lot of innovative features, the use of a mini-computer in farm/sod operation at the Glenn Rehbein Farms in Lino Lakes, Minnesota.
- \* Ladies sightseeing and shopping tour of the Twin Cities area.
- \* A fantastic evening featuring an "all Minnesota products buffet dinner" with invited guest speaker, Robert Bergland, Secretary of Agriculture. A dance to follow with the music of the Chmielewski Band (he is a member of the House of Representatives of the Minnesota legislature).
- \* Friday July 22nd will feature field demonstrations on equipment, mowing, harvesting, loading and etc. at Harley's Sod Farm in Hugo, Minnesota.
- \* A chance to meet and visit with your many friends in the sod industry from Canada, the United States and foreign countries.
- \* The Radisson St. Paul and the Twin Cities is a delightful meeting area and don't forget that Minnesota is a great place for relaxation and vacation!



ASPA board members Davis, Rehbein, Unruh and Thornton happily watch artificial turf being removed from University of Minnesota's Memorial Stadium.

## Summer Convention & Field Days in St. Paul, July 20-22

The Radisson St. Paul in St. Paul, Minnesota, will be the site of the ASPA Summer Convention & Field Days, July 20-22, 1977.

Secretary of Agriculture Bob Bergland has been invited to address the group at their annual banquet on Thursday night, July 21. Bergland raises Kentucky bluegrass seed for turfgrass production and is thoroughly conversant with the sod industry as the result.

Exhibits of nationwide as well as area suppliers will be held along with the field demonstrations of the latest in equipment and products.

Persons who wish to bring their recreation vehicles to St. Paul and continue on for a Minnesota extended vacation will find storage facilities available within walking distance of the Radisson St. Paul Hotel. An area adjacent to the Mississippi river and within a few short blocks of the headquarters hotel has been reserved for ASPA attendees. The area will be guarded at all times and provides an excellent opportunity for those who plan to see beautiful Minnesota either before or after the ASPA Convention. It has no hook-ups, no electrical or water, and therefore is best for self-contained units or parking.

The Minnesota Turf Association is serving as local sponsor under the chairmanship of Harley Johnson of Harley's Sod, Hugo, Minnesota. Glenn Rehbein of Lino Lakes, Minnesota, is ASPA Board liaison for the event.

A record crowd is expected to participate in this year's event. July brings many visitors to the Twin Cities area and you are urged to make room reservations **immediately** at the Radisson St. Paul, 11 E. Kellogg Blvd., St. Paul, Minnesota 55101 - phone (612) 222-7711. Indicate to the hotel your reservations are for the ASPA Convention block of rooms.

Pre-registration for Convention should be made with American Sod Producers Association, 9th & Minnesota, Hastings, Ne. 68901.

*James B. Beard*  
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COLLECTION

## *Be Cautious About Taking Sod Depletion Allowance, ASPA Spokesmen Advise*

"Better take a careful look before taking depletion allowance," is the advice of several panel members who appeared at the American Sod Producers Association Midwinter Conference in San Diego recently. The subject of "depletion" has received considerable discussion since the Tax Court ruled recently that sod depletion could be taken in a particular case. However, it is understood that the Internal Revenue Service is now having second thoughts.

ASPA Attorney William Harding of Nelson, Harding, Marchetti, Leonard & Tate in Lincoln, Nebraska, indicated that the Association does not believe that depletion does in fact occur because topsoil continues to be regenerated from subsoil. He noted that in the case in question the IRS stipulated that topsoil is in fact removed in sixteen years leaving a residual value of 66 $\frac{2}{3}$ % but no facts or evidence were presented supporting this position. Harding assured ASPA members that the IRS would not again in the future stipulate (accept as being fact) any statements made by sod producers concerning depletion, but would instead require detailed factual support.

In the rules of the IRS the final paragraph states that any taxpayer who claims depletion in the future must clearly establish the basis for claiming the depletion on a long term. Also that the amount of topsoil claimed to be removed each year **must be proven**. He pointed out that in order to establish these facts several steps would be necessary.

- a. Measure existing topsoil now.
- b. Have accurate figures regarding the topsoil removed with each cutting.
- c. Be able to document the circumstances of the specific locale which includes type of soil, other erosion effects, and etc.
- d. Hire an expert witness now to testify in your behalf.
- e. IRS questions the fact that land which might be used for development later on after years of sod production would in fact result in an economic loss to the owner as a result of sod producing.

