



Thank you for joining us in Kansas City, MO for the 41st Annual AALA Agricultural Law Education Symposium!

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

V = Presentation will be given virtually by the panel.
 All sessions are available to observe virtually.

2020 AALA Annual Agricultural Law Educational Symposium Session Descriptions
Thursday, November 12, 2020
10:30 am – 11:00 pm: Welcome with Kansas Department of Agriculture Secretary Mike Beam
11:00 am – 12:00 pm: Session #1 V: FSMA on Small & Mid-sized Farms: Compliance, Enforcement, & Beyond <i>Sophia Kruszewski, Vermont Law School, Center for Agriculture and Food Systems, South Royalton, VT; Kelly Nuckolls, National Sustainable Agriculture Coalition, Washington, D.C.; Brian Fink, Danow, McMullan & Panoff, P.C., New York, NY</i>
1:00 – 2:00 pm: Session #2: The Mighty Missouri: From Soup to Nuts <i>Burke Griggs, Washburn University School of Law, Topeka, KS; Anthony Schutz, University of Nebraska College of Law, Lincoln, NE; Jesse Richardson, West Virginia University College of Law, Morgantown, WV</i>
2:00 – 3:00 pm: Session #3 V: COVID-19 & The Pork Industry: Lessons Learned <i>Mark Dopp, North American Meat Institute, Washington, D.C.; Michael Formica, National Pork Producers Council, Washington, D.C.; Michael Blaser, Brown Winick Law, Des Moines, IA; Bill Even, National Pork Board, Adel, IA</i>
Friday, November 13, 2020
8:00 – 9:30 am: Session #4: Ag Law Updates
Update #1 – Food Law
Speaker: TBD

Update #2 – Ag Policy

Speaker: *Stephanie Bradley Fryer, Owner and Attorney at Stephanie Bradley Fryer PLLC*

9:30 - 9:45 am: Networking Break**9:45 – 10:45 am: Session #5: Ag Law Updates****Update #3 V – Land Use and Resource Law**

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

Update #4 V – Ag Finance

Speaker: *Jeff Peterson, Partner, Lathrop GPM, St. Cloud, MN*

10:45 – 11:45 am: AALA Business Meeting and Awards**11:45 am- 1:00 pm: Lunch on Own****1:00 – 2:00 pm: Session #6: Concurrent Breakouts****Climate Change Opportunities for Agriculture**

Speakers: **V** *Todd Janzen, Janzen Agricultural Law, LLC, Indianapolis, IN*
Ashley Ellixson, United Dairywomen of Arizona, Tempe, AZ

In this session, panelists will describe the efforts that the agricultural industry is making to address climate change through marketing incentives, capital investments, and contractual mandates. This session will feature three panelists who will each examine how a different market segment is responding to consumer demand to address climate change. Todd Janzen will discuss the current effort to pay row crop farmers to sequester carbon. Ashley Ellixson will discuss how dairy farms are responding to accusations that dairy is harmful to the climate by building digesters and moving to "net zero" or "carbon positive" milk. A third speaker (TBD) will be representing the private industry.

Track: Policy (Session 6A)

Back to the Future: Farm Insolvency in the 21st Century

Speakers: *Nicholas Hahan, Godfrey & Kahn, S.C., Appleton, WI*
Brittany Ogden, Quarles & Brady, Madison, WI

Largely because of low commodity prices, industry consolidation, and on-going trade disputes, farmers increasingly need to cope with debt problems. The program will overview of the recent downturn in the agricultural sector, primarily focusing on smaller farms. Next will be an overview bankruptcy options to assist farmers experiencing debt problems under Chapters 7, 11, 12, and 13 of the Bankruptcy Code. Finally, it will provide a primer on Chapter 12 geared toward practitioners who do not have experience in Chapter 12, including information about recent changes dealing with tax relief and expanding eligibility.

Track: Private Practitioner (Session 6B)

Blockchain and Smart Contracts—From Supply Chain to Payment

Speakers: *Michael Bydalek, Kutak Rock LLP, Omaha, NE*
Jason Caskey, Kutak Rock LLP, Omaha, NE

Ag Tech, including blockchain, is a popular topic, but many still have questions about how this technology will affect the Ag landscape. This presentation will include a short discussion on Blockchain basics, including data rights and commercialization of data, traceability of components of products and the promise of using blockchain to organize and operationalize data in the Ag supply chains. It will cover basics regarding how blockchain and smart contracts work, how they foster traceability and legal issues and tensions that arise and affect adoption Blockchain.

