



Thank you for joining us in Salt Lake City, UT for the 42nd Annual AALA Agricultural Law Education Symposium!

**Program Key**

Policy Track	Private Practitioner Track	Food Law Track	In-House / Corporate Counsel Track
Ethics			

**2021 AALA Annual Agricultural Law Educational Symposium Session Descriptions**

***Thursday, November 4, 2021***

**10:30 am - 12:00 pm: State Agency Attorneys Meeting** (state agency employees only please)

Hosted by the National Association of State Departments of Agriculture

**Room: Olympus**

**1:00 - 4:00 pm: Farm Bureau LINC Meeting**

**Room: Teton**

***Thursday sessions will be held at the University of Utah Law School (Transportation via LightRail)***

**1:00 - 1:45 pm: Session #1: Case Law Update regarding Public Lands/Environmental/Natural Resource Issues**

**Speaker: Caroline Lobdell, Western Resources Legal Center, Portland, OR**

**1:45 - 2:15 pm: Session #2: Bureau of Reclamation and RRA Backgrounder**

**Speaker: Marisa Bocci, K&L Gates LLP, Seattle, WA**

**2:15 - 2:30 pm: Networking Break**

**2:30 - 3:30 pm: Session #3: Public Lands Policy Panel Presentation – Biden Administration Initiatives/State-Federal Interplay on Public Lands**

**Speakers: Brian Steed, Utah Department of Natural Resources, Salt Lake City, UT**

**Mike Ford, Abbey, Stubbs and Ford, LLC & Nevada and SW Director, The Conservation Fund, Las Vegas, NV**

**Redge Johnson, Utah's Public Lands Coordinating Office, Salt Lake City, UT**

**3:30 - 3:45 pm: Networking Break**

**3:45 - 4:15 pm: Session #4: Colorado River Administration in Drought – Upper versus Lower Compact Concerns**

**Speakers: Gene Shawcroft, Upper Colorado River Commission & Central Utah Water Conservancy District, Salt Lake City, UT**

**Daniel Jones, Salmon, Lewis & Weldon, P.L.C., Phoenix, AZ**

<p><b>5:30 pm – 6:00 pm: New Member and Student Welcome Reception and Conference Committee Reception</b>  <b>Room: Wyoming</b></p>
<p><b>6:00 – 8:00 pm: Reception</b>  <b>Room: Ballroom AB</b></p>
<p><b>Friday, November 5, 2021</b></p>
<p><b>7:00 am: Registration in Lobby</b>  <b>7:30 am: New Member and Student Welcome Reception – How to Get the Most Out of the Conference?</b>  <b>Room: Wyoming</b></p>
<p><b>All morning sessions will be held in Little American Hotel Ballroom AB</b></p>
<p><b>8:00 – 8:15 am: Introduction and Welcome</b>  <b>Speakers: Pat Dillon, Dillon Law PC, Sumner, IA</b>  <i>Commissioner Craig Buttar, Utah Dept. of Agriculture and Food, Salt Lake City, UT</i></p>
<p><b>8:15 - 9:15 am: Session #5A: Keynote: The Future of Agricultural Law - Why it Matters</b>  <b>Speaker: Janie Hipp, General Counsel, USDA, Washington D.C.</b></p>
<p><b>9:15 - 9:45 am: Session #5B: Ag Finance Update</b>  <b>Speaker: Jeff Peterson, Lathrop GPM, St. Cloud, MN</b></p>
<p><b>9:45 - 10:15 am: Session #5C: Food Law Update</b>  <b>Speaker: Susan Schneider, University of Arkansas School of Law, Fayetteville, AR</b></p>
<p><b>10:15 - 10:30 am: Networking Break</b></p>
<p><b>10:30 – 11:30 am: Session #5D: Current &amp; Future Trends in Agriculture</b>  <b>Speakers: Bill Even, CEO, National Pork Board, Clive, IA</b>  <i>Don Slight, Former CEO, Farmland Reserve, Inc., Salt Lake City, UT</i></p>
<p><b>11:30 am- 1:00 pm: Lunch on Own and AALA Committee Meetings</b></p>
<p><b>1:00 - 4:00pm Student Quiz Bowl Competition</b>  <b>Room: Olympus</b></p>
<p><b>1:00 – 2:00 pm: Session #6: Ethics Session - Cultivating a Culture of Civility in the Legal Profession</b>  <b>Speaker: Elysa Dishman, Brigham Young University J. Reuben Clark Law School, Provo, UT</b></p> <p>From internet trolls to bare-knuckle politics, it seems that dialogue and personal interactions are increasingly uncivil. The legal profession is rife with incivility, despite repeated calls from the bench and bar to change. This presentation discusses the problem of professional incivility, what states are doing to address it, and how lawyers can cultivate greater civility in the profession.</p> <p><b>Track: Ethics</b>  <b>Room: Ballroom AB</b></p>
<p><b>2:05 – 3:05 pm: Session #7: Concurrent Breakouts</b></p>
<p><b>Recent Developments in the Packers and Stockyards Act: Changes that Impact Farmers, Ranchers, and Poultry Growers</b>  <b>Speaker: Joel McKie, Hall Booth, Smith, Atlanta, GA</b></p> <p>This session will cover two significant developments under the PSA during the end of the Trump Administration (and their current status): The promulgation of "undue preference" rule by USDA as required by the 2008 Farm Bill and the adoption of the Consolidated Appropriations Act, signed on December 27, 2020, that amended the PSA by adding Section 318 to establish a "Dealer Statutory Trust" for the benefit of unpaid cash sellers of livestock. The session will also review recent poultry cases related to competitive harm and enforcement of the regulations promulgated in accordance with the 2008 Farm Bill pursuant to the PSA's private right of action.</p>