Thus, proving depletion would be extremely difficult.

Harding pointed out that without any question any sod producer claiming depletion should be prepared for an audit as well as possible litigation in the tax court.

Similar problems were expressed by Richard L. Thomas, CPA. He indicated that at the time of the original purchase of the land, a cost basis would have to be established to determine the value of the topsoil as well as the residual value of the remaining soil. The value of the topsoil would be the amount subject to depletion. He also indicated that in agriculture, many items are written off as an expense as agriculture operates on a cash basis that might have to be written on a different basis if sod production was not agriculture. He further indicated that the Tax Court decision in the Meyers Case applied only to that particular case and was not a blanket approval of all sod producers as is indicated in the new regulation of IRS which requires documentation of claims.

ASPA member Charles Lain reported on the survey of the membership which shows that topsoil in fact does not deplete because sod production has been in existence in some areas as much as 40 years. He provided statistics which revealed that many row crops provide much more loss of topsoil whereas sod production actually retains topsoil a much longer period.

## **ASPA Membership at an All Time High**

Membership in the American Sod Producers Association is at an all time high, according to President Norm LeGrande of Lincoln, Nebraska. Included in the membership are 264 growers, 45 commercial and supply firms, 12 educational and research members and 3 honorary, for a total of 324.

"We are extremely pleased with the growth our Association is taking as we get more involved in matters which affect sod production," President LeGrande said. "The development of our promotional brochure for the use of members in selling sod to prospective buyers, our slide-cassette presentation 5 minutes in length which likewise is a useful marketing tool, our deep involvement in the subject of depletion as well as government and regulatory matters at the federal level particularly have shown members that their investment is worthwhile."

Anyone seeking membership in the American Sod Producers Association is invited to contact the association headquarters at 9th & Minnesota, Hastings, NE 68901. Phone (402) 463-5691.

## **Sod Helps Prevent Drought**

In an article recently in the *Asbury Park (New Jersey) Press*, Neal Munch of the Freehold Soil Conservation District pointed out that recent legislation in 1976 requires that soil erosion preventive measures be taken for any section of 5,000 square feet or more of soil disturbed. Before the law went in, there were no restrictions on clearing land, he reported. The developer could come in, strip the soil for houses, and then walk away.

Penalties under the new law range from \$25 to \$3,000 for each violation.

He pointed out that sod farmers contribute to soil conservation. "On sod farms they take only a small scraping of the topsoil and put extra soil and seed back as soon as they remove the sod. All the farmers are doing a good job to maintain our soil and insure that we have enough topsoil."

Thus, the question of soil erosion and drought "dust bowls" can be met with prompt sodding, sufficient quantities of sod and good care.

## **Slide-Cassette Presentation Available**

Initial orders of the slide-cassette presentation "Why Sod?" have been filled and many favorable comments have come from those who have received them.

The narrative and 30 slides deal with professional installing of sod; comparing its instant beauty, quality and enjoyment to seeded lawn with bare spots, weeds and etc.; and points out the easy care for the sodded lawn after installing. This professional presentation includes title slides for beginning and ending and the cassette features an excellent narrative and music background. An audible bleep signals for manual slide changing. Price is \$65.00 and can be ordered from ASPA, Association Bldg., 9th & Minnesota, Hastings, Nebraska 68901 - phone (402) 463-5691. Additional cassettes synchronized for specific equipment can be ordered for \$5.00 each (indicate type of equipment to be used).



# Soil Depletion Survey is Valuable Tool

Last December a Soil Depletion Questionnaire was sent to the entire ASPA membership requesting factual information from members regarding depletion. This information gave direction to the Board of Trustees in formulating ASPA resolution on soil depletion. A sincere "thank you" to all who took the time to fill out and return the questionnaire.

Following is a recap of the 134 replies received as prepared by Soil and Environmental Practices Committee, Charles Lain and John Hope. This was presented by Charles Lain at the San Diego Conference.

## Questions asked:

1. What is the longest producing sod field you know of including rotation with other crops?

9 answered in excess of 30 years

82 answered from 15 to 30 years

43 answered under 15 years

2. State approximate number of sod crops harvested during the above crops harvested during the above period?

3% harvested every 3 years

Approx. 82% indicated crop every 2 years

Approx. 8% indicated crop every year

Approx. 6% indicated 2 crops a year

Approx. 1% rotates with other crops

3. Do you have knowledge of any land rendered totally unproductive as a result of sod production?

All answers were negative with the exception of two respondents that indicated this happened in small limited top soil areas.