Track: Food (Session 6C)

The New Frontier: Enforcement Supply Chain Issues

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

The recent Warning Letter issued to Jimmy John's restaurant chain may be the beginning of a new chapter on federal food enforcement: holding downstream food service and retail companies responsible for foodborne pathogens transmitted through the supply chain. The U.S. Food and Drug Administration may now look to hold downstream companies responsible for foodborne

pathogens introduced by their upstream suppliers as part of its focus on supply chain concerns. The presenters will discuss what this means for producers, distributors and food service and retail companies and discuss other developments on supplier verification requirements and enforcement. As part of this presentation, there will be a discussion on tools that FDA may expect companies to apply in order to monitor their supply chain and ways in which companies can shield themselves from potential federal liability. The presenters bring an extensive background from both within FDA and food industry trade groups to discuss this breaking topic that will be a pressing issue for everyone in the food industry.

Track: In-House (Session 6D)

2:00 - 2:15pm: Break

2:15 – 3:15 pm: Session #7: Concurrent Breakouts

Farm Data in the Wild: Implications of Maturing Agricultural Technology Industry

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

Farm data issues have been abuzz in the media even before the Fieldview and Tillable issues arising in February 2020. Substantial levels of emotion filled social media that quickly caused the two companies to seemingly part ways. The value of farm data and how farm data can be treated is presented through the perspective of an agricultural economist. The litmus test of categorizing intangible goods to private versus public goods are presented in addition to cooperative games that are driving many decisions across the agricultural industry today and into the future. These and other farm data issues will be presented from economic theory.

Track: Policy (Session 7A)

Don't Be Plowed Under! Successfully Resolving Distressed Agricultural Loans

Speakers: Michael Fielding, Husch Blackwell LLP, Kansas City, MO

Stefan Knudson, MFA Incorporated, Columbia, MO

Richard Beheler, SouthLaw, PC, Overland Park, KS

With the downward pressure of farm incomes and land prices during the past few years, many farmers/producers now find themselves facing problems with their existing loans. How can they successfully survive this storm? What will lenders do or not do? This presentation will provide very practical, hands-on guidance for resolving distressed agricultural loans both in and out of bankruptcy. This discussion will cover, among other things, loan defaults, loan workouts, forbearance agreements, judicial and non-judicial actions for real and personal property and key issues that impact agriculture related bankruptcies.

Track: Private Practitioner (Session 7B)

National Bioengineered Food Disclosure Standard: Compliance Considerations for the Ag Industry

Speakers: **V** Sam Jockel, Alston & Bird, Washington, DC

As the January 1, 2022 mandatory compliance date for the National Bioengineered Food Disclosure Standard (NBFDS) approaches, food manufacturers have begun to implement strategies to comply with the new labeling requirements that will have implications for the agriculture industry. I will provide a brief overview of the NBFDS and identify strategies for food and ingredient suppliers to consider as food companies plan for implementation.

Track: Food (Session 7C)

ESA & FIFRA in the Courts - the implications for US agriculture

Speakers: **V** Kristen Nathanson, Crowell & Moring, WDC

Brian Reeve, Syngenta Crop Protection, LLC, Greensboro, NC

Rachel Lattimore, Crop Life America, Washington, DC

The focus of this program would be litigation challenging pesticide registrations and uses under the Endangered Species Act (ESA) and FIFRA, and the potential implications for US agriculture.

The program would include a brief overview (presentation) and a panel discussion.

This topic involves significant legal and policy issues and challenges. The outcomes of these cases could have far-reaching implications.

Track: In-House (Session 7D)

3:15 - 3:45 pm: Networking Break

3:45 – 4:45 pm: Session #8: Ethics

Ethics: More than Just “Don’ts”: A Review of the Aspirational Rules of Professional Conduct

Speaker: Timothy Gartin, Hastings Gartin & Boettger LLP, Ames, IA

Continuing legal education ethics seminars and disciplinary cases generally focus on those things that attorneys must not do. However, the Rules of Professional Conduct also include “aspirational” rules – standards that we should aspire to achieve in our professional life. Sadly, these are often overlooked. This presentation will review these aspirational rules and how we might apply them.