**Track: Food**

**Room: Arizona**

**Session 7A**

### **Title Issues in Ag Real Estate: Beyond the Basics**

**Speakers:** Jen Modjeska, First American Title Insurance Company, Seattle, WA

Kellen Holgate, K&L Gates LLP, Seattle, WA

Jonathan Buss, First American Title Insurance Company, Salt Lake City, UT

This program will explore more advanced ag title topics through the different perspectives of (i) the attorney representing the buyer, seller or lender, and (ii) the title insurer. The presenters (consisting of an agribusiness attorney and underwriting counsel for a title insurer) will delve into more advanced topics that arise in agribusiness real estate transactions, including: (a) common encumbrances, including off-record access rights, pipeline rights, crop encroachments, non-locatable utilities easements, etc., (b) strategies for dealing with encumbrances, (c) title endorsements and wrinkles regarding applicability to ag land, and (d) title underwriting requirements.

**Track: Private Practitioner**

**Room: Idaho**

**Session 7B**

### **Keeping Your Contracts Out of the Courtroom... Or Not!**

**Speakers:** Jon Miesen, Stoel Rives, Minneapolis, MN

Adam Buck, Dorsey & Whitney LLP, Denver, CO

Meghann Kantke, CHS, Inc., Minneapolis, MN

Contracts govern the day-to-day interactions between sophisticated parties. Most contracts are signed, carried out, and completed with little fanfare. But sometimes, things go sideways. How can in-house counsel spot issues early to avoid disputes altogether? Which contract terms will be most important if a dispute does arise? How do you determine which disputes to settle and which to pursue through litigation? Hear perspectives on these questions and more from in-house counsel and outside litigators and be prepared to stop the next dispute before it starts or see it through to a jury.