Some general comments added on questionnaires were interesting.

Only one respondent favored soil depletion and planned to file for it.

Two growers of sod felt the value of their land was lowered through continuous sod cropping.

At least 25% of the respondents added notes indicating a concern about the possibility of losing our classification under Agriculture with the Federal Government and the benefits derived by this classification.

A few others were concerned with the problems with local ordinances against soil depletion and mining. Also the prospects of having rents on land inflated and landlords are refusing to rent to sod farmers. Another concern was the environmental implications if we are classified as soil depleters and miners of top soil.

Several growers pointed out that with good cultural practices and new varieties they are achieving better crops and yields each year.

## CONCLUSIONS ON QUESTIONNAIRE

1. It would seem that we as an Industry do not feel we are depleters of top soil.

2. We are a young Industry (under 40 years as cultivated sod). It would seem 50% of the farms have been growing sod under 20 years.

3. The majority of the Sod Industry are on a two year crop cycle.

4. There seems to be genuine concern that our classification under Federal Regulations as Agriculture may be jeopardized if soil depletion is accepted for the Industry.

5. How will our Industry be considered by local planning boards and other phases of Agriculture and the public?

## ARE WE REALLY DEPLETING OR MINING TOP SOIL AS THE I.R.S. SEEMS TO INDICATE?

Yes, we do take a small amount of top soil with each crop

harvested:

3 year old sod approximately 1/16 of an inch

2 year old sod approximately 1/8 of an inch

1 year old sod approximately 1/4 of an inch

Under modern or recommended harvesting practices sod growers have found the less soil taken with the sod (Our Guideline Specifications suggest 1/2 inch thick cut) the quicker the plant will knit down on the site soil. Tests made by Michigan State, growers and other research groups show the major portion of this 1/2 inch base of the sod is roots.

All right, let's say we take an average of 1/8 inch of top soil with each crop. In 48 years we would take away:

With 2 year old sod - 3 inches of top soil

With 1 year old sod - 6 inches of top soil

## WHAT ABOUT OTHER PHASES OF AGRICULTURE?

Tests show that clean cultivated row crops such as corn, soybeans, onions, peanuts, cotton, etc., lose from 1/2 inch to 3/4 inch per year from wind and rain soil erosion.

In addition to the above figure for mineral soils, tests show that organic soils will lose 1/2 to 1 inch due to oxidation (being exposed to the air).

Even when a farmer rotates his crops a certain amount of soil is lost through erosion.

If we study the above facts, we can say that the Sod Industry may take a little top soil each time a crop is harvested but, if anything, we save more for future crops. In comparing sod with row crop farming, we are saving our future top soil, not depleting it.

Let's also consider another benefit of the sod crop besides soil stabilization in its growing stage.

**Soil building:** Consider the tons of organic matter left in the soil to build up sub-soils into top soil. Also consider how the strong grass root opens up hardpan soils. Most tests indicate the grass plant leaves more than it takes from the soil.

There will always be the alarmist that will yell we are running out of top soil, our greatest natural resource. There were those people one hundred years ago that felt the farms in the East were farmed out but the ground keeps producing. With good cultural practices, we will continue to grow good crops.

Where do we go from here?

Do we fight the ruling by I.R.S.?

Do we let sleeping dogs lie?

Do we take the better of both worlds? (In other words retain our Agricultural status and also take soil depletion?)

## CONCLUSION AND RECOMMENDATIONS

A job of educating the public about our Industry is in order. Tell it like it is. Let the facts be known.

## "Guidelines"

A new printing of "Guideline Specifications to Sodding" is available at 30 cents per copy. Order from ASPA, Association Bldg., 9th & Minnesota, Hastings, Nebraska 68901 - phone (402) 463-5691.

## Washington Reports

Reports from Washington, D.C. indicate that a lot of major programs are not going to be passed in the current session of Congress. For example, the big energy package seems out because of all of the involvement, tax reform is too complicated, welfare reform is at a standstill and national health insurance won't even be considered according to Washington sources.

However, considerable funds will be made available for new construction such as hospitals, parks, public buildings, schools, and etc. Present estimate is that about 4 billion will be made available. This should represent a real opportunity for ASPA members.

