

# Eat, Pray, Law: A Food Forum



*Murals by Larry Kangas 2013*

Friday, March 13, 2015  
Lewis & Clark Law School  
10015 SW Terwilliger Blvd.  
Portland, Oregon

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A joint presentation of the Environmental & Natural Resources Law Program,  
Business Law Program, The Center for Animal Law Studies in collaboration with ALDF,  
and Lewis & Clark Law School Food and Wine Law Society.

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Course Materials from the  
March 13, 2015 Program in Portland

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A joint presentation of the Environmental & Natural Resources  
Law Program, Business Law Program, The Center for Animal  
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Law School Food and Wine Law Society.  
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# Schedule

8:15	WELCOME AND OPENING REMARKS	<b>Dean Jennifer Johnson</b>
8:30	The Future of Food: The Farm Bill and Reforms from a National Lens	<b>U.S. Representative Earl Blumenauer</b>
9:00	Building Sustainable Regional Foodsheds	<i>Moderator:</i> <b>Tom Gillpatrick Ann Forsthoefel Steven Rowe Paul Swanson Joe Bachmore</b>
10:30	BREAK	
10:45	Agriculture, Human Health and the Environment	<i>Moderator:</i> <b>Janice Weis Lori Ann Burd George Kimbrell Dennis Treacy</b>
12:15	LUNCH (Student Lounge)	
1:30	Animals in Agriculture: Legal Challenges and Opportunities	<i>Moderator:</i> <b>Pamela Frasch Dr. Gieri Bolliger Matthew Liebman Russ Mead</b>
3:00	BREAK	
3:15	Food Justice and Security	<i>Moderator:</i> <b>Vytas Babusis Mike Moran Peter Platt Richard Satnick Lisa Sedlar</b>
4:45	RECEPTION (Student Lounge)	

# Faculty

**Vytas Babusis**, Lewis & Clark JD Student, Chair and Founder, Lewis & Clark Law School Food and Wine Law Society, Portland, OR. Currently a legal intern for Schwabe, Williamson & Wyatt, and for the Western Resources Legal Center, as well as a legal Legislative Assistant (extern) for the Oregon House of Representatives in Salem, OR.

**Joe Bachmore**, COO at Betty Lou's, CEO of Shubox Inc., CEO of BAC Alpha (a privately held investment holding company), and a lifelong entrepreneur. He has successfully ventured into multiple industries ranging from health and energy to investing over the past eleven years. In addition he has started up two Manufacturing facilities and developed numerous brands.

In 2002, he saw a huge trend developing in the nutrition industry involving meal replacement bars. To capture this, in 2003, he negotiated the acquisition of Chocolates of Europe, a company that manufactured chocolates located in Grand Rapids, MI., and along with other investors, launched Bartech Manufacturing. Bartech produced nutrition bars for high profile companies such as: Kashi, GNC, Walmart, Full Bar, and many others. Bartech was the first nutrition bar manufacturer in the country to become NSF GMP certified. In 2008, he successfully completed the buy out of Bartech and remained the CEO of Bartech until 2010. After his contract was fulfilled and in conjunction with Metabolic Response Modifiers, he co-founded Nutra Pack, a nutraceutical

dry blending operation, located in Grand Rapids, MI. During this time, he acquired controlling interest in Shubox. Shubox is a nutrition brand focused on products for active lifestyles. Shortly after joining Shubox, he refocused the company into brand development and a marketing business, then strategically aligned Shubox with IMG (the largest sports /modeling agency in the world), and Europa Sports Products (the largest distributor of sports nutrition products in the world). After the horizontal partnerships were forged with IMG and Europa he attracted and signed Phil Keoghan (host of the Amazing Race), Montel Williams (a former talk show host), Elisabeth Hasselbeck (host on Fox News), Kim Alexis (model), and Gunnar Peterson (personal trainer) and developed and marketed products around their individual personalities. Also, he and a business partner helped launch BPI Sports within the Europa Sports channel. Within 4 years, the brand achieved over \$60 million in revenue.

In August of 2012, he accepted the role of COO at Betty Lou's, a branded/private label co-packer located in McMinnville, OR. Within 2 years he brought in a significant amount of customers to Betty Lou's based on his solid business relationships with those customers. These customers include GNC, Nogii/Europa, HealthWise, CytoSport, 4life,

Bonk Breakers, Marcus Lemons, Yup Brands, and others. These customers generate approximately forty percent of Betty Lou's co-pack revenue. During this time period Betty Lou's revenue went from 20 million to over 42 million dollars in sales, and he has been instrumental in systematically streamlining operations for more lean manufacturing and realigning the direction of the company.

**Earl Blumenauer** was born and raised in Portland, Oregon, and has been a life-long resident of Oregon's 3rd Congressional District. He is also proud to call Lewis and Clark College, and Law School, his alma mater.

Through his years as a local official in the Oregon Legislature, Multnomah County Commission, and Portland's City Council, Earl developed a national reputation for his advocacy of public transportation, land use planning, protection of the environment, and school funding.

Elected to Congress in 1996, Blumenauer has become a leader for reforming the Farm Bill, improving consumer access to safe, healthy food, protecting farmland, and increasing market opportunities for small scale growers. He has championed legislation to support family farmers, end wasteful giveaways to giant agribusinesses and engage beginning farmers who want to start in the business. He is also a strong supporter in increasing farm to school programs and educational opportunities to reconnect Americans with nutrition, cooking and food preservation. The Farm Bill is also a significant piece of environmental legislation and

Blumenauer has proposed reforms that give farmers greater assistance to improve both water quality and quantity and soil protection on their land.

**Dr. Gieri Bolliger** is an attorney at law and executive director of the Stiftung für das Tier im Recht (TIR, Foundation for the Animals in the Law, [www.tierimrecht.org](http://www.tierimrecht.org)) in Switzerland. He graduated from Zurich Law School in 1994. In 2000, he earned his PhD, completing his almost 500 page doctoral thesis on European animal welfare law, and in 2013 – as the first international student – his LL.M. degree in animal law from Lewis & Clark Law School. Since 2005, he has held a teaching position in animal welfare law at Zurich Law School. As an editor, author and co-author, Gieri Bolliger has published twelve books, numerous studies and more than 100 articles on Swiss and international animal law. At the time, he is currently a Visiting International Scholar at CALS (see <http://law.lclark.edu/live/news/28232>).

**Lori Ann Burd**, Environmental Health Director, Center for Biological Diversity, Portland, OR. Directs the Center's efforts to protect humans and all other species from the harmful effects of toxic substances. She earned her B.A. at Colorado College and her J.D. at Lewis & Clark Law School. Before joining the Center she worked as a staff attorney and campaign manager for the

Portland-based nonprofit BARK to protect forests, rivers and wildlife. She then worked as a contract attorney for the National Wildlife Federation, focusing on mountaintop-removal coal mining and tar sands pipelines, and for the the Center for Food Safety where she focused on pesticides and genetic engineering. She sits on the boards of NEDC and the Crag Law Center.

**Ann Forsthofel**, Operations and Outreach Director, James Beard Public Market, Portland, OR. The James Beard Public Market will be a showcase for Northwest farms, rivers, oceans, vineyards, and breweries right in the heart of Portland—creating a unique shopping experience that celebrates the abundance of our region.