**Track: In-House**

**Room: Wyoming**

**Session 7C**

**3:05 - 3:20pm: Networking Break**

**3:20 – 4:20 pm: Session #8: Concurrent Breakouts**

### **Genetic Editing in Agriculture -- It's Uncertain Future**

**Speakers:** Thomas Parker Redick, GECC LLC, Spring Lake, MI

Margaret Grossman, University of Illinois, Urbana, IL

William Chaney, Gray Reed, Dallas, TX

Gene editing in agriculture (plant, animal and microbial), faces technical and regulatory obstacles. In the EU where gene edited plants are regulated like GMO crops, and the Cartagena Protocol could restrain international trade in genetically edited products. The USDA SECURE act has taken a major step toward a more science- and risk-based—vs. method and insertion event based—system, but much further regulatory and legal innovation is needed in the USA and beyond. Looming over US approval is the National Environmental Policy Act, which anti-GMO activists have used to stop the launch of certain GMO crops. In addition, the legacy of court decisions made in the pending Syngenta China Corn litigation with its threat of another billion-dollar case could adversely influence commercial launch, where major market approval is pending (and unreasonably delayed).

**Track: Food**

**Room: Arizona**

**Session 8A**

### **Farming the Sun: Solar Power**

**Speakers:** Paul Goeringer, University of Maryland, College Park, MD

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*Shannon Ferrell, Oklahoma State University, Stillwater, OK*  
*Brianna Schroeder, Janzen Schroeder Ag Law, Indianapolis, IN*  
*Jeff Cummins, Indiana Farm Bureau, Indianapolis, IN*

This session will cover an overview of utility-scale solar energy development on farmland. The call for renewable energy continues to grow with many developers looking at solar energy development. Attorneys may not always have the proper understanding of these long-term agreements and how best to navigate these arrangements for clients. This session would provide an overview of the agreements and other common issues that could arise from zoning and planning disputes to possible nuisance claims.

Solar power is giving farmers and agricultural businesses new opportunities to diversity and guarantee longterm income. Attorneys should know the critical issues to negotiate in a typical solar lease and be aware of the local, state, and federal legislation that will impact these new solar farms. This session will prepare practitioners to navigate the pitfalls inherent in the establishment of a new solar facility.

**Track: Private Practitioner**

**Room: Idaho**

**Session 8B**

### **Best Practices for Attorneys Counseling Corporate Directors and Officers**

*Speakers: Megan Belcher, Scouler, Omaha, NE*  
*James Mathis, Husch Blackwell, St. Louis, MO*  
*Brandon Smith, CHS, Inc., Inver Drover Heights, MN*  
*Moderator: Mike Traxinger, Agtegra Cooperative, Aberdeen, SD*

This session is designed for attorneys counseling their clients on best practices for corporate directors and officers. It will provide a general overview of the key duties and responsibilities of directors and officers, offer some best practices for attorneys and discuss a few recent cases involving agricultural companies and directors and officers.

**Track: In-House**

**Room: Wyoming**

**Session 8C**

### **Groundhog Day: Immigration and Ag Labor Reform Legislative & Regulatory Efforts**

*Speaker: Kristi Boswell, Alston & Bird, Washington, D.C.*

This session will provide a policy update from Washington D.C. on the issue that continues to stifle growth in hand labor agricultural sectors, creates instability within the farm workforce and is constantly in the political crosshairs of the ever existing border crisis and general immigration reform. It will discuss the latest legislative efforts to move ag labor reform, including the Farm Workforce Modernization Act and other pieces of legislation. Also, will give the regulatory landscape following the Trump efforts to reform the H-2A program including the final rule withdrawn by the Biden Administration for review.

**Track: Policy**

**Room: Ballroom C**

**Session 8D**

**4:20 - 4:30 pm: Networking Break**

**4:30 – 5:30 pm: Session # 9: Concurrent Breakouts**

### **Legal Issues for Indoor Agriculture**

*Speakers: Karen Carr, Arent Fox LLP, Washington, DC*  
*Marni Karlin, CEA Food Safety Coalition*

Consumer demand for local foods and food traceability have created market value for vertical, indoor, and other controlled environmental agriculture (CEA) systems in recent years, and innovations in LED lighting technology, artificial intelligence, robotics, and other innovations have spurred investment and significant growth. CEA companies face a host of unique legal issues and others

that are common to traditional producers of agricultural products. This panel of in-house legal counsel from agricultural technology companies and organizations will discuss legal issues unique to CEA companies, issues they share with conventional agriculture, and discuss opportunities for innovation in agriculture under the Biden administration.

**Track: Food**

**Room: Arizona**

**Session 9A**

**Agriculture Loans and Defaults: Rights and Remedies (and, Heaven Forbid -- Bankruptcies!)**

**Speaker:** Scott K. Brown, Anderson, Clarkson, Johnson, Brown, Mesa, AZ

This program will help attendees learn the ins and outs of ag loan defaults and how best to efficiently address and remedy them. This program is for both the borrowers and the lenders.

**Track: In-House**

**Room: Wyoming**

**Session 9C**

**Revisions - Regulation of Small to mid-sized U.S. Farms and Food Producers.**

**Speaker:** Alexia Kulwiec, Farm-to-Consumer Legal Defense Fund, Madison, WI

COVID-19 revealed an already vulnerable food system in the United States, leading to greater interest in a local and decentralized system. Despite this demand, Smaller to Mid-Sized Farms in the United States operate in a regulatory system designed for larger operations and challenge their viability. In this workshop we will explore some of the regulations that impact small local farms and food business, as well as some of the initiatives made throughout the country in response to the COVID-19 crisis. This includes proposed changes in meat and poultry production, the prohibitions of interstate sales of certain products, the FDA food traceability rule, FSMA safety regulations, and local regulation. We will explore policy options that balance protecting consumers while supporting the viability of smaller producers.

**Track: Policy**

**Room: Ballroom C**

**Session 9D**

**6:30 - 8:30 pm: Reception at Kirton McConkie**

**Saturday, November 6, 2021**

**7:15 am: Registration in Lobby**

**7:15 am: Breakfast in Lobby**

**Sessions 10 & 11 will be held in Ballroom AB**

**7:45 – 8:15 am: Session 10A: Land Use and Resource Law Update**

**Speaker:** Jesse Richardson, West Virginia University College of Law, Morgantown, WV

**8:15 - 8:45 am: Session 10B: Tax Law Update**

**Speaker:** Kristine Tidgren, Center for Agricultural Law & Taxation, Iowa State University, Ames, IA

**8:45 - 9:15 am: Session 10C: Environmental Law Update**

**Speaker:** Anthony Schutz, Nebraska College of Law, Lincoln, NE

**9:15 - 9:45 am: Session 10D: Ag Policy Update**

**Speaker:** David Grahn, Farm Credit Administration, McLean, VA

**9:45 - 10:00 am: Networking Break**

**10:00 - 10:30 am: Session 11: The Farmers Lawyer: The North Dakota Nine and the Fight To Save the Family Farm**

**Speaker:** Sarah Vogel, Sarah Vogel Law and Author of THE FARMER'S LAWYER, Bismarck, ND

## 10:30 - 11:00 am: AALA Business Meeting and Presidents Address

### 11:00 am – 12:00 pm: Session #12: Concurrent Breakouts

#### **Reimagining Native Food Economies**

**Speakers:** Toni Stanger-McLaughlin, Native American Agricultural Fund, Spokane, WA  
Sarah Vogel, Sarah Vogel Law, Bismarck, ND  
Erin Parker, Indigenous Food and Agriculture Initiative, Fayetteville, AR

When the *Keepseagle v. Vilsack* case was settled, the Native American Agriculture Fund emerged as a means to address long standing failures of the federal system of agriculture lending and support available to Native farmers and ranchers. The Fund's role in the Native agriculture landscape has taken root and a vision for building Native food economies has emerged. The session will chronicle how the Fund was created; the steps taken to build the nation's largest philanthropic charitable trust led by a Native board and staff focusing solely on Native agriculture; and what the future holds for this effort. Legal issues related to design and execution of the trust will be discussed as will policy advocacy efforts authorized by the mission of the Fund. The presenters will also discuss why specialized approaches are needed to tackle the legal and policy complexities of agriculture infrastructure that reaches all communities.

**Track:** Food

**Room:** Arizona

**Session 12A**

#### **Farmland Auctions: Working with Brokers and Property Managers to Sell (or Buy) the Farm**

**Speakers:** Marisa Bocci, K&L Gates LLP, Seattle, WA  
David Muth, Peoples Company, Des Moines, IA  
TBD

Discussing legal and logistical matters specific to farmland auctions. Focus of the conversation will be on the roles of the broker, appraiser, property manager, and lawyer, all working together to host a successful auction transaction. Special attention will be paid to virtual farm auctions, data rooms, and online due diligence (i.e., "how to buy a farm without leaving your house").

**Track:** Private Practitioner

**Room:** Idaho

**Session 12B**

#### **Managing Operational Risk by Using Business Entity Structures Strategically**

**Speaker:** Jared Kartchner, Attorney and Counselor at Law, Vienna, VA

Most agricultural operations use some form of limited liability entity to segregate the owners' assets from the liabilities of the agricultural operation. While this protects the owners' assets, it places all the operation's eggs in a single risk basket. If one aspect of the operation is at risk, then the entire operation is. A better approach is to divide the various aspects of the operation into separate legal entities to maintain the viability of the balance of the operation when one aspect comes under legal attack. A side benefit of this approach is how it can facilitate succession planning.

**Track:** In-House

**Room:** Wyoming

**Session 12C**

#### **Checking in on Commodity Checkoffs**

**Speakers:** Chelsea Good, Livestock Marketing Association, Leawood, KS  
Robert Thompson, Bryan Cave Leighton Paisner, Kansas City, MO

Twenty-one different commodities, from beef to blueberries and cotton to Christmas trees, collect funds from producers through a checkoff mechanism based on the quantity they produce. These funds are used for promotion, education, and research in attempt to expand markets and increase demand. Famous campaigns like "Got Milk?" are the result of checkoff work.

Learn about operation and USDA oversight of commodity checkoffs, as well as recent legal and legislative challenges. Hear from an

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attorney who represented 14 state Beef Councils in First Amendment litigation concerning the Beef Checkoff. Also, learn about legislation introduced in 2020 to reform Checkoffs.

**Track: Policy**

**Room: Ballroom C**

**Session 12D**

**12:00 - 1:30pm: Awards Luncheon and Quiz Bowl Winners**

**Room: Ballroom AB**

**1:30 – 2:30 pm: Session #13: Concurrent Breakouts**

**Overview of How to Import Food and Food Products into the U.S.**

**Speaker:** Kimberly Bousquet, Thompson Coburn, Saint Louis, MO

We will give an overview of all requirements necessary to import food, beverages, and dietary supplements into the U.S. We will discuss the Foreign Supplier Verification Act of the Food Safety Modernization Act, what a U.S. agent is for the FSVP and how to obtain one, FDA facility registration, the prior notice requirement for individual shipments, labeling requirements, and other aspects of importing food and food products. We will include a specific focus on companies hoping to sell these products on Amazon.

**Track: Food**

**Room: Arizona**

**Session 13A**

**Crop Insurance: Recent Developments and Legal Issues**

**Speaker:** Chad Marzen, Florida State University, Tallahassee, FL

This presentation will cover recent developments and legal issues concerning the federal crop insurance program, from court decisions to Final Agency Determinations (FAD's).

**Track: Private Practitioner**

**Room: Idaho**

**Session 13B**

**M&A in Food and Agribusiness Companies: What Your Diligence List Is Missing**

**Speakers:** Kari Larson, K&L Gates LLP, Seattle, WA

Brandy Sargent, K&L Gates LLP, Portland, OR

Jonathan Cohen, K&L Gates LLP, Washington, DC

Food is a hot commodity right now, and not just at retail! The number of food and agribusiness companies changing ownership or adding new investors is increasing and the legal diligence required for these transactions expands far beyond checking contracts for change of control triggers. This panel will focus on what in-house counsel and other practitioners need to know when it comes to diligence related to M&A transactions in the food and agribusiness industry (e.g., what should be on your diligence list to gather or request when you get the call that the business team has made a decision to buy, sell or invest). We will discuss specialty topics that sellers, buyers, and their in-house counsel need to consider, including: food safety, labeling, and regulatory diligence; specialty licensing and permitting issues; insurance (both reps and warranties insurance and insurance diligence); and the challenging intersection of customer and supplier contracts and indemnity obligations.

**Track: In-House**

**Room: Wyoming**

**Session 13C**

**Endangered Species, Critical Habitat, and the Law**

**Speakers:** Megan Jenkins, The Center for Growth and Opportunity at Utah State University, Logan, UT

Jeffrey McCoy, Pacific Legal Foundation, Sacramento, CA

Erik Neslon, Bowdoin College, Brunswick, ME

The Endangered Species Act requires federal agencies to identify and designate areas that are crucial for a species' recovery for special protection as critical habitat. Although it is intended to help species recover, critical habitat is controversial because it can reduce incentives for private landowners to engage in conservation and may have negative impacts on private property values. This discussion with legal and policy experts will explore the legal implications of how critical habitat has been implemented in the past and explore what the future may hold for private landowners and endangered species alike.

**Track: Policy**

**Room: Ballroom C**

**Session 13D**

**2:30 - 2:45 pm: Networking Break**

**2:45 – 3:45 pm: Session #14: Concurrent Breakouts**

### **COVID-19 and the Food & Ag Workforce: 2021 and Beyond**

**Speakers:** John Dillard, OFW Law, Washington, DC

Nowell Berth, Alston & Bird, Washington, DC

Kristi Boswell, Alston & Bird, Washington, DC

Joe Miller, Rose Acre Farms, Seymore, IN

This panel will provide a comprehensive update on the legal and policy environment for employers in the food and agriculture sector in light of COVID-19. This panel will review OSHA's COVID-19 enforcement actions under the Trump and Biden Administrations, review private litigation against employers, examine the real time and the ripple effects of COVID-19 on essential on-farm workers, and discuss legislative and regulatory policy changes being contemplated using lessons learned during the pandemic.

**Track: Food Law**

**Room: Arizona**

**Session 14A**

### **Leveling the Playing Field: Farmers & Antitrust Enforcement**

**Speakers:** Brian Clark, Lockridge Grindal Nauen P.L.L.P., Minneapolis, MN

Arielle Wagner, Lockridge Grindal Nauen P.L.L.P., Minneapolis, MN

Samuel Prim, Prim & Mendheim, LLC, Dothan, AL

In recent years, many farmers have experienced a precipitous drop in the profitability of their farming operations. This program will discuss recent cases involving antitrust investigations by the government and lawsuits by farmers involving price-fixing in the agricultural area. The program will also discuss how farmers (and their attorneys) can monitor for and spot patterns in the conduct of their suppliers and downstream customers that may suggest a market is not operating competitively.

**Track: Private Practitioner**

**Room: Idaho**

**Session 14B**

### **Payment for Ecosystem Services: The Next Revolution in Conservation and Economics?**

**Speaker:** Gordon Merrick, Vermont Law School/Conservation Law Foundation, South Royalton, VT

Land conservation policy has had many successes over the past decades, but progress has been stymied by the economics of our agriculture and land-based businesses. This presentation will look at the emerging field and practice of compensating farmers for ecological services they may provide, rather than focus on practices that must be implemented. This outcome-based approach has long been sought by ecologically-minded groups, but now we have seen larger private interests get interested. Reforming our economy's relationship with our land-based businesses may bring about a recognition that land-managers produce much more than the food on your table or the lumbar supporting your house; they may be the key to alleviating the worst effects of our changing climate.

**Track: Policy**

**Room: Ballroom C**

**Session 14D**



3:45 - 4:45 pm: Board Listening Session  
Room: Ballroom AB

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