Track: *Ethics (Session 8)*

Saturday, November 14, 2019

8:00 – 9:00 am: Session# 9: Ag Law Updates

Update #5 V – Tax Law

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

Update #6 V – Environmental Law

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

9:00 - 9:30 am: Networking Break

9:30 – 10:30 am: Session #10: Concurrent Breakouts

Ag Employment Legal Issues in a COVID World

Speakers: V Paul Pautler, Husch Blackwell, Kansas City, MO

Megan Belcher, The Scoular Company, Omaha, NE

Attendees at this program will learn about key legal developments in 2020 that have evolved in response to COVID-19 as employers seek to manage diverse employee populations, while still navigating existing state and federal laws regulating them as employers. They will leave with an overview of critical legal changes and the ability to issue spot as employers continue to navigate the pandemic in and outside the workplace in partnership with their leadership and employees. In addition, you’ll hear from both law firm and in house experts about the real day to day navigation of the proactive and reactive planning to COVID-19, from the dynamic HR issues to robust change management and cross functional support, that in house and outside legal counsel can leverage as they seek to support their clients to successful outcomes.

Track: *Policy (Session 10A)*

Livestock & Poultry Deals Gone Wrong

Speakers: Chelsea Good, Livestock Marketing Association, Leawood, KS

John Dillard, OFW Law, Washington, DC

Robert Thompson, Bryan Cave Leighton Paisner, Kansas City, MO

What protections exist for sellers of livestock? What happens when a bad check or no check comes and the cattle are already down the road? What are some common trends in bad livestock and poultry deals?

Learn about the Packers and Stockyards Act payment and fair trade practices protections.

Hear from an attorney who has litigated a million-dollar payment default on a cattle transaction.

Hear from another attorney who has represented clients before USDA’s Packers and Stockyard’s Division.

Finally, hear about active legislation to change the rights of farmers, ranchers, and auction markets in a livestock dealer payment defaults.

Track: *Private Practitioner (Session 10B)*

Sustainable Development of Biogas

Speakers: V Genevieve Byrne, Vermont Law School, South Royalton, VT

While natural gas has been considered a “bridge fuel” between fossil fuels and renewable energy, new investments in natural gas face the risk of increasingly stringent carbon regulation. Development of biogas from sources of organic waste can replace much new

natural gas development. Lawmakers and regulators can encourage the market to avoid the risk of stranded assets, environmental damage, and rate payer costs by incentivizing sustainable use of anaerobic digesters and the biogas they create. Anaerobic digesters provide a sustainable alternative to natural gas infrastructure, replacing fossil fuel natural gas with biogas for heat, electricity, or transportation uses. Investments in biogas eliminate new greenhouse gas emissions and can avoid the risk of stranded assets when deployed sustainably. Food waste, animal manure, municipal yard waste, wastewater, and other sources of biomass feedstock have an energy value and emissions potential regardless of how they are managed. Anaerobic digesters facilitate better waste management practices and derive energy and value from existing waste streams and nutrient cycles without increasing the total amount of carbon in contemporary carbon cycles. Managed properly, anaerobic digestate can also reduce the volume of mineral fertilizer needed for agriculture, or biomass needed for energy production. This program would explore policies and projects that promote sustainable biogas development, particularly on-farms, as well as policies creating a barrier to such development. **Track: Food (Session 10C)**

Recent Developments in Pesticides: What You Need to Know to Comply

Speakers: **V** Brandon Neuschafer, Bryan Cave Leighton Paisner LLP, St. Louis, MO
Merrit Jones, Bryan Cave Leighton Paisner LLP, San Francisco, CA

This past year has seen a number of changes in the regulation of agricultural pesticides at the federal level and in California, from the ban on the pesticide chlorpyrifos to amendments to regulations regarding agricultural workers to state-specific developments, like the issuance of a safe use determination under Prop. 65 for chlorothalonil and proposed requirements regarding the obligation of agricultural producers to provide downstream notice regarding pesticide residues. We also expect some discussion of the practical impacts of the Ninth Circuit dicamba decision. This session will provide an overview of recent developments and what you need to know in order to comply. The goal of this panel is to go beyond the major pesticides litigation that makes the news on a daily basis and focus on the day-to-day impacts of recent regulatory developments.