Minimum wage is forecast to be raised to \$2.75 from the present \$2.30. Latest word is also that an escalator very likely will be built in to tie future increases of the minimum wage to the average hourly wages in manufacturing. This according to some, might be 55% of the average manufacturing wage so there would be automatic increases each year.

Federal Trade Commission is being challenged. Courts are being asked to rule on whether FTC has the right to regulate firms and individuals which were formerly regulated by the states. Trade rules are being enacted which presumably would pre-empt state laws and this will be a primary point of litigation.

## Use of ASPA Legal Counsel

Much discussion has been given to the use of the legal counsel by ASPA members. The first incoming phone call to ASPA legal counsel and furnishing of information already in the ASPA "reservoir" will be provided at no expense to the member. If additional research is needed, after explanation of ASPA policy by legal counsel, the member will be expected to pay for the additional costs. If the matter is of industry-wide concern, the president, after consultation with key officers will direct the policy. ASPA cannot enter into individual or state matters as an active participant however.

Material that has been made available to the Association generally can be provided to your local attorney or account if your company encounters similar problems. Please address all requests to Bob Garey, the Executive Director of the Association, in Hastings, Nebraska. In addition, if you know of any federal or state rulings which either affect your company or some other company in the sod production industry, please notify Bob Garey so that the Association's files in this area will be as complete as possible. With your help, the Association can continue to serve as a clearinghouse for information regarding the treatment of sod producers under various federal and state laws and regulations. Our files will grow as you continue to report the results of litigation.

## Nebraska Declares Sod Production as Agriculture for Truck Licensing

A newly enacted law passed by the 1977 Nebraska Unicameral Legislature specifically states that "... sod grown on land owned or rented by the farmer and the by-products derived from any of these ..." are considered "agriculture" and therefore farm trucks used in sod production operations are considered farm vehicles for license and tax purposes.

LB 133 was signed by the Governor February 18, 1977.

## Rulings of Government Agencies Regarding Sod Production

The state of New York has reversed its assessment of \$1,091.00 against the Mercer Sod Company, Inc., of Trenton, New Jersey. The Sale Tax Bureau has claimed this amount as sales taxes, penalty and interest. ASPA legal counsel Bill Harding assisted by providing historical information currently available through the ASPA counsel which along with other substantiating information resulted in the cancellation of the sales tax assessment.

## Think of Sod as an Oxygen

*According to scientific studies, 2,500 square feet of grass liberates enough oxygen to meet the daily requirements of a family of four, in addition to cleansing the air and diluting toxic agents.*

## Where will it All End?

The average wage earner works 2 hours and 39 minutes of each working day to pay his share of the cost of government. As a result, over a year's time, he works 122 days out of every 365 just to pay his federal, state, and local taxes.

In terms of expenses such as food-lodging, clothing, transportation, and other necessities, he spends more of his income on taxes than on any other single item.

Unfortunately, a great deal of this hard-earned money is wasted.

And a great deal of the waste can be traced to the government employee and the bloated bureaucracies which perpetuate him.

### FACTS AND FIGURES

Here are a few facts and figures which show how the taxpayer's hard-earned money is wasted:

- One out of every 14 Americans is now working for the government in some capacity on the federal, state, county or local level.
- Government employment at all levels has risen almost 50% in less than a decade.
- In 1955, the average federal employee earned \$4,802 a year. His counterpart in private industry earned \$3,959 a year. Today, the average federal employee earns \$14,111 a year. His counterpart earns \$9,840.
- Over the past 20 years, the federal worker received pay boosts amounting to 193.9 percent. The average worker in private industry, meanwhile, received pay increases amounting to 148.5 percent.
- In 1954, the total over-all cost of running the government on the federal, state, and local levels was \$97 billion. Today, the cost is \$525 billion.
- Federal pensions have risen out of control over the past 15 years, and other pensions for government employees are keeping pace. On the federal level, pension costs have risen from \$3.8 billion in 1967 to \$18.9 billion in 1977.
- Cost-of-living escalation clauses in federal pensions are now meaningless, since the increases far exceed the cost-of-living. For example, while the cost of living has risen 56 percent over the past six years, federal pensions have increased 72 percent.



