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RESEARCH & EXTENSION

University of Arkansas System

The National Agricultural Law Center

# Quarterly Newsletter

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## Third Quarter 2023



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The Nation's Leading Source of  
Agricultural and Food Law  
Research and Information

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### Greetings,

So much has happened this past quarter, and we're excited to share much of it and some upcoming developments with you. As always, we appreciate your interest in the NALC and encourage any and all feedback.

First, we're currently hiring for the position of **Staff Attorney for Food Safety and Food Labeling**. Be sure to check out the information below to learn more about it, and please feel free to share with anyone you think may be interested.



We recently returned from the **National Association of State Departments of Agriculture (NASDA)** annual meeting in Cheyenne, Wyoming. It was another great event and a special thanks goes to NASDA CEO Ted McKinney, NASDA Staff, and especially Wyoming Department of Agriculture Director Doug Miyamoto for planning an excellent meeting. NASDA is an outstanding organization and NALC partner, and it was an honor to provide the 2023 legal update to NASDA members and meeting attendees.

It was also an honor to testify before the **U.S. Senate Committee on Agriculture, Nutrition, & Forestry** hearing on "Foreign Ownership in U.S. Agriculture", along with Gloria Montañó Greene, Deputy Under Secretary for Farm Production and Conservation, **U.S. Department of Agriculture**, and Dr. David Ortega, Associate Professor, Department of Agricultural, Food, and Resource Economics, Michigan State University. If you're interested in learning more about foreign ownership of agricultural land, be sure to check out the NALC's **Resources at a Glance: Foreign Ownership of Agricultural Land**.

In August, the inaugural "**Cultivating Connections: A Conference for Farm Transition Planners**" was held. The program was a huge success, particularly with developing a network of colleagues for connection during the year through online meetings, webinars, newsletters, and other opportunities. Thanks to NALC partners the **Center for Agricultural Law & Taxation at Iowa State University** and the **Agricultural & Resource Law Program at The Ohio State University** for leading this very unique initiative.

- **General Resources**

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the NALC?  
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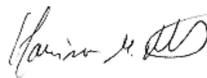
I also want to thank Robbie Boone, Senior Vice President— Head of Regulatory Affairs & General Counsel, **Farm Credit Council**, and his colleagues for putting together an excellent Farm Credit Service Attorneys Annual Conference. I enjoyed the opportunity to discuss the NALC and to interact with such an important part of the nation's ag community.

Be sure to "Save the Date" for our 2024 conferences. The 11th Annual Mid-South Agricultural & Environmental Law Conference will be held June 6-7, 2024 at the University of Memphis Cecil C. Humphreys School of Law. The 2nd Annual Western Agricultural & Environmental Law Conference will be held June 13-14, 2024 at the University of Nevada, Reno. We're looking forward to building on last year's terrific program and hope you'll consider attending. Both conferences will be in person and available via livestream as well.

Our twice-monthly newsletter, **The Feed**, has been a great success. The subscriber numbers continue to grow. Thanks to those of you who have subscribed. If you have not subscribed, we hope you'll consider doing so. It's free-of-charge and provides a brief update on recent ag law and policy developments along with links to 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 the new year!

Sincerely,



Harrison M. Pittman, NALC Director

## Come Work at the NALC!

We are hiring! The NALC is seeking a staff attorney to join our team, focused specifically on the area of food safety and labeling. If you are interested, or know someone who might be, please send them this information!

Applications are due by October 15.

[Apply](#)



## 2024 NALC Conferences Will Be Held in June

Planning is well underway for our 2024 conferences: the **11th Annual Mid-South** and the **2nd Annual Western**. Save the date for these!

The Mid-South will be held on June 6-7, back at the iconic University of Memphis Cecil C.

## Save the Date: 2024 NALC Conferences



Humphreys School of Law. The Western will be held on June 13-14 in Reno, Nevada at the University of Nevada, Reno. More details are coming soon.