Track: In-House (Session 10D)

10:30 - 10:45 am: Break

10:45 – 11:45 am: Session #11: Concurrent Breakouts

PFAS and Agriculture: The Calm Before the Storm

Speakers: Mary-Thomas Hart, National Cattlemen's Beef Association, Washington, DC
Clay Detlefsen, National Milk Producers Federation, Arlington, VA

The session will a historical overview of PFAS's widespread presence, impact, and management efforts. The panel will discuss agriculture's nuanced position in the PFAS conversation - balancing the rights of landowners subject to environmental and commodity contamination with the potential risk to those producers who have applied biosolids as fertilizer. We'll discuss both environmental impacts and secondary impact to agricultural commodities.

Track: Policy (Session 11A)

Navigating the Interplay of USDA and Army Corps Wetland Protection Programs

Speakers: Tony Francois, Pacific Legal Foundation, Sacramento, CA
Nancy Quattlebaum Burke, Saul Ewing Arnstein & Lehr LLP, Minneapolis, MN

This panel will help practitioners and landowners understand and address the intersecting but not always consistent wetland and conservation programs of the USDA NRCS, and the Army Corps of Engineers. The panel will focus on the Conservation Reserve Program, Prior Converted Cropland determinations, and the Clean Water Act normal farming activities exemption. The effect of the newly announced Navigable Waters Protection Rule will also be discussed.

Track: Private Practitioner (Session 11B)

Current State of Antitrust Class Action Cases Involving Livestock Processors

Speakers: **V** Mark Tobey, Husch Blackwell, Austin, TX

This panel will discuss the background and current state of various class action antitrust cases that have been brought alleging price fixing by livestock processors to raise or stabilize prices. There are live cases against processors of chicken, turkey, pork, beef and now even salmon. These suits come at a time when some politicians are calling for the breakup of "big ag".

Track: Food (Session 11C)

AgTech: Emerging Legal Challenges and Opportunities

Speaker: **V** Nathan Huff, Phelps Dunbar, Raleigh, NC
Karen Ellis Carr, Arent Fox LLP, Washington, DC
Megan Lyman, Oerth Bio, Durham, NC

AALA member Karen Carr will moderate a panel discussion highlighting the unique legal issues and challenges confronting the AgTech industry. The panel will feature four distinguished experts, each discussing their unique expertise in a legal area relevant to AgTech companies. Traditional Aglaw practitioners will learn to apply their Aglaw experience in the Agtech sector. And in-house counsel will gain actionable advice for confronting common Agtech legal issues. Potential panelists: Megan Lyman (Oerth Bio – financing, IP); Lisa Zannoni (Inari - regulatory); Marni Karlin (Food Safety Coalition - compliance); Brandon Davis (Phelps Dunbar – business immigration and employment).

Track: In-House (Session 11D)

11:45 am - 1:30 pm: AALA Luncheon

1:30 – 2:30 pm: Session #12: Concurrent Breakouts

Agriculture and the Ogallala: Drilling into the Law, Policy, and Technological Solutions for the Nation's Largest Aquifer

Speakers: Burke Griggs, Washburn University School of Law, Topeka, KS
Victoria Whitehead, High Plains Underground Water Conservation District No.1, Lubbock, TX
Dr. Brent Auvermann, Ogallala Water Coordinated Agriculture Project, Fort Collins, CO

The nation's largest aquifer, the Ogallala, covers over 174,000 square miles and 8 states in the High Plains. Governed by a myriad of ownership and regulatory regimes, the aquifer is the primary source of water for many communities, responsible for 30% of U.S. irrigated crop production, and supports one-fifth of the wheat, corn, cotton, and cattle produced in the nation. This panel will drill into the law and policy of the Ogallala, explore the latest in water management efforts, and discuss the various approaches states are taking to merge research, technology, and policy for the betterment of agriculture.

Track: Policy (Session 12A)

Succession Planning Strategies for the Family Farm in the Roaring 20s

Speakers: **V** Christine DeMarea, Husch Blackwell LLP, Kansas City, MO
Elizabeth Rowe, Husch Blackwell LLP, Kansas City, MO

This panel would focus on ways to utilize creative, tax effective techniques and structures to keep the family farm intact. These include LPs, LLCs, Grantor Trusts, BIDITs, INGs and charitable planning. Agricultural businesses and family farms face a number of challenges outside their control. This presentation will review the current legal landscape and analyze its impact on farms and businesses and present options on what they can control - tax planning, creditor protection and succession planning.