Named in honor of the Oregon-born “dean of American cookery,” the James Beard Public Market will be a daily, year-round, indoor-outdoor marketplace. It will be located at the west end of the Morrison Bridge in downtown Portland and will feature 50 to 60 permanent vendors, 40 day tables, full-service restaurants, a teaching kitchen, and event space.

The market will create a sustainable delivery system for products sold by Oregon-owned small businesses and will strengthen the state’s reputation as a culinary epicenter and a source of high quality foods and beverages.

Co-Founder and CEO, Aqua Annie (2011–Present), an innovative urban agriculture start-up company focusing on aquaponics as a solution for hyper local food production. Working collaboratively with various stakeholders to create the most food

resilient city in the nation and empowering everyone to grow.

Former Executive Director, Portland Farmers Market (2008–2011), responsible for overseeing six farmers markets in Portland with annual shopper attendance of 700,000+. The markets generated over \$10 million in annual sales and under her leadership Portland Farmers Market was recognized as one of the best markets in the world.

**Pamela Frasch** is the Assistant Dean of the Animal Law Program and Executive Director of the Center for Animal Law Studies at Lewis & Clark Law School in Portland, Oregon. In her dual role, she is responsible for all components of the program including curriculum development, scholarship, speaking, the Summer Intensive Animal Law Program, the National Animal Law Competitions, the Animal Law Conference, and the Animal Law LL.M. Degree.

Previously, Pamela was General Counsel for the Animal Legal Defense Fund. In 1996, she created the ALDF Criminal Justice Program, which has assisted law enforcement and animal advocates in investigating and prosecuting thousands of animal abuse and neglect cases nationwide.

In addition, Pamela is co-editor of the first casebook in the field, *Animal Law, Cases and Materials* now in its fifth edition (Carolina Academic Press, 2015), and co-author of the first *Animal Law in a Nutshell* (Thomson West, 2011).

She has authored or co-authored numerous articles and book chapters and is a frequent speaker nationally and internationally on a variety of animal law topics. She has taught survey and advanced courses in animal law at Lewis & Clark Law School since 1998.

**Tom Gillpatrick**, Executive Director of the Food Industry Leadership Center (2000–present), Juan Young Professorship, School of Business Administration, Portland State University, Portland, OR. He is the first recipient of the Juan Young Professor in Marketing and Food Management. The Juan Young Professorship was established by the Juan Young Memorial Trust in 1996. He currently teaches classes in International Marketing, FMCG Marketing, and Marketing Strategy. He has taught in the Oregon Executive MBA Program, the PSU FILC Executive Program, the CIMBA International MBA Program in Italy, and in the University of Zagreb's International MBA Program. Additionally, he has participated in international managerial training and executive programs in England, Italy, Mexico, Finland, Poland, Hungary, Slovakia, Croatia, Slovenia, Romania, and Russia.

His academic research has focused on the use of market research and analysis to improve managerial decision making in the development of new products and services, the development of positioning and segmentation strategy, pricing strategy, and distribution and relationship marketing. Currently, he is working on studying the practice of product innovation, category management, and the use of market-based planning in the food industry. His research has been published in leading academic journals including the *Journal of Marketing Research*

and is frequently quoted in the industry trade press by such publications as the BBC, *Supermarket News*, *Progressive Grocer*, *Stagnito's New Products*, and local media such as the *Oregonian*, the *Salem Statesman Journal*, KATU and KGW TV.

A member of the faculty of Portland State University since 1982, he received his PhD in Marketing from the University of Oregon, an MBA from Utah State University, and a BS from California State University. At Portland State University he has also been active with the Engineering Management and Systems Science Ph.D. programs.

**Jennifer Johnson**, Dean and Erskine Wood Sr. Professor of Law. After graduating from law school, Dean Johnson clerked for Judge Alfred Goodwin, U.S. Court of Appeals, Ninth Circuit. She was in private practice with a Portland law firm, specializing in real estate finance and land use, before joining the faculty in 1980. Johnson has received both the Leo Levenson and Burlington Northern Foundation awards for excellence in teaching. In 2008, she was named Jeffrey Bain Faculty Scholar in recognition of her exemplary teaching and scholarship in business law and was installed as the Erskine Wood Sr. Professor of Law in 2011. She became Dean of the Law School in 2014. Also in 2008, she was elected to the American Law Institute.

She is a member of the Oregon State Bar and serves on various bar task forces charged with drafting business legislation. Dean Johnson currently teaches classes



in business associations and securities regulation. Her primary research areas are in corporate and securities law and her recent scholarship focuses on private placements and retail investors.

**George Kimbrell** is Senior Attorney for the nonprofit Center for Food Safety (CFS), and heads up CFS's Pacific Northwest office. George's litigation and policy work spans a broad range of CFS program areas, including: genetically engineered (GE) organisms; pesticides; food labeling; foodborne illness; organic standards; factory farm pollution; pollinators; and aquaculture. For the past decade his litigation has addressed the adverse impacts of industrial agriculture on the environment, public health, and farmers; one of those cases, *Monsanto v Geertson Seed Farms* (2010), was the first U.S. Supreme Court case on the oversight of GE crops. Before beginning practice, George completed a clerkship with the Honorable Ronald M. Gould, U.S. Court of Appeals for the Ninth Circuit. He is a graduate of Lewis & Clark Law School and now also serves as an Adjunct Professor at the law school where he teaches a sustainable food and agriculture law seminar.

**Matthew Liebman**, Senior Litigation Attorney, Animal Legal Defense Fund, Portland, OR. He graduated *with distinction* from Stanford Law School in 2006 and with *highest honors* from the University of Texas at Austin in 2001 with a degree in philosophy.

He works on all aspects of ALDF's civil cases, including investigating reports of animal cruelty, conducting legal research, developing new legal theories, and appearing in court. He has litigated cases including *ALDF v.*

*Conyers*, which resulted in the rescue of more than 100 dogs from a North Carolina hoarder; *ALDF v. Keating*, in which seven horses were saved from starvation; and *Animal Place v. Cheung*, which seeks justice for 50,000 hens abandoned without food by egg farmers.

His writing has appeared in the *Animal Law Review*, the *Journal of Animal Law*, the *Stanford Environmental Law Journal*, and at the Animal Legal & Historical Web Center. With Bruce Wagman, he co-authored *A Worldview of Animal Law* (2011), which examines how the legal systems of different countries govern our interactions with animals.

Before coming to ALDF, he clerked for the Honorable Warren J. Ferguson of the United States Court of Appeals for the Ninth Circuit.

While a law student at Stanford, he co-founded a chapter of the Student Animal Legal Defense Fund and was an active member of Animal Rights on the Farm, where he worked on campaigns against factory farming and vivisection.

**Russ Mead**, General Counsel, Animal Law Coalition, Seattle, WA, and Adjunct Faculty, Lewis & Clark Law School, Portland, OR. He is an experienced business lawyer particularly in laws relating to non-profits. He previously served as General Counsel for Best Friends Animal Society and Farm Sanctuary.

During Hurricane Katrina he was on the front lines working to rescue animals. He has also worked to rescue animals from hoarding situations, over 1,000

rabbits in one case and more than 800 cats in another. He worked with local authorities on the prosecution of those cases, and also worked to organize a program to stop local governments from passing pit bull bans. He has successfully worked with local government attorneys and animal control to avoid breed discriminatory law and instead implement laws that will protect communities from negligent dog owners, and is an advisor to the StubbyDog project.