## Thanks to Some of Our 2023 Conference Sponsors!



**DOWNEY**BRAND

## Welcome, Staff Attorney Samantha Capaldo!

In August, the NALC welcomed Staff Attorney Samantha Capaldo to our team. Samantha is a recent graduate of **Drake University Law School**.

Previously, Samantha worked for the NALC as a research fellow. She has also served as an intern with the USDA Office of General Counsel.

"As a former research fellow, I am excited to continue working at NALC as a staff attorney," she said. "I am looking forward to expanding my knowledge on legal issues related to insurance, agriculture labor and international trade."

Welcome to the team, Samantha!



## NALC Attorneys Testify on Foreign Ownership before State and Federal Lawmakers



On Sept. 27, Director Harrison Pittman testified before the U.S. Senate Committee on Agriculture, Nutrition, & Forestry during its hearing on foreign ownership of U.S. agricultural land. Read more about the event in the article [here](#). A recording of the hearing is also available [here](#).

Staff Attorney Micah Brown also testified on Sept. 27 before the Mississippi state legislature on state approaches to foreign ownership of agricultural land. A recording of the Mississippi hearing is available [here](#). Earlier in September, Micah testified on foreign ownership before the Nebraska state legislature.

Over the last few years, numerous states have considered changes to their laws on foreign ownership, with increased interest in introducing new restrictions. To access a compilation of NALC resources on foreign ownership, click [here](#).

## NALC Staff Speak at 2023 Annual Meetings of State Legislators and Regulators



Senior Staff Attorney Elizabeth Rumley and Staff Attorneys Brigit Rollins and Micah Brown spoke at the annual meeting of the **National Conference of State Legislatures**, held in August in Indianapolis, Indiana.

Rumley presented during a session discussing the Supreme Court decision in the Prop 12 case, while Rollins (pictured) provided an update on WOTUS and Brown gave an update on foreign ownership of agricultural land. For those interested in more information on the topics, Rollins will explain "**What's**

**Up with WOTUS"** post-Sackett during a NALC webinar on Nov. 15. Further, Brown recently gave a **legislative update on foreign ownership** during our Sept. 20 NALC webinar.

In September, Director Harrison Pittman, Senior Staff Attorneys Elizabeth Rumley and Rusty Rumley, and Staff Attorney Brigit Rollins traveled to Cheyenne, Wyoming for the NASDA Annual Meeting, which was themed "Old West, New Frontier." The team presented an agricultural law update to all conference attendees.

Rusty and Brigit also had the opportunity to talk with NASDA Next Generation students about agricultural law (pictured).



## The Feed: Recent Developments in Ag Law & Policy

We launched The Feed in January to serve as a first-of-its-kind, user-friendly digital newsletter designed for both attorneys and non-attorneys involved in all areas of the agricultural industry, in both the public and private sectors. The goal was to bring very brief highlights of recent developments in agricultural law and policy at the state and federal levels to subscribers' inboxes, along with links to free-of-charge NALC resources and other relevant resources.



We are going strong 18 issues later! Thanks to all who have subscribed, and we look forward to continuing to bring you the latest updates in ag law and policy. If you have any suggestions for us, please reach out by emailing NALC Director **Harrison Pittman**.

Issues of The Feed are released twice a month (with only one issue in December).

[Sign up for The Feed](#)

[Read Past Issues](#)

# Research Fellows

The NALC Research Fellows aid in research and projects that contribute to our mission: to serve as the nation's leading source of agricultural and food law research and information.

We currently have 23 Research Fellows on our team. Working remotely from various places around the country, these law students have hit the ground running working alongside NALC staff. You can find out more about our talented Research Fellows, as well as the rest of the NALC staff, on our website.

[See our Professional Staff](#)

## Webinar Series

Our webinar series offers a variety of presentations relating to agricultural law and policy. All webinars are recorded and archived on [our website](#). See below for a list of recent and upcoming webinars.

### Recent Webinars



#### Meat and Poultry Labeling — An Introduction to USDA's Label Approval Requirements

**OFW Law** Principal John Dillard provided an introduction to USDA's approach to label approval, USDA's recently-expanded approach to "generic" approval, and circumstances where prior-approval is required.

[Watch the Recording](#)

#### What's Up with WOTUS: A Look at the Current WOTUS Definition and Recent Supreme Court Decision

NALC Staff Attorney Brigit Rollins continued her webinar series on WOTUS with this second installment, discussing the current state of WOTUS and the recent decision in the *Sackett* case.

[Watch the Recording](#)



#### The Changing Landscape — Everything Agricultural Employers Should Understand about Farm Labor Law

**Phelps Dunbar LLC** Partner Brandon Davis covered the essential laws and regulations that agricultural employers should know. Some of the topics discussed include staffing solutions to labor shortages in the ag industry and OSHA compliance concerning heat related illnesses.



[Watch the Recording](#)

## 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** discussed how food and ag companies use NAD as an alternative means of raising false and misleading advertising claims. They reviewed the NAD process, the pros and cons of NAD, trends in NAD use and decisions, and overview federal food labeling requirements.



[Watch the Recording](#)



## An Overview of the USDA Discrimination Financial Assistance Program

**FLAG** Deputy Director and Senior Staff Attorney Stephen Carpenter explained the historical context and eligibility for the USDA Discrimination Financial Assistance Program, which opened on July 7, 2023 and is open until October 31, 2023. He also covered what counts as discrimination, documentation requirements, how applicants can get access to USDA documents, and details of the program and application process.

[Watch the Recording](#)

## Who Owns the Farm? Foreign Ownership Legislative Update

NALC Staff Attorney Micah Brown presented 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.

[Watch the Recording](#)



## Upcoming Webinars



### Not Your Grandfather's Corn Maze — Regulatory and Legal Responses to Challenges Faced by Agriculture due to PFAS Contamination

Our October webinar will provide a general framework to understand the wide-ranging implications of PFAS and will focus on the aspects of regulation and risk specifically relevant to agriculture and the food industry.



[Register](#)

### What's Up with WOTUS: Post-Sackett and Beyond

In November, NALC Staff Attorney Brigit Rollins will continue her webinar series on WOTUS, this time discussing the subsequent events of the U.S. Supreme Court's decision in *Sackett v. EPA* and long-term effects of the ruling.

[Register](#)



## 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 the past quarter are outlined below.

**July  
2023**

- **EPA Faces Treated Seeds Lawsuit**
- **Plaintiffs Challenging Florida's Foreign Ownership Law Seek to Halt Enforcement**
- **FWS, NMFS Issue Proposed Rules to Modify Remaining Trump Administration Regulations**
- **Florida's Newly Enacted Foreign Ownership Law: Part One**

**August  
2023**

- **NEPA Set for Regulatory Revisions**
- **Senate Votes to PASS a Foreign Ownership Law**
- **States File Suit Over E10 Biofuels**
- **Florida's Newly Enacted Foreign Ownership Law: Part Two**
- **WOTUS Update: EPA Revises 2023 Rule in Light of Sackett Decision**

**September**

- **Federal Judge Decides Not to Hault Enforcement of Florida's Foreign Ownership Law**
- **USDA Publishes Final Dairy Donation Program Rule**

- **Landowners Question Authority of Agency Adjudication**
- **USDA Provides Additional Round of Debt Relief Payments to "Distressed" Farm Borrowers**
- **Recent Federal and State Heat Safety Proposals**
- **Court Rules that EPA Must Engage in ESA Consultation When Adopting Water Quality Standards**

## 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 third quarter of 2023:

### July 2023

#### **Harrison Pittman, Director**

- July 17-18 - Gave a presentation on foreign ownership of ag lands and pesticides at the Growmark Food Cooperative CEO meeting in Milwaukee, WI
- July 28 - Gave a presentation on foreign ownership of ag lands and pesticides at the Tennessee Soybean Association Promotion Council annual summer producer meeting in Jackson, TN

#### **Rusty Rumley, Senior Staff Attorney**

- July 24 – Gave a webinar on heirs property for the University of Arkansas-Pine Bluff via Zoom
- July 26 – Gave a presentation on the farm bill, carbon leases and conservation programs, Prop 12 and foreign ownership of ag land at the National Advertising Division Regional Meeting in Memphis, TN