Track: Private Practitioner (Session 12B)

Insolvency, Workout and Other Options Available to Farming and Non-Farming Agri-Business Service and Support Providers

Speakers: Bruce Akerly, Akerly Law PLLC, Coppell, TX

This program will cover options available to farmers and non-farmer agricultural service and support providers when experience financial insolvency or adverse financial circumstances. The topic will cover bankruptcy and the federal and state workout options, including Chapter 12 and small business bankruptcy, as well as other non-bankruptcy related relief.

Track: Food Law (Session 12C)

ESG: Legal Perspectives on Responsible Farmland Ownership and Operations

Speaker: V Marisa Bocci, K&L Gates LLP, Seattle, WA
Buck Endemann, K&L Gates LLP, San Francisco, CA
Kenny Fahey, The Conservation Fund

ESG (environmental, social, governance) refers to the three key measurements for the sustainability and societal impact of an investment. Expectations for sustainable farmland projects are of interest to farm owners, operators, food companies and the consumer. Emphasis on food security, land, ecosystems and sustainable agriculture operations and management lend to new legal concerns and exciting opportunities for agribusiness clients. This session will focus on key aspects of responsible investment in farmland: environmental sustainability, labor and human rights, respect for the land and its resources, business and ethical standards, and efforts to report and provide data to measure the ESG impacts on farmland and the greater agribusiness supply chain.

Track: In-House (Session 12D)

2:30 - 2:45 pm: Networking Break

2:45 – 3:45 pm: Session #13: Concurrent Breakouts

Genetic Editing in Agriculture -- Will the Cartagena Protocol on Biosafety Restrict Access to Foreign Markets, Causing Litigation over Market Disruption?

Speakers: Thomas Parker Redick, Global Environmental Ethics Counsel, LLC, Spring Lake, MI
Karen Ellis Carr, Arent Fox, Washington, DC
William Chaney, Gray Reed, Dallas, TX

CRISPR-mediated gene editing and relating new plant breeding face challenges, given restrictive approval law under the Cartagena Protocol on Biosafety ("CPB"). US Commercialization may disrupt trade to markets that ban these crops. Experts point to less predictable, science-based, harmonized policies, a "precautionary approach" made WTO-legal by the CBP. Two trends are noteworthy: 1) CBP parties are passing new strict laws, 2) New court decisions from Syngenta's \$1.5 billion China-GMO litigation create a new legal landscape, where "maybe markets" replace "major markets" in approval required to market. Participants of this session will hear regulatory experts on US and global laws.

Track: Policy (Session 13A)

Conservation Easements Transactions from Start to Finish

Speakers: V Matthew McClanahan, McClanahan & Winston, PC, Crossville, TN
Lauren Hughes, Rockridge Venture Law, Cookeville, TN

Conservation easement transactions are complex transactions with a multitude of potential pitfalls. Advisors to landowners need to understand the real property and tax law issues raised by conservation easements to competently assist their clients. You will learn the legal requirements of a conservation easement. This topic will guide you through the due diligence needed to determine whether a conservation easement is the right tool for your clients and how to complete a conservation easement that complies with applicable state and federal laws. A critical last step is the proper documentation of a conservation easement donation, and this information will explain the documents and reports needed for compliance.

Track: Private Practitioner (Session 13B)

Protecting the Viability of Small to Mid-Sized Agriculture

Speakers: Alexia Kulwiec, Farm-to-Consumer Legal Defense Fund and University of Wisconsin-Madison, Madison, WI

Smaller to Mid-Sized Farms in the United States are operating in a unique environment: Consumer demand for locally grown products is increasing, yet increased regulation can drive out small business. How does increased rulemaking affect the small producer? In this workshop we will explore the federal and state regulations that particularly impact small farms, such as the prohibitions of interstate sales of certain products, FSMA safety regulations, proposed RCIP chips, the Packers and Stockers undue influence provisions, and the FMIA and PPIA. We will explore policy options that balance protecting consumers while supporting the viability of smaller producers.

Track: Food Law (Session 13C)