As a frequent speaker at animal law conferences, law schools, and bar associations, he has been a guest lecturer at Cornell University School of Law, Vermont College of Law, Duquesne University School of Law, Lewis & Clark Law School, and Vanderbilt University Law School. He participates every year as a judge in Harvard University's animal law moot court program.

**Mike Moran**, General Manager, Columbia Plateau Producers (2014–Present), Portland, OR. Columbia Plateau is a growing provider of Food Alliance certified wheat, flour, and other agricultural products dedicated to connecting consumers with their food and their farmers in a sustainable and transparent value chain that guarantees the consumer a high quality, traceable product, and the grower a guaranteed return based on their cost of production.

Former, Strategic Sourcing Manager, Oregon Food Bank, (2006–2014). As Strategic Sourcing Manager he was responsible for developing innovative and highly productive strategic partnerships across the food industry to identify, solicit, and obtain food and related products as necessary to meet Work Plan and Strategic Plan goals. Partnered with the food industry to optimize solutions for

unmarketable products and inventory utilizing existing production and logistics capacity, secured outright charitable donations, and developed multi-partner collaborations. He also worked closely with businesses, governmental agencies, trade associations and other food system participants to prioritize opportunities, and acted as a driving force for positive change and positioning OFB as the preferred business solutions partner for industry engagement in community food systems. He managed the staff of food resource developers to achieve organizational goals across all food categories—Donated USDA and Purchased, and evaluated national trends in food banking, and adopted best practices in a continuous improvement cycle.

**Peter Platt**, Founder and Co-Owner, Andina Restaurant, Portland, OR. Peter created the concept, menu, design and oversaw the opening year operations for award-winning, fine-dining restaurant introducing Peruvian cuisine to the NW. Currently recognized as one of the busiest and best restaurants in Portland and the region, with a portion of revenues dedicated to supporting international development work in Peru.

**Steven Rowe**, Senior Vice President, Corporate Affairs and General Counsel for Northwest Dairy Association (NDA), a 500+ member farmer-owned dairy cooperative, and Darigold, Inc., its wholly-owned processor and marketer of NDA members' milk. NDA has member farms in Washington, Oregon, Idaho, Montana, Utah and Northern

California. Darigold produces a full line of dairy-based products for retail, foodservice, commodity and specialty markets, and is one of the largest U.S. dairy processors and exporters. Darigold, Inc. operates 12 processing plants throughout the Northwest, processing high-quality milk produced by its dairy farm families.

He joined NDA/Darigold in 2005 and currently oversees the legal, government and public affairs, sustainability, and human resources aspects of the nearly 1500 employee enterprise.

He is the Chair-Elect of the Northwest Food Processors Association, is an Advisor to the Board of Dairy Management Inc., and serves on the Sustainability Council for the Innovation Center for U.S. Dairy. He is a committee member of National Milk Producer Federation's (NMPF) Environmental Issues Task Force, and a member of NMPF's Government Relations and Public Affairs Group. He is active in the National Council of Farmer Cooperatives (NCFC), serving as an Executive Committee Member of the Legal, Tax and Accounting Committee and Vice Chair of its Cooperative Structures Subcommittee, and is a member of the National Association of Corporate Directors and a Director of the Washington State Council of Farmer Cooperatives. He is passionate about telling agriculture's good story and helping the industry prepare for its current and future challenges in feeding the world with healthy, sustainable foods.

His legal practice spans 30 years, half of which has been in private practice and the other half as in-house counsel. He holds a Bachelor of Science Degree in Natural Resources from the University of Michigan and a law degree from the University of Utah.

**Richard Satnick**, Creator, Dick's Kitchen and Restoration Agriculture Advocate, Portland, OR. He is an unconventional, inventive creator who looks at the world of possibility through unique endeavors. By channeling personal interests into ideas, ultimately the goal is to create businesses that have strong social enterprise missions. He's an entrepreneur of tremendous energy and passion, prolific and eclectic while being open to unanticipated connections and possibilities. Generating new products, services and missions, he is an entrepreneur who enjoys risks because of the potential to create new, what-if scenarios.

Anthropology is the unique background from which Richard creates ideas and looks at ways to create human-centered enterprises. From mountain bikes, to inventive toys, to healthy burritos, he has built businesses from start-up to expansion. He is currently driven to make food available that is good for people, healthy, restorative for the planet and agriculture, and humane.

He is also implementing a restoration agriculture project in Oregon that will raise emu, heritage breed chickens, and other specialty poultry. A lover of science in agriculture, anthropology and addressing human needs, he creates ways to affect change and challenge established paradigms, all while having fun.

**Lisa Sedlar**, Founder and CEO, Green Zebra Grocery, LLC, Portland, OR. She formerly served as the President of New Seasons Market, Inc. (2005–2012), its Chief Executive Officer (2010–2012),

and Chief Operating Officer (2010–2012).

She is a formally-trained chef and has worked in retail food markets for over 20 years, in positions ranging from Store Chef to Director of Purchasing to Vice President of Sales and Marketing.

She is a member of the Board of Directors of the Oregon Food Bank, the Sustainable Business Network of Portland, and the Portland Public Market. She also serves as Member of Business Advisory Committees of the Food Alliance and the Food Innovation Center. She is also a Member of the City Club of Portland and the Portland Rotary.

**Paul Swanson**, Chair of Lane Powell’s Food, Beverage and Hospitality Practice Group, Seattle, WA. His practice is devoted to litigating patent, trademark, copyright, unfair competition, software development, and trade secret law disputes. Through his representation of various agribusinesses, he has litigated a number of cutting-edge issues arising in the field of plant patent and trademark law. Cases he has worked on have helped shape and highlight the legal issues in this expanding area of law, as more and more companies seek patent and trademark protection for what were once deemed to be undifferentiated commodity food products. Paul is a principal contributor to the Firm’s “Earth and Table” Law Reporter blog.

**Dennis Treacy**, Executive Vice-President and Chief Sustainability Officer, Smithfield Foods, Smithfield, VA., Oversees and directs many areas within the company, including government affairs, corporate communications, sustainability initiatives, and the legal department.

He also serves as the President of the Smithfield Foundation, the philanthropic wing of Smithfield Foods that funds education and growth opportunities in communities across America. Additionally, he serves or has served on dozens of state and national boards and commissions.

Prior to joining Smithfield Foods in 2002, he was director of the Virginia Department of Environmental Quality. He also served as Assistant Attorney General in the natural resources section of the Virginia Attorney General’s office. He is a 2010 Distinguished Environmental Law Graduate from Lewis & Clark Law School in Portland, Oregon, where he graduated in 1983. He completed his undergraduate degree in Forestry and Wildlife at Virginia Tech in 1978, and currently serves on its Board of Visitors.

**Janice Weis**, Associate Dean, Environmental & Natural Resources Law Program since 1994, Lewis & Clark Law School, Portland; B.S., *high honors*, 1984, University of California, Berkeley and J.D., 1988 University of California, Hastings College of Law.