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## Farm Labor Contractor Registration Act & Alien Labor Regulation

### 1) Farm Labor Contractor Registration Act

On December 8, 1975 the United States Department of Labor proposed rules that would revise registration requirements for farm labor contractors. In the event someone is covered as a farm labor contractor under the regulations, certain registration requirements are set forth in the regulations along with requirements of motor vehicle liability insurance, proof of financial responsibility in lieu of insurance, and specific qualifications and eligibility for insurance carriers. The term "agricultural employee" includes employment in any service or activity defined as agriculture under the Fair Labor Standards Act, the Internal Revenue Service Act, or which relates to the handling, planting, or processing of any agricultural or horticultural commodity in its unmanufactured state. The term "farm labor contractor" is defined as any person who, for a fee, either for himself or on behalf of another person recruits, solicits, hires, furnishes, or transports migrant workers for agricultural employment. Excluded are members of the contractor's immediate family or the contractor if he engages in such activity solely within a 25 mile intrastate radius of his permanent place of residence and does not engage in such activity for more than 13 weeks per year. Comments on these proposed regulations were published in final form in the Federal Register on June 29, 1976 and became effective July 29, 1976.

In addition, during late 1976 the Administrator for the Wage and Hour Division of the U.S. Department of Labor announced new penalty rates ranging from \$50-\$1,000 for violations of any one of 35 different portions of the Farm Labor Contractor Registration Act.

The categories of violations for which a contractor may be assessed a civil penalty of up to \$1,000 are:

- (a) Failure to obtain the required registration certificate from the Labor Department.
- (b) Failure to carry required insurance on personally owned or controlled vehicles that are used to transport workers.
- (c) Failure to meet health and safety standards for personally owned or controlled migrant housing.
- (d) False registration as a contractor on behalf of someone who does not qualify to hold a certificate, which generally refers to someone who has had a certificate revoked or denied.

Users of agriculture workers may also be assessed up to \$1,000 for engaging in the services of an unregistered contractor or for knowingly employing a contractor who has taken illegal action that could disqualify the contractor from holding a certificate. Both the user of the agricultural workers and the contractor may be liable for a penalty of up to \$1,000 for retaliating against workers who file complaints or lawsuits against them.

Willful employment of illegal aliens carries a \$400 penalty for each illegal alien knowingly employed which could amount to a substantial fine. Some of the lesser penalties are failure to properly post working conditions at the work site (\$50); failure to make proper money payments to workers (\$200); and failure to

keep payroll records (\$400). However, these penalties may be reduced by 50% if the violation is not willful or recurring. For your information, the final form of the regulations published in the Federal Register on June 29, 1976 are enclosed.

### 2) Alien and Migrant Labor

(a) Employment of Aliens—On February 25, 1976 U.S. Supreme Court concluded that a California statute was constitutional which prohibited employment of illegal aliens and that such statute was not preempted by any federal legislation, i.e., the Farm Labor Contractor Registration Act.

In April, 1976 the American Bar Association went on record opposing S.3704 and H.R.8713 which would impose sanctions on employers who knowingly employed illegal aliens. The ABA took the position that most such workers were performing jobs that an American would not accept and that this type of federal legislation would foster widespread employment discrimination against foreign born persons. For many of the same reasons, the American Civil Liberties Union also joined in opposing the bills against the knowing employment of illegal aliens.

As of this date, all bills pending in Congress dealing with the employment of illegal aliens are still in committee, with the exception of H.982 and H.367 which have had hearings in the House.

In early November, 1976, the U.S. Department of Labor issued regulations governing the granting of labor certificates for permanent employment of aliens. These regulations set forth the responsibilities of employers who desire to employ aliens on a permanent basis. For your information, the final form of the regulations, published on January 18, 1977 are enclosed.

(b) Migrant and Seasonal Farm Workers—On October 5, 1976 the U.S. Department of Labor published regulations in the Federal Register which established an employment service, complaint system, and procedural regulations for the employment of migrant and seasonal farm workers.

The definition of a "seasonal farm worker" in these proposed regulations excludes landscape and horticultural services. Thus, it is arguable that those portions of the regulations dealing with seasonal farm workers would not apply to sod producers whereas those portions of the regulations dealing with migrant farm workers would cover sod producers.

The regulations specifically encourage state agencies that conduct random field checks for the purposes of these regulations to report on possible violations of any other federal or state employment-related laws.

Comments on these proposed regulations were received until early December, 1976.

On October 19, 1976 the Department of Labor issued proposed regulations establishing a Comprehensive Employment and Training Program for migrant and other seasonally employed farm workers. These regulations were published in final form in the January 7, 1977 Federal Register.

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