#### **Brigit Rollins, Staff Attorney**

- July 13 – Gave a presentation on WOTUS at the Arkansas Association of Conservation Districts Annual Meeting in Little Rock, AR
- July 26 – Gave a presentation on the Supreme Court WOTUS decision, update on Swampbuster, and other Farm Bill conservation programs, and an overview of recent developments on agency deference at the National Advertising Division Regional Meeting in Memphis, TN

For the full July Monthly Roundup, click [here](#).

### August 2023

#### **Harrison Pittman, Director**

- August 10 – Gave a presentation on pesticide regulations, litigation, and legislative outlook to the Georgia Farm Bureau Commodity Advisory Committee in Athens, Georgia

#### **Elizabeth Rumley, Senior Staff Attorney**

- August 2 – Gave a presentation on the Supreme Court decisions in the Sackett-WOTUS case and the Prop 12 case and what each decision means for agriculture for a Future of Agriculture Forum held by the Illinois Farmers' Council at Richland Community College in Decatur, Illinois
- August 13 – Gave a presentation on Prop 12 at the National Conference of State Legislatures in Indianapolis, Indiana

#### **Rusty Rumley, Senior Staff Attorney**

- August 7 – Gave a presentation on agritourism to the UT Farm Bureau Agritourism meeting
- August 16 – Gave a presentation on agritourism and landowner liability, as part of

- NCAT's Armed to Farm program for veterans, in Carlisle, PA via Zoom
- August 28 – Gave a presentation on the AR Food Freedom Act for the University of Arkansas at Pine Bluff Small Farms Program via Zoom

### **Brigit Rollins, Staff Attorney**

- August 11 – Gave a webinar on WOTUS to the America Society of Farm Managers & Rural Appraisers via Zoom
- August 13 – Gave a presentation on WOTUS at the National Conference of State Legislatures in Indianapolis, Indiana

### **Micah Brown, Staff Attorney**

- August 6-7 – Gave a presentation on foreign ownership of agricultural land to the Louisiana Farm Bureau in New Orleans, Louisiana
- August 14 – Gave a presentation on foreign ownership of agricultural land at the National Conference of State Legislatures in Indianapolis, Indiana
- August 22 – Gave a presentation on foreign ownership of agricultural land at the Georgia Agricultural Issues Summit in Perry, Georgia

For the full August Monthly Roundup, click [here](#).

## **September 2023**

### **Harrison Pittman, Director**

- Sept 11 – Dinner with Missouri Farm Bureau.
- Sept 19 – Introduced NALC, its resources, possible engagement with Farm Credit Services attorneys, and a review of topical issues in ag including foreign ownership at Farm Credit Service Attorneys Annual Conference in Houston, TX.
- Sept 27 – Testified before U.S. Senate Agricultural Committee about foreign ownership of agricultural land in Washington, D.C.

### **Elizabeth Rumley, Senior Staff Attorney**

- Sept 28 – Spoke before the Applied Animal Behavior and Welfare Multistate group about animal welfare at Carnall Hall, University of Arkansas, Fayetteville, AR.
- Sept 29 – Spoke at Poultry Science Symposium about ballot initiatives (Prop 12) at the Don Tyson Center for Agricultural Sciences, University of Arkansas, Fayetteville, AR.

### **Rusty Rumley, Senior Staff Attorney**

- Sept 26 – Spoke to Policy and Resolutions Committee at Land O'Lakes about solar siting, CO<sup>2</sup> pipelines, and farmland preservation in urban areas.

### **Micah Brown, Staff Attorney**

- Sept 14 – Testified at a hearing for the Agriculture Committee of the Nebraska Legislature.
- Sept 27 – Spoke to Mississippi Study Committee on Acquisition of Farmland by Foreign Governments in Jackson, MS.

For the full September Monthly Roundup, click [here](#).

## **Follow the National Agricultural Law Center on social:**



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