



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

1:00 pm – 5:00 pm: **Federal and State Lands CLEs at University of Utah Law School**

Additional details will be available soon.

Location: University of Utah Law School

6:30 pm – 7:00 pm: New Member Welcome Reception and Conference Committee Reception

Location: Little America Hotel

7:00 – 9:00 pm: Reception

Location: Little America Hotel

Friday, November 5, 2021

7:00 am: Registration in Lobby

7:30 am: New Member Welcome Reception – How to Get the Most Out of the Conference?

8:00 – 9:30 am: Introduction and Keynote Speaker or Ag Law Updates

9:30 - 9:45 am: Networking Break

9:45 – 10:45 am: Keynote Speaker or Ag Law Updates

Room: Ballroom AB

10:45 – 11:30 am: AALA Business Meeting and President's Address

Room: Ballroom AB

11:30 am- 1:00 pm: Lunch on Own and AALA Committee Meetings

1:00 – 2:00 pm: Session #6: Concurrent Breakouts

Ethics Session

Speaker: TBA

Track: Ethics

Room: Ballroom AB

2:05 – 3:05 pm: Concurrent Breakouts

Farmland & Succession – Challenges & Solutions for Black Farmers

Speakers: Christina Rice, Land Loss Prevention Project, Durham, NC

Mary Henderson, Land Loss Prevention Project, Durham, NC

Black farmers in the United States are faced with unique challenges surrounding land succession and ownership. Institutionalized racism, discrimination by the USDA, and the manipulation of heirs property ownership has resulted in the loss of up to 60-90% of the farmland once owned by Black farmers. This session will explore the historical context of land loss by black farmers, the particular vulnerabilities of black owned land, and policy and legislative solutions at the state and federal level. Topics will include state and national efforts regarding heirs property, and the implementation of the Emergency Relief for Farmers of Color Act.

Track: Policy

Room: Arizona

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

Recent Developments in the Packers and Stockyards Act: Changes that Impact Farmers, Ranchers, and Poultry Growers/Survey of the Perishable Agricultural Commodities Act's (PACA) most recent cases: 2020 to Present.

Speakers: Joel McKie, Hall Booth, Smith, Atlanta, GA

Bruce Akerly, Akerly Law PLLC, Coppell, TX

Carrie McNair, Akerly Law PLLC, Coppell, TX

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.

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

COVID-19 revealed an already vulnerable food 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: Food

Room: Olympus

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

Speakers: Emily Lyons, Husch Blackwell LLP, Washington, D.C.

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

3:05 - 3:15pm: Networking Break

3:15 – 4:15 pm: Concurrent Breakouts

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

Speakers: **V** Terry Griffin, Kansas State University, Manhattan, KS

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: Arizona

**Here Comes the Sun... but It Can Get Cloudy: Utility-Scale Development on Farmland/
Sunshine and Opportunities: Solar Contracts and Legislation**

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

Shannon Ferrell, Oklahoma State University, Stillwater, OK

Brianna Schroeder, Janzen Schroeder Ag Law, Indianapolis, IN

Jeff Cummins, Indiana Farm Bureau, Indianapolis, IN

This session would 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 understand of the 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 that often 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

Genetic Editing in Agriculture -- It's Uncertain Future

Speakers: Thomas Parker Redick, GEEC LLC, Spring Lake, MI

Margaret Grossman, University of Illinois, Urbana, IL

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: Olympus

Best Practices for Attorneys Counseling Corporate Directors and Officers

Speakers: Mike Traxinger, Agtegra Cooperative, Aberdeen, SD
Jason Lina, Fluegel, Anderson, McLaughlin, and Brutlag, Morris, IN

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

4:15 - 4:30 pm: Networking Break

4:30 - 5:30pm Student Quiz Bowl Competition

Room: Flagstaff

4:30 – 5:30 pm: Concurrent Breakouts

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

Speakers: Alexia Kulwicz, Farm-to-Consumer Legal Defense Fund, Madison, WI

COVID-19 revealed an already vulnerable food 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: Arizon

TBD

Speakers: TBD

Track: Private Practitioner

Room: Idaho

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: Olympus

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

Speakers: Scott 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

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

Saturday, November 6, 2021

7:30 am: Registration in Lobby

7:30 am: Breakfast in Lobby

8:00 – 9:30 am: Ag Law Updates

Room: Ballroom AB

9:30 - 9:45 am: Networking Break

9:45 - 10:45 am: Panel or Keynote Speaker

Room: Ballroom AB

10:45 - 11:00 am: Networking Break

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

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 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: Arizona

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

Speakers: Marisa Bocci, K&L Gates LLP, Seattle, WA
Steve Bruere, Peoples Company, Clive, 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

Reimagining Native Food Economies

Speakers: Janie Simms Hipp, Native American Agricultural Fund, Fayetteville, AR
Sarah Vogel, Sarah Vogel Law, Bismark, ND
Colby Duren, Intertribal Agriculture Council/Native Farm Bill Coalition, Billings, MT

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: Olympus

Managing Operational Risk by Using Business Entity Structures Strategically

Speakers: Jared Kartchner, 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

12:00 - 1:00pm: Awards Luncheon

Room: Ballroom AB/Mezzanine

4:30 - 5:30pm Student Quiz BowlFinal

Room: Flagstaff

1:30 – 2:30 pm: Concurrent Breakouts

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: Arizona

Crop Insurance: Recent Developments and Legal Issues

Speakers: 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: Julia Lee A/B

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

Speakers: Kimberly Bousquet, Thompson Coburn, Saint Louis, MO

Pat Morin, US Imports, New Orleans, LZ

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: Olympus

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

Speaker: 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

2:30 - 2:45 pm: Networking Break

2:45 – 3:45 pm: Concurrent Breakouts

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

Speakers: 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 lumber supporting your house; they may be the key to alleviating the worst effects of our changing climate.

Track: Policy

Room: Arizona

Leveling the Playing Field: Farmers & Antitrust Enforcement

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

Stephanie Chen, 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 the conduct of their suppliers and downstream customers that may suggest a market is not operating competitively.

Track: Private Practitioner

Room: Idaho

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: Olympus

Ethics and Professional Responsibility Session

Speaker: TBD

Track: Ethics

Room: Wyoming

3:45 - 4:45 pm: Board Listening Session

Room: Ballroom AB