



The National Agricultural Law Center

Quarterly Newsletter

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DIVISION OF AGRICULTURE
RESEARCH & EXTENSION
University of Arkansas System

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Second Quarter 2023

Greetings,

I hope everyone had a terrific Fourth of July celebration. We've had another busy quarter, with a big year out in front of us. It's great to share some of our recent and upcoming efforts with you.



If you're interested in farm succession planning, be sure to check out "**Cultivating Connections: A Conference for Farm Transition Planners**", held August 7-8 in Des Moines, Iowa (livestream available). This is a new initiative led by our partners the Center for Agricultural Law & Taxation at Iowa State University and the Agricultural & Resource Law Program at The Ohio State University.

NALC staff and our partners continue to conduct extensive research and outreach throughout the nation, both in-person and through webinars and other internet-based outreach. I hope you can take a moment to check out much of this work below, but I'd like to give a quick shout out to NALC Staff Attorneys Micah Brown and Brigit Rollins.

Micah does a terrific job of handling all ag finance and credit issues, but his work over more than the past year on foreign ownership of agricultural land has been second-to-none. In addition to tracking all state and federal legislative proposals, Micah has spent dozens of hours helping stakeholders on all sides of the issue throughout the U.S. Be sure to sign up for his **upcoming webinar** on foreign ownership, which you can read more about below. Brigit thoroughly covers all environmental law issues in agriculture, and she recently published the **Endangered Species Act Manual: A Practical Guide to the ESA for Agricultural Producers**. On July 19, she'll also present via webinar, **What's Up with WOTUS: A Look at the Current WOTUS Definition and Recent Supreme Court Decision**.

Thanks to everyone who supported, attended, or sponsored the inaugural Western Agricultural & Environmental Law Conference in Reno, Nevada as well as the 10th Annual Mid-South Agricultural & Environmental Law Conference in Memphis, Tennessee. Both programs were a huge success. The **2nd Annual "Western"** conference is (tentatively) set for June 20-21 in Reno and the **11th Annual "Mid-South"** will be held June 6-7 in Memphis. We hope to finalize the date, and will have sponsorship, early agenda, and other information posted on the conference pages soon!

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Farm Bills

AgLaw Glossary

AgLaw Bibliography

Congressional Research Service Reports

General Resources

State Compilations

Our twice-monthly newsletter, **The Feed**, continues to grow by leaps and bounds. We sincerely appreciate the feedback we've gotten so far as well as everyone who has taken a quick moment to share the subscription link with colleagues and others in their networks. In addition to brief ag law and policy developments, The Feed is another way to learn about recent and upcoming resources and programs provided by the NALC and its partners.

Thanks, again, for your interest in the NALC and we look forward to checking back in with you in October!

Sincerely,

Harrison M. Pittman

NALC Director

Want the latest from the NALC?
Follow us on social:



Save the Date: 2024 NALC Conferences

Mid-South
Agricultural & Environmental Law Conference
June 6-7

Western
Agricultural & Environmental Law Conference
June 20-21




Western Agricultural & Environmental Law Conference 2023

In front of a crowd both in person and online, the Western Agricultural & Environmental Law Conference was held on May 4-5 in Reno, Nevada at the **Peppermill Resort Spa Casino**. Thanks to our conference attendees, speakers, and sponsors for making the inaugural year a success, and we look forward to seeing everyone again next year!



By design, the Western conference was meant for an audience of both attorney and non-attorney professionals involved in varying public and private aspects of the western agricultural industry. In addition to providing an excellent networking opportunity, both the **"Early Bird"** and **main Western conference agenda** featured an outstanding lineup of experts discussing topics such as water rights, foreign ownership of agricultural land, cannabis,

the Endangered Species Act, pesticides, and other issues specifically tailored to the western United States.

Supporters of the inaugural Western conference were a tremendous help not only to #NALCWestern23 but also to the NALC's overall goal of expanding partners and outreach to ag industry stakeholders in the western states. All net proceeds (registrations plus sponsorships) from the conference were dedicated to supporting western-focused partners and outreach, including the **Western Resources Legal Center**.

We're already planning for another exceptional event next year, so please be sure to save the date for the **2nd Annual Western Agricultural & Environmental Law Conference**- June 20-21, 2024!

Pictured above: James Eklund, member at **Sherman & Howard**, presents a legal and political update on the Colorado River Basin at the inaugural Western Agricultural & Environmental Law Conference on May 5 in Reno, Nevada.

"I just wanted to follow up and thank you for an outstanding inaugural Western Ag + Environmental Law Conference. I was so impressed with the overall quality of the content, and it was wonderful to make new connections and reconnect with others."

Attendee review



Celebrating a Milestone of Ag. & Env. Law Continuing Education

In early June, the 10th annual Mid-South Agricultural & Environmental Law Conference was held at the iconic **University of Memphis Cecil C. Humphreys School of Law**. As is tradition, the conference kicked off with the annual "Beer & BBQ" networking reception at **The Rendezvous** the night before the main conference program. Many thanks to our conference attendees, speakers, and sponsors- we're looking forward to celebrating with you every year for the next decade as well!



Both the "**Early Bird**" and **main conference agenda** also featured a number of exceptional speakers and topics. From a keynote address by **National Association of State Departments of Agriculture** CEO Ted McKinney (moderated by Arkansas' very own Secretary of Agriculture Wes Ward) to a legislative panel featuring staffers for both the House and Senate Agricultural committees, a number of speakers highlighted the reach of Mid-South agriculture on a national and international

scale. Bringing it closer to home, speakers discussed practitioner-focused topics including resolving heirs' property, planning for long-term health care, and drafting solar or carbon leases.

All net proceeds (registrations plus sponsorships) from the 10th annual Mid-South were dedicated to the establishment of the Scott E. Fancher Agricultural Law Scholarship, which you can learn more about by watching this [short video](#).

We're looking forward to seeing you- either in person or virtually- at the **11th Annual Mid-South Agricultural & Environmental Law Conference** on June 6-7, 2024!

Pictured above: Tim Bishop, partner at **Mayer Brown**, discusses environmental law before the U.S. Supreme Court at the 10th Annual Mid-South Agricultural & Environmental Law Conference on June 9 in Memphis.

Thank You To Some Of Our 2023 Conference Sponsors!



The Feed: Recent Developments in Ag Law & Policy



The Feed was launched in January, and 12 issues have now been published. The number of subscribers for The Feed has grown steadily and is now over 1,100. Thank you for your continued

support!

The Feed is a first-of-its-kind, user-friendly digital newsletter for non-attorneys and attorneys involved in all areas of the agricultural industry in both the public and private sectors. It delivers very brief highlights of recent developments in agricultural law and policy at the state and federal levels, along with links to free-of-charge NALC and other resources for those who want to learn more about any particular issue.

You can subscribe to The Feed and access all issues [here](#). The Feed issues twice each month (with only one issue in December).

[Sign up for The Feed](#)

New Conference Opportunity for Farm Transition Planning



“**Cultivating Connections: A Conference for Farm Transition Planners**” is a first-of-its-kind initiative that will be held August 7-8 in Des Moines, Iowa (livestream available). It is led by NALC partners the **Center for Agricultural Law & Taxation at Iowa State University** and the **Agricultural & Resource Law Program at The Ohio State University**.

This inaugural conference will bring together a wide variety of agricultural professionals to learn and discuss ideas, strategies and the latest rules and regulations relevant to farm transition and succession planning. The goal is to create a network of professionals- including attorneys, tax specialists and other farm transition experts- with the skills and connections to advise farmers and ranchers on these important topics. You can find more information about this event and register [online](#).

Research Fellows

The NALC wants to say CONGRATULATIONS to our May 2023 Research Fellow graduates! Thank you for your hard work and determination, and we wish you all the best in your future endeavors.

May 2023 Graduates:

Amy Blake, Sharon Blevins, Samantha Capaldo, Zachary Ishee,
Emma Jumper, Maggie Pipkin, Hagan Wright

To our new Research Fellows- welcome! We are excited to have you working with us, and look forward to developing our stakeholder resources while also helping you grow in your career paths. Thank you to those of our students who were able to join us in Memphis at the Mid-South!



Left to right: Research Fellows Michael L. Byrd, Jr., Jill Apter, Ashlyn Hoggard, Nicholas VanHee, Kerry McClaughry, Tanner Weber, Nathaniel Dupree

Webinar Series

The NALC continues its webinar series with a variety of presentations relating to agricultural law and policy. See below for a list of recent and upcoming webinars.

All webinars are recorded and uploaded to our website. Find upcoming webinars and recordings of past webinars [here](#).

Recent Webinars

What's New About Phase 2? Information About Emergency Relief Program (ERP) Phase 2



Farmer's Legal Action Group's Stephen Carpenter and Lindsay Kuehn presented this webinar on the ERP Phase 2 rules, which are especially notable for the extent to which underserved farmers are eligible for assistance. [Recording here.](#)

Multi-District Antitrust Litigation in the Protein Sectors (Poultry, Pork, and Beef)

Brook Duer, Staff Attorney at NALC partner **Penn State Center for Agricultural and Shale Law**, discussed the details and status of the three major consolidated multi-district federal dockets created to handle matters in the protein sector, including which processors have settled with which classes of plaintiffs in each respective protein sector. [Recording here.](#)





An Overview of U.S. Charitable Food Surplus Programs

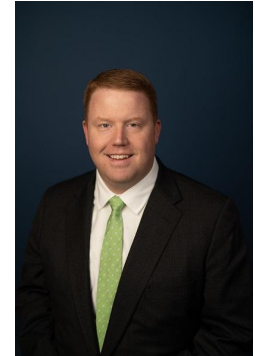
Audry Thompson, Staff Attorney at NALC partner **Penn State Center for Agricultural and Shale Law**, presented this webinar providing an overview of federal and state food surplus programs, describing how these programs connect agricultural producers with consumers, and discussing some of

the legal issues implicated by these programs. [Recording here.](#)

Upcoming Webinars

July 12, 2023- Meat and Poultry Labeling - An Introduction to USDA's Label Approval Requirements

Principal John Dillard of **OFW Law** will present this webinar, providing an introduction to USDA's approach to label approval, USDA's recently-expanded approach to "generic" approval, and circumstances where prior-approval is required. [Register here.](#)



July 19, 2023- What's Up with WOTUS: A Look at the Current WOTUS Definition and Recent Supreme Court Decision

NALC Staff Attorney Brigit Rollins will present the second webinar in her series taking a look at the critical Clean Water Act term "waters of the United States," commonly referred to as WOTUS.

[Register here.](#)

August 9, 2023- The Changing Landscape — Everything Agricultural Employers Should Understand about Farm Labor Law

Brandon Davis, Partner at **Phelps Dunbar LLC**, will present this webinar covering the essential laws and regulations that agricultural employers should know. Topics include staffing solutions to labor shortages in the ag industry, OSHA compliance concerning heat related illnesses, and more. [Register here.](#)



August 16, 2023- How Food and Ag Companies Can (and Do) Use the National Advertising Division to Combat Unfair Competition and Test the Waters of Emerging Issues

Kim Bousquet and Alli Condra of **Davis Wright Tremaine LLP** will discuss how food and ag

companies use NAD as an alternative means of raising false and misleading advertising claims. They will also discuss the NAD process, the pros and cons of NAD, trends in NAD use and decisions, and overview federal food labeling requirements. [Register here.](#)

**September 20, 2023-
Who Owns the Farm?
Foreign Ownership Legislative Update**

NALC Staff Attorney Micah Brown will present this webinar focusing on the state foreign ownership laws enacted during the 2023 legislative session, as well as the federal proposals that seek to increase oversight and restrict foreign acquisitions in U.S. land. [Register here.](#)



Publication Highlights

As part of its mission, the NALC continues to deliver webinars, articles, fact sheets, and state compilations on numerous agricultural and food law topics. These resources are free to the public and serve as a research tool for both attorneys and non-attorneys.

The NALC publishes weekly posts about current issues in agricultural and environmental law. Posts from this past quarter are outlined below.

April 2023

- **Utah Enacts Law Prohibiting Certain Foreign Investments in Land**
- **BLM Proposes New Conservation Rules for FLPMA**
- **Idaho Enacts Law Limiting Foreign Investments in Agricultural Land**
- **WOTUS Update: 2023 Rule Enjoined in 27 States**

May 2023

- **State Proposals on Restricting Foreign Ownership of Farmland: Part Six**
- **BLM Looks to Expand Conservation**
- **What's Cooking with Prop 12? SCOTUS Decision**
- **Foreign Ownership of Agricultural Land: A Legislative Roadmap Primer**
- **The Deal with Dicamba: Plaintiffs Ask Court to Vacate 2020 Registration Decision**
- **WOTUS Update: U.S. Supreme Court Revisits Wetlands Jurisdiction Under the CWA**

June 2023

- **Florida's New Foreign Ownership Law Is Facing Legal Challenge: Part One**
- **Florida's New Foreign Ownership Law Is Facing Legal Challenge: Part Two**
- **Environmental Groups Challenge EPA Approval of Enlist One and Enlist Duo**
- **State Proposals on Restricting Foreign Ownership of Farmland: Part Seven**

Outreach

NALC attorneys speak and present at events in order to provide agricultural and food law research and information to the public. If you are interested in having an attorney from the NALC speak to a group, either in person or virtually, please do not hesitate to contact us. Learn more about the NALC staff and find our contact information [here](#).

Below are some outreach activities from the second quarter of 2023:

April 2023

Harrison Pittman, Director

- April 24 - Presented an Ag Law Update and discussed foreign investment of ag lands to Mid-South ASFMRA (American Society of Farm Managers & Rural Appraisers) in Hot Springs, AR

Elizabeth Rumley, Senior Staff Attorney

- April 6 - Guest lectured in an animal welfare class in the Dale Bumpers College of Agricultural, Food, and Life Sciences at the University of Arkansas, Fayetteville
- April 12 - Guest lectured in a food law class in the Dale Bumpers College of Agricultural, Food, and Life Sciences at the University of Arkansas, Fayetteville

Rusty Rumley, Senior Staff Attorney

- April 2 - Represented the NALC at the Southern Ag Today meeting in Nashville, TN
- April 5 - Presented on Pesticide Laws for Farmers at the Center for Arkansas Farms and Food at the University of Arkansas, Fayetteville
- April 10-11 - Presented on Landowner Liability, Zoning, and Business Organization laws at the Armed to Farm training in Columbia, MO
- April 10 - Presented on Carbon and Solar Leasing for the University of Arkansas, Pine Bluff via Zoom
- April 12 - Presented on Agricultural Labor at the Center for Arkansas Farms and Food at the University of Arkansas, Fayetteville
- April 24 - Presented on Food Liability at the 'Plan. Produce. Profit.' workshop at the University of Arkansas, Fayetteville

May 2023

NALC Staff

- May 4-5 - **Inaugural Western Agricultural and Environmental Law Conference**, Reno, NV

Harrison Pittman, Director

- May 18-19 - Presented on litigation and regulation of pesticides like dicamba at the 16th Annual John Huffaker Course: Agricultural Law in Lubbock, TX; also presented on foreign ownership of ag land

Elizabeth Rumley, Senior Staff Attorney

- May 19 - Presented at the Arkansas Future Ag Leaders tour in Little Rock, AR
- May 25 - Appeared on podcast '**Ag Law in the Field**' to discuss the Prop 12 SCOTUS decision

Rusty Rumley, Senior Staff Attorney

- May 10 - Presented on Food Liability at 'Plan. Produce. Profit.' workshop at the Cooperative Extension Auditorium in Little Rock, AR
- May 18-19 - Presented on agricultural and environmental law updates (Prop 12, pesticides, foreign land ownership, and WOTUS) at the Florida Farm Bill panel in Clearwater Beach, FL
- May 23 - Presented on Food Liability at 'Plan. Produce. Profit.' workshop at the Southwest Research & Extension Center in Hope, AR
- May 31 - Presented on Food Liability at 'Plan. Produce. Profit.' workshop at the Food Bank of Northeast Arkansas in Jonesboro, AR

June 2023

NALC Staff

- June 8-9 - **10th Annual Mid-South Agricultural and Environmental Law Conference**, Memphis, TN

Harrison Pittman, Director

- June 12-13 - Presented on the latest agricultural litigation for the Farm Bureau's Southern Region Conference in Arlington, TX
- June 15-16 - Presented on the latest agricultural litigation at the Delta Council ESA meeting
- June 20 - Presented on the latest pesticide litigation and gave a regulatory update to the American Soybean Association via Zoom

Elizabeth Rumley, Senior Staff Attorney

- June 7 - Presented on Prop 12: Ruling and Next Steps for the Professional Animal Auditor Certification Organization (PAACO) conference via Zoom

Rusty Rumley, Senior Staff Attorney

- June 12-13 - Presented on business organizations, zoning and landowner liability at the Frontline to Farm Training in Boone, NC

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