She came to the program after six years as an associate attorney in the Natural Resources and Public Law Department of Best, Best & Krieger in Riverside, California (where she served as co-chair of the natural resources practice group in 1992–1993). She acquired extensive transactional and litigation experience in the areas of the California Environmental Quality Act, the National Environmental Policy

Act, water quality, water rights, federal and state Endangered Species Acts, wetlands, and land use.

During law school, she served as a law clerk for the Conference of Western Attorneys General and as an extern for the Sierra Club Legal Defense Fund in Denver, Colorado, and authored *Federal Reserved Water Rights in Wilderness Areas*, Hastings Constitutional Law Quarterly (Winter 1987).

Former member and Vice-Chair of the Executive Committee of the California State Bar Environmental Law Section (1992–1994). She also served as a member of the Legislation and NAFTA/GATT Subcommittees and Vice-Chair of the CEQA Review Committee, and was a contributing author to the Environmental Law Section's "CEQA Assessment and Recommendations," submitted to the California legislature in 1994. Other publications include: contributing author, California Water (Solano Press 1995, chapters on endangered species and water transfers); and co-author, "Coping with Shortages: Managing Water in the 1990s and Beyond," (American Bar Association's Natural Resources and Environment Magazine, Spring 1991), reprinted in The Natural Resources Law Manual (ABA 1995).

She has taught numerous seminars, including annual trainings for USDA Forest Service personnel.



## PANEL ONE

# Building Sustainable Regional Foodsheds

*Moderator:* TOM GILLPATRICK

Juan Young Professorship, School of Business Administration,  
Portland State University, Portland, OR

ANN FORSTHOEFEL

James Beard Public Market, Portland, OR

STEVEN ROWE

Northwest Dairy Association and Darigold, Inc., Seattle, WA

PAUL SWANSON

Lane Powell PC, Seattle, WA

JOE BACHMORE

Betty Lou's Inc., McMinnville, OR





**PANEL ONE**  
**BUILDING SUSTAINABLE REGIONAL FOODSHEDS**

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## NOTES

## PANEL ONE

### BUILDING SUSTAINABLE REGIONAL FOODSHEDS

#### PART A Ann Forsthoefer

# James Beard PUBLIC MARKET



The mission of the James Beard Public Market is to operate a daily, year-round, indoor-outdoor venue to showcase our region's bounty, to promote sustainable agricultural practices, to encourage healthy eating, and to provide entrepreneurial opportunities for those who produce and sell the food we eat.

## MARKET SITE

Morrison Bridge Head



## OREGON BOUNTY

Cultivating community




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*"Public markets are often among the most socially diverse of public places, bringing people of different ages, genders, races, ethnicities, and socioeconomic status together for the experience of food, shopping, and conversation."*

*-Project for Public Spaces*

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## ECONOMIC OPPORTUNITIES

Examples from Marshall, Ohio



**James Beard Public Market**

- Two iconic market halls
- 100-120 vendor stalls
- 350 green jobs
- Teaching kitchen
- Event venue
- Sustainable deliveries
- Local economic growth

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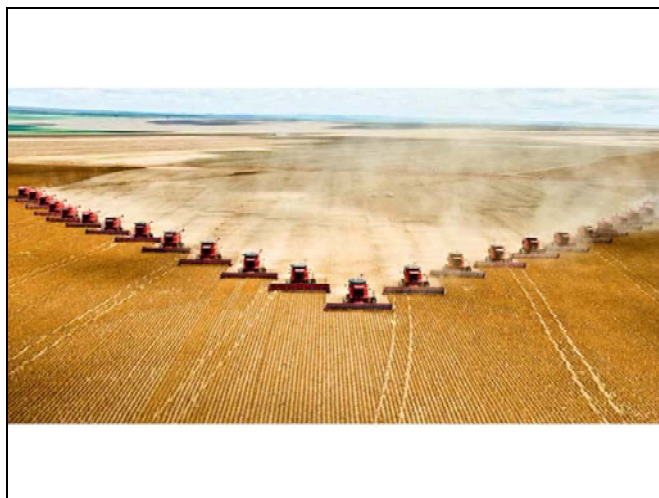
Torvehallerne, Copenhagen



Granville Island, Vancouver BC



Milwaukee, Wisconsin







## PART B

### Paul Swanson

**LANE POWELL**  
ATTORNEYS & COUNSELLORS

*Your Pacific Northwest Law Firm®*

***From Norman Rockwell's Family Farm  
to Star Trek's Food Replicator:  
A Very Brief History of U.S. Food Regulation***

*"Building Sustainable Regional Foodsheds" Panel  
Eat, Pray, Law: A Food Forum  
Lewis & Clark Law School  
Friday, March 13, 2015*

*By Paul Swanson  
Lane Powell PC*

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***Deep Nostalgia for the Bucolic Family Farm ...***



*"Norman Rockwell Visits a County Agent"*

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***Carried Over to the Earliest Food Branding***



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### *Farm Imagery Appeals to an Arcadian Vision*



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### *The Reality of Early 20th Century Industrial Food Processing*



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### *Shucking Oysters*



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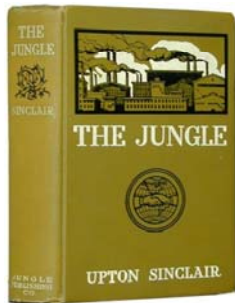
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## A Watershed Moment: *The Jungle*, by Upton Sinclair (1906)



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## "Durham's Pure Leaf Lard"

Regulating the health and welfare of U.S. citizens was generally considered to be the province of state, not federal law. Upton Sinclair's muck-raking novel, *The Jungle*, almost singlehandedly changed that food regulatory landscape.

First published in 1905 in serial form in the socialist newspaper *Appeal to Reason*, the novel exposed the unsanitary condition of Chicago meatpacking plants.

It shocked readers with its scenes of workers falling into rendering vats and being ground up with animal fats to form "Durham's Pure Leaf Lard." This touched the raw nerve of a basic human taboo: cannibalism.

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"It was the incarnation of blind insensate Greed. It was a monster devouring with a thousand mouths, trampling with a thousand hoofs: it was the Great Butcher — it was the spirit of Capitalism made flesh."  
From, *The Jungle*, by Upton Sinclair

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## *The Federal Food and Drugs Act of 1906*

*The Jungle's* exposé provided an impetus for the passage of the Federal Food and Drugs Act of 1906 and the Federal Meat Inspection Act of 1906.

It became popularly known as the Pure Food Act. This new law focused on **adulteration** and **misbranding** of food. The word “pure” is used in its sense of food being “free from adulterants or impurities,” rather than having “a homogeneous or uniform composition.”

The 1906 Act’s use of the word “pure” — not defined in the text of the Act — underscores a deep suspicion of how the industrial revolution had been altering the very composition of food placed on the table.

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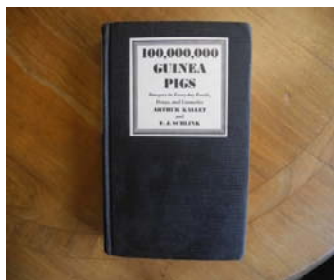
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## *100,000,000 Guinea Pigs*




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## *1930s Fears and Phobias*

Deficiencies in the Pure Food Act of 1906 are recounted in a wildly popular book in the 1930s entitled *100,000,000 Guinea Pigs: Dangers in Everyday Foods, Drugs, and Cosmetics*, by Arthur Kallet and F.J. Schlink. First published in 1933, it was already in its thirtieth printing by 1935.

The opening chapter relates that:

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"In the magazines, in the newspapers, over the radio, a terrific verbal barrage has been laid down on a hundred million Americans, first, to set in motion a host of fears about their health, their stomachs, their bowels, their teeth, their throats, their looks; second, to persuade them that only by eating, drinking, gargling, brushing, or smearing with Smith's Whole Vitamin Breakfast Food, Jones' Yeast Cubes, Blue Giant Apples, Prussian Salts, Listroboris Mouthwash, Grandpa's Wonder Toothpaste, and a thousand and one other foods, drinks, gargles and pastes, can they either postpone the onset of disease, of social ostracism, of business failure, or recover from ailments, physical or social, already contracted."

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### ***The Agricultural Marketing Agreement Act of 1937***

"Congress enacted the AMAA during the Great Depression in an effort to insulate farms from competitive market forces that it believed caused 'unreasonable fluctuations' in supplies and prices."

"To achieve this goal, Congress declared a national policy of stabilizing prices for agricultural commodities."

"The AMAA authorizes the Secretary of Agriculture to promulgate marketing orders that regulate the sale and delivery of agricultural goods."

*Horne v. Dept. of Agriculture*, 569 U.S. \_\_\_\_ (2013)(holding that a raisin handler could pursue a "takings" based claim defense in the context of a USDA enforcement action brought under the AMAA).

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### ***The Food, Drug and Cosmetic Act of 1938***




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## *The FDCA*

In June 1938, the Federal Food, Drug and Cosmetics Act ("FDCA") repealed much of the former Pure Food Act and created a more detailed regulatory scheme. It carried forward the 1906 Act's emphasis on outlawing adulteration and misbranding of food.

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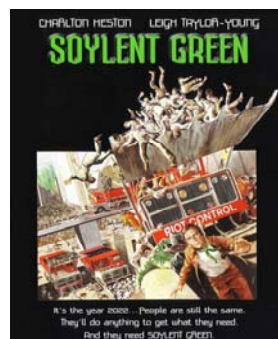
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## *Hollywood's 1970s Dystopian Food Visions*




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## *Federal Organic Food Laws Trump State Organic Food Laws in 1990*



A growing patchwork of state organic food laws passed in the 1980s led to calls for the enactment of a uniform federal law governing organic food production and promotion. This culminated in the passage of the federal Organic Food Production Act of 1990, which was part of the 1990 "Farm Bill." The USDA's green organic seal is now the ubiquitous symbol of organic food.

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## What is Organic Food?

7 C.F.R. § 205.105 Allowed and prohibited substances, methods, and ingredients in organic production and handling.

To be sold or labeled as “organic,” the product must be produced and handled without the use of:

- (a) Synthetic substances and ingredients [with exceptions]
- (b) Nonsynthetic substances prohibited in § 205.602 or § 205.604;
- (c) Nonagricultural substances used in or on processed products [with exceptions];
- (d) Nonorganic agricultural substances used in or on processed products [with exceptions];
- (e) Excluded methods, except for vaccines [subject to vaccine approvals];
- (f) Ionizing radiation [as further described in federal regulations]
- (g) Sewage sludge.

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## “Organic” Definitions Exclude GMO Foods

**Excluded methods.** A variety of methods used to genetically modify organisms or influence their growth and development by means that are not possible under natural conditions or processes and are not considered compatible with organic production. Such methods include cell fusion, microencapsulation and macroencapsulation, and recombinant DNA technology (including gene deletion, gene doubling, introducing a foreign gene, and changing the positions of genes when achieved by recombinant DNA technology). Such methods do not include the use of traditional breeding, conjugation, fermentation, hybridization, in vitro fertilization, or tissue culture. 7 C.F.R. § 205.2

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## The Nutrition Labeling and Education Act of 1990

The content of the modern food label we see on grocery store shelves today is largely shaped and controlled by Nutrition Labeling and Education Act of 1990 (“NLEA”) and its implementing regulations. Unscrupulous representations regarding the supposed health benefits of consuming various foods spurred its enactment.

The NLEA requires that every covered food include a uniform nutrition label disclosing the amount of calories, fat, salt and other nutrient content information. Generally the nutrient content information is expressed in terms of Reference Daily Intake (RDI) or Daily Value (DV) information.

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## The Anatomy of Food Label Litigation




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## The *Ogden v. Bumble Bee* Claim Allegations

The *Ogden* class action complaint essentially argues that the “rich in” or “excellent source of” Omega-3 representations violate FDA regulations because:

- There is no established Daily Value (DV) for Omega-3s and therefore no nutrient claim is permissible at all;
- The label does not specify whether the Omega-3 claim pertains to ALA, DHA or EPA fatty acids; and
- The canned sardines include significant amounts of saturated fat, cholesterol and sodium that undermine and should qualify the positive Omega-3 nutrient symbol on the label.

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## The Boundary of Food vs. Drugs: NLEA “Health Claims”

The NLEA also governs the type of “health” claims one can make about food products. Health claims are generally not authorized.

To the extent a person is promoting a food to treat, cure, prevent or mitigate any disease, the claim is an unauthorized “health” claim. When such terminology is used with respect to food, it analytically becomes synonymous with a “drug.” All new drugs must be approved by the FDA before they can be purchased or consumed by the public.

An example of unlawful “health claim” litigation is the epic litigation regarding the alleged health benefits of consuming POM Wonderful’s pomegranate juices.

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### ***Dietary Supplement Health and Education Act of 1994 ("DSHEA")***

- FDA regulates both finished dietary supplement products and dietary ingredients. FDA regulates dietary supplements under a different set of regulations than those covering "conventional" foods and drug products.
- Although dietary supplement manufacturers must register their facilities with FDA, they are not required to get FDA approval before producing or selling dietary supplements. Manufacturers and distributors must make sure that all claims and information on the product label and in other labeling are truthful and not misleading.

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### ***Whither the Food Safety Modernization Act of 2011?***

The FDA promotes the FSMA as the "most sweeping reform of our food safety laws in more than 70 years, [which] was signed into law by President Obama on January 4, 2011. It aims to ensure the U.S. food supply is safe by shifting the focus from responding to contamination to preventing it."

"Another question people have been asking is "when will the changes happen?" There's no easy answer to that question. Some of the changes from the law will go into effect immediately, such as the new mandatory recall authority. Other changes will require more time. And some of this simply comes down to budgeting."

<http://www.fda.gov/Food/GuidanceRegulation/FSMA/default.htm>

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### ***The "Star Trek" Future of Food Technology***




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### 3D Food Printing?

What was once considered science fiction in *Star Trek* episodes – the food replicator – is now becoming reality with the advent of such manufacturing techniques as “3D printing.”

The level of intense scientific deconstruction of food is best exemplified in the six-volume tome and its richly detailed photographs entitled *Modernist Cuisine: The Art and Science of Cooking* (2011), authored by Nathan Myhrvold, Chris Young and Maxime Bilet.

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### Deconstructing Food



*Modernist Cuisine: The Art and Science of Cooking* (2011), by Nathan Myhrvold, Chris Young and Maxime Bilet.

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### “Faux” Foods

The increasing ability to create “faux” foods that mimic their real counterparts will inevitably yield to competition between these the “fake” and the “real” forms of various food products.

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### "Faux Gras"



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### Versus "Foie Gras"



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1-15

**PART C**  
**Joe Bachmore**

- I.     Contracts: In a sustainable food shelter you need to spell things out with suppliers and customers.
  
- II.    Who is responsible for what? For example, if there is a recall, what are the limits of liability?
  
- III.   Who owns the formula of the product??
  
- IV.    If your supplier developed the formula under your direction exclusively for you, who owns it?
  
- V.     GMP's: Good Manufacturing Practices for you and your supplier.
  
- VI.    Trends: Trends within the food industry include Gluten Free, All Natural, Organic, label claims, and Non-GMO. Where are these trends headed? Are they losing or gaining momentum?

## PANEL TWO

# Agriculture, Human Health and the Environment

*Moderator:* JANICE WEIS

Environmental & Natural Resources Law Program,  
Lewis & Clark Law School, Portland, OR

GEORGE KIMBRELL

Center for Food Safety, Portland, OR

LORI ANN BURD

Center for Biological Diversity, Portland, OR

DENNIS TREACY

Smithfield Foods, Smithfield, VA



**PANEL TWO**  
**AGRICULTURE, HUMAN HEALTH**  
**AND THE ENVIRONMENT**

**Dennis H. Treacy**

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## NOTES

## PANEL TWO

### AGRICULTURE, HUMAN HEALTH AND THE ENVIRONMENT

Dennis H. Treacy



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#### A WORLDWIDE COMMITMENT TO GOOD FOOD

- Smithfield Foods is a \$14 billion global food company and the world's largest pork processor and hog producer.
- From our small town beginning in Smithfield, Virginia, Smithfield Foods has grown into a global food company with a presence in 12 countries.
- In the United States, the company is also the leader in numerous packaged meats categories with popular brands including:



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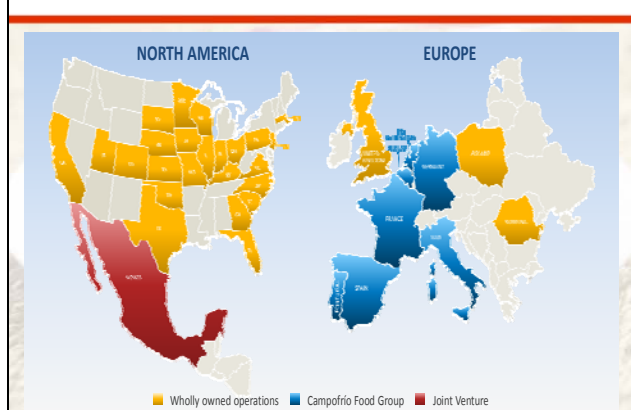
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#### SMITHFIELD'S OPERATIONS EXTEND TO 12 COUNTRIES



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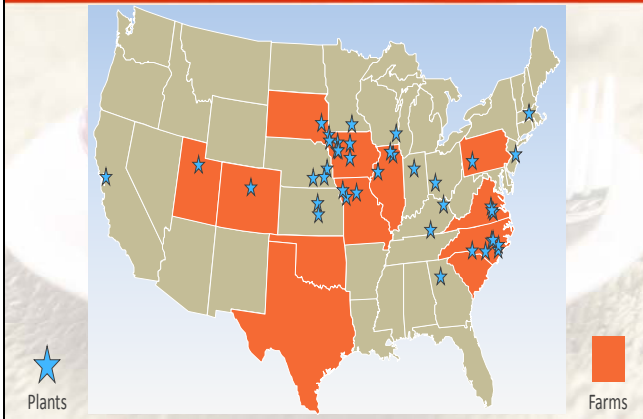
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## ALL US OPERATIONS




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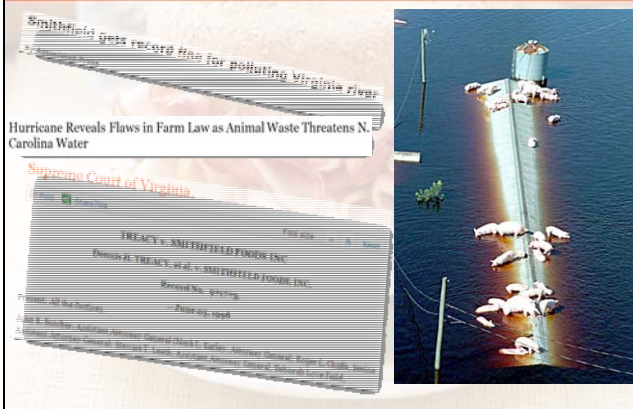
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## WHERE OUR STORY BEGAN




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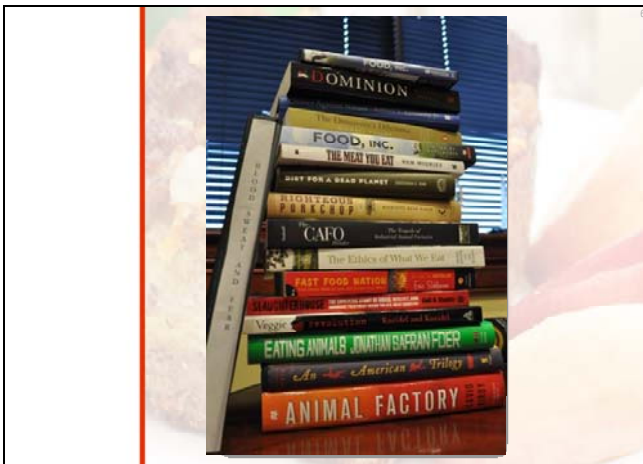
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## MAINSTREAM MEDIA ARTICLES

**New Documentary Explores the Use of Antibiotics in Food Animals** -Oct. 14, 2014

**Hog Farm Workers Carry Drug-Resistant Bacteria Off the Farm** -Sept. 29, 2014

**Factory Farming: Threat to Human Health** Sept. 14, 2014

**What Went Wrong With Corporate Farming?** -Oct. 18, 2014

**Industry Hides Animal Cruelty Instead of Ending It** -Oct. 4, 2014

**This Little Piggy Bred A Superbug** -Oct. 11, 2014

**On Factory Farms, Not All Cruelty Is A Crime** -Oct. 9, 2014

**Doctors should stand up to Big Ag** Oct. 8, 2014

**Consumers Urged to Buy Meat from 'Farms Not Factories'** Oct. 13, 2014

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## SMITHFIELD'S SUSTAINABILITY PROGRAM

				
ISO 14001 Certification and EMS Systems	PQA Plus* Certification	State-of-the-Art Facilities/Technology	Employee Injury Prevention Management System (EIPMS)	Leaders to Leaders*
Environmental Awards Program	Conversion to Group Housing	Food Safety Policy	Corporate Management	Helping Hungry Homes*
Web-based Training Program	Animal Care Committee	Food Safety Auditing	Safety Awards	World Water Monitoring Day
Environmental Compliance Committee (ECC)	CO2 Stunning	Traceability	Human Rights Policy	FFA Environmental and Natural Resources Award
	Internal Audit Program	Cloning Policy	Sodium Policy	

 Reduced worker's compensation costs by 28%  
 Saved \$471 million through environmental improvement projects  
 Launched cause marketing campaigns to benefit social causes  
 All subsidiaries sponsored at least one health and wellness program  
 Contributed \$2.5 million in education programs to benefit employees and their children

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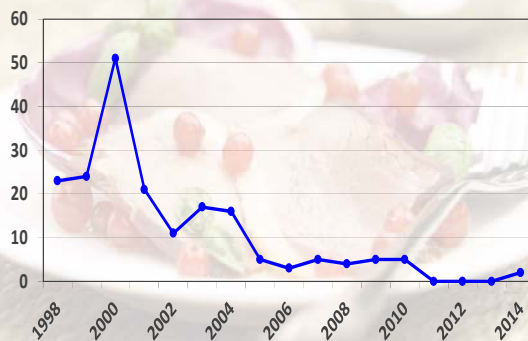
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## FARM NOTICES OF VIOLATION




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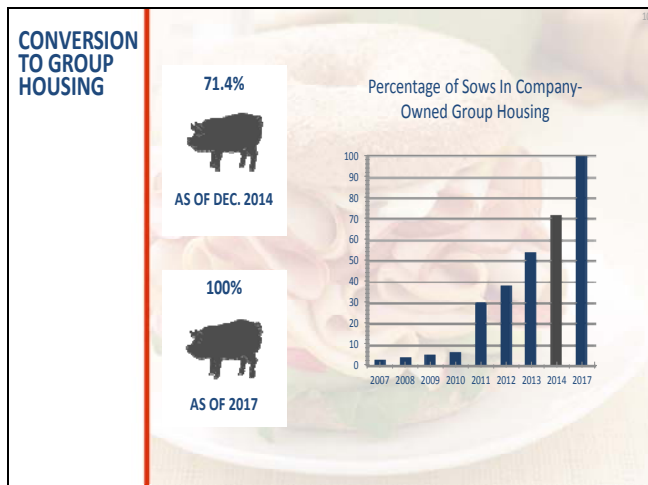
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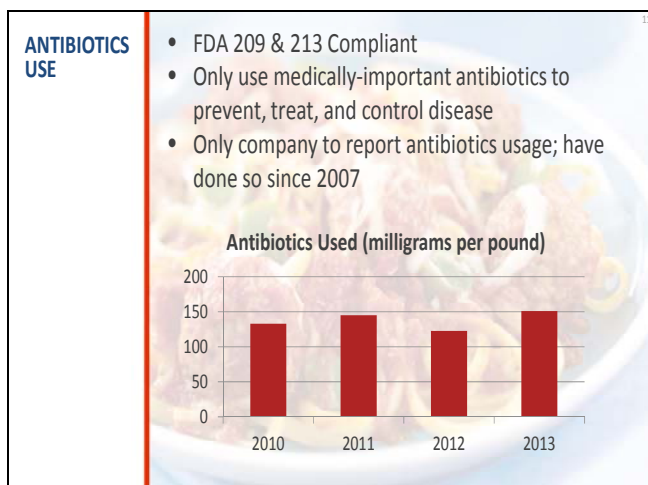
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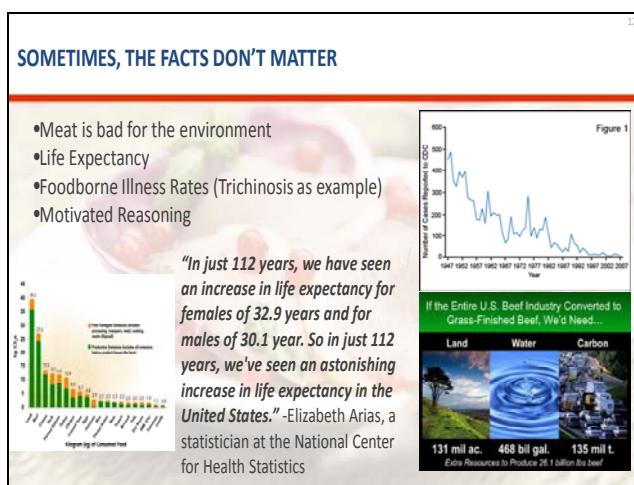
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Dear Mr. Treacy,

I was shocked to learn that Smithfield has broken its pledge to phase out cruel gestation crates. Gestation crates are metal and concrete prisons for mother pigs who can't turn around or even lie down comfortably. Pigs kept in gestation crates develop painful sores and lesions and their muscles atrophy from lack of movement. Gestation crates affect mother pigs psychologically as well. These intelligent animals are often driven insane by the constant confinement and lack of mental stimulation.

Please reconsider your decision and phase out all gestation crates by 2017 or sooner. Smithfield should be leading the industry with its animal welfare policies, not reverting to cruel and outdated methods. Please do the right thing and honor your promise to your customers and the thousands of pigs on your farms.

Sincerely,

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**DRONE VIDEO**



**Spy Drones Expose Smithfield Foods Factory Farms**

SpecimenTheMovie

3,009,632

Published on Dec 17, 2016

"Spy Drones Expose Smithfield Foods Factory Farms". SINCE 2012, "Specimen: The Movie" director Matt Davies has been secretly using spy drones to investigate and expose the environmental devastation caused by factory farms. In this video, the drones capture shocking aerial footage of several

SHOW MORE

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**ISSUE CYCLE**



"What's in the meat?"

Environment

Animals

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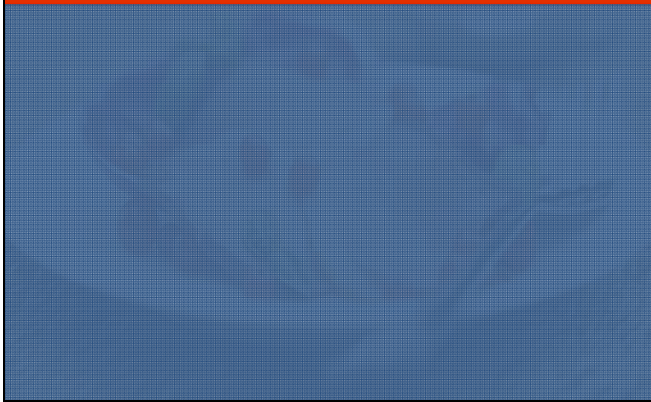
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## WHAT DOES THE FUTURE HOLD?

**Smithfield**  
*Good food. Responsibly.®*



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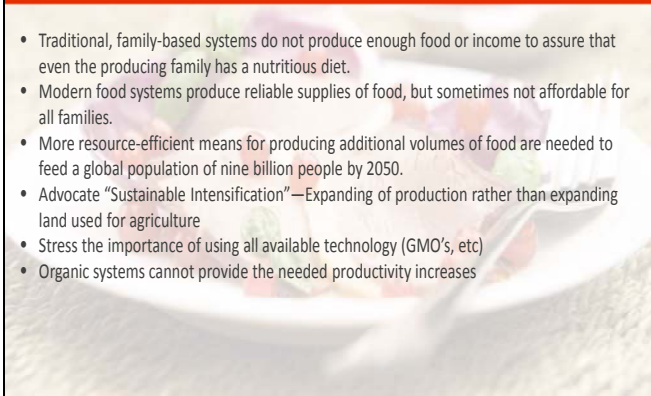
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### NATIONAL ACADEMIES OF SCIENCE: SUSTAINABLE INTENSIFICATION

- Traditional, family-based systems do not produce enough food or income to assure that even the producing family has a nutritious diet.
- Modern food systems produce reliable supplies of food, but sometimes not affordable for all families.
- More resource-efficient means for producing additional volumes of food are needed to feed a global population of nine billion people by 2050.
- Advocate "Sustainable Intensification"—Expanding of production rather than expanding land used for agriculture
- Stress the importance of using all available technology (GMO's, etc)
- Organic systems cannot provide the needed productivity increases



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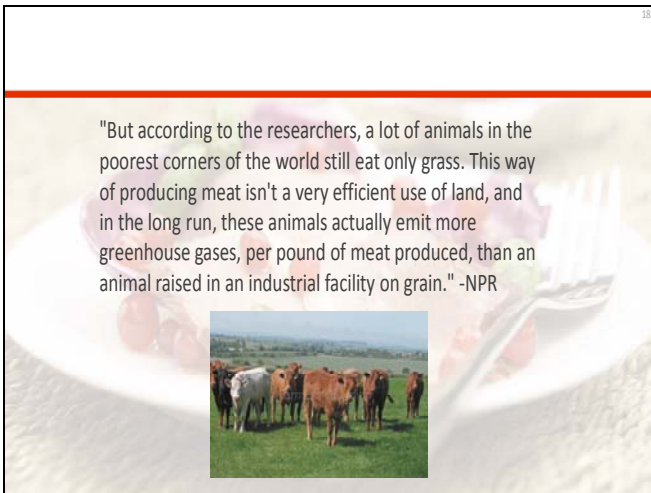
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"But according to the researchers, a lot of animals in the poorest corners of the world still eat only grass. This way of producing meat isn't a very efficient use of land, and in the long run, these animals actually emit more greenhouse gases, per pound of meat produced, than an animal raised in an industrial facility on grain." -NPR



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## ISSUES OF THE MORE DISTANT FUTURE?



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## THINK BIG. THINK DIFFERENTLY.

- Think like EPA
- Think like an animal lover
- Think like a neighbor
- Think like someone who has never been on a farm
- Think like a customer
- Think like a philosopher
- Think like a consumer

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**EDF, Smithfield Foods Collaborate to Reduce Fertilizer Runoff** -Triple Pundit

**Smithfield using tech to promote sustainability** -Agriculturist

**Smithfield Continues to Change Playing Field - for Pigs** -HSUS

**Smithfield Foods steps ups sustainability accountability and transparency** -CSR Wire

**Smithfield Foods, Kroger and other big food vendors turn waste into energy** -The Guardian

**Smithfield Foods and the Quest for Large-Scale, Sustainable Pork** -GreenBiz.com

**Sustainable Processor of the Year: Smithfield Foods Embraces Environmental Stewardship** -Food Engineering Magazine

**Smithfield Aims to Make Pork the Sustainable White Meat** -Triple Pundit

**Smithfield Reflects On Sustainability** -Meat & Poultry

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## PANEL THREE

# Animals in Agriculture: Legal Challenges and Opportunities

*Moderator:* PAMELA FRASCH

Animal Law Program, Lewis & Clark Law School, Portland, OR

RUSS MEAD

Animal Law Coalition, Seattle, WA

MATTHEW LIEBMAN

Animal Legal Defense Fund, Portland, OR

DR. GIERI BOLLIGER

Stiftung für das Tier Recht, Zurich, Switzerland





**PANEL THREE**

**ANIMALS IN AGRICULTURE:  
LEGAL CHALLENGES AND OPPORTUNITIES**

**Russ Mead**

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### **ANIMALS IN AGRICULTURE: LEGAL CHALLENGES AND OPPORTUNITIES**

#### **LEGISLATIVE AND LITIGATION UPDATE—RESOURCES**

**Russ Mead**

##### **The 2014 Farm Bill**

(The agricultural Act of 2014, PL 113-79)

<http://www.fns.usda.gov/sites/default/files/Agriculture%20Act%20of%202014.pdf>

##### **Proposition 2 California**

CHAPTER 13.8. Farm Animal Cruelty [25990 - 25994]

( *Chapter 13.8 added November 4, 2008, by initiative Proposition 2, Sec. 3.*)

[http://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=HSC&division=20.&title=&part=&chapter=13.8.&article=](http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=20.&title=&part=&chapter=13.8.&article=)

Cramer V. Harris & The Humane Society of the United States

<http://cdn.ca9.uscourts.gov/datastore/memoranda/2015/02/04/12-56861.pdf>

##### **National Meat Association v. Harris**

[http://www.americanbar.org/content/dam/aba/publishing/previewbriefs/Other\\_Brief\\_Updates/10-224\\_respondentnonstate.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publishing/previewbriefs/Other_Brief_Updates/10-224_respondentnonstate.authcheckdam.pdf)

##### **Washington GMO ballot initiative**

[http://ballotpedia.org/Washington\\_Mandatory\\_Labeling\\_of\\_Genetically\\_Engineered\\_Food\\_Measure,\\_Initiative\\_522\\_%282013%29](http://ballotpedia.org/Washington_Mandatory_Labeling_of_Genetically_Engineered_Food_Measure,_Initiative_522_%282013%29)

##### **Oregon GMO ballot initiative**

[http://ballotpedia.org/Oregon\\_Mandatory\\_Labeling\\_of\\_GMOs\\_Initiative,\\_Measure\\_92\\_%282014%29](http://ballotpedia.org/Oregon_Mandatory_Labeling_of_GMOs_Initiative,_Measure_92_%282014%29)

##### **Snohomish County Horse Slaughter Ban**

<http://www.codepublishing.com/WA/snohomishcounty/mobile/?pg=SnohomishCounty10/SnohomishCounty1065.html>

##### **Decision overturning foie gras ban in California**

ASSOCIATION DES ELEVEURS DE CANARDS ET D'OIES DU QUEBEC v. HARRIS

<http://sites.law.lsu.edu/adlaw/files/2015/01/12-cv-05735-SVW-RZ-ocr.pdf>

##### **Washington State Greenhouse Emissions Cap and Trade Bill**

House Bill 1314

<http://lawfilesexternal.wa.gov/biennium/2015-16/Pdf/Bills/House%20Bills/1314.pdf>

##### **Center For Food Safety, Humane Society of The United States v. EPA**

[http://www.centerforfoodsafety.org/files/complaint-stamped\\_11911.pdf](http://www.centerforfoodsafety.org/files/complaint-stamped_11911.pdf)



## PANEL FOUR

# Food Justice and Security

*Moderator:* VYTAS BABUSIS

JD Student, Lewis & Clark Law School Food  
and Wine Society, Portland, OR

LISA SEDLAR

Green Zebra Grocery, Portland, OR

RICHARD SATNICK

Dick's Kitchen, Portland, OR

PETER PLATT

Andina, Portland, OR

MIKE MORAN

Oregon Food Bank, Portland, OR



Oregon State Bar  
Minimum Continuing Legal Education  
Recordkeeping Form

Pursuant to MCLE Rule 7.2, every active member shall maintain records of participation in accredited CLE activities. You may wish to use this form to record your CLE activities. **Do not send this form to the Oregon State Bