

of Form 1099- MISC, and not Form 1099-DIV. The publications are available now on the IRS web site, www.irs.gov, and can be ordered by calling toll-free 1-800-829-3676. **Ann. 2003-75, I.R.B. 2003-49, 1195.**

PRODUCTS LIABILITY

PESTICIDE. The plaintiffs were blueberry farmers who applied an insecticide manufactured by the defendant on their crops. The plaintiffs alleged that the insecticide, when applied with a third party fungicide, caused damage to the blueberries. The plaintiffs filed suit in negligence, fraud, negligent misrepresentation, breach of covenant of good faith and fair dealing, breach of warranty and breach of the New Jersey Fraud Act. The essence of the plaintiffs' claims was that the insecticide caused the damage when applied with the fungicide and that the insecticide was defective for this purpose. The court held that all the claims were preempted by FIFRA because the defendant would have to change the EPA-approved label to avoid liability on the claims. **Mortellite v. Novartis Crop Protection, Inc., 278 F. Supp.2d 390 (D. N.J. 2003).**

WATER

RIPARIAN RIGHTS. The defendant owned land upstream from the plaintiff's land and constructed a dam across a stream which diverted all of the flow to two ponds constructed by the defendant for recreational purposes. The plaintiff had used the stream water to water cattle on the plaintiff's property but was forced to sell cattle when the water supplied was removed. The court held that the defendant's complete blocking of the stream for recreational purposes was an unreasonable use of the water in that it completely prevented the plaintiff from the historical use of the water for watering livestock. The court upheld the trial court's award of a permanent injunction against the defendant from blocking the stream. **Edmondson v. Edwards, 111 S.W.2d 906 (Mo. Ct. App. 2003).**

CITATION UPDATES

Big Meadows Grazing Assoc. v. United States, 344 F.3d 940 (9th Cir. 2003) (wetlands conservation program) see p. 147 *supra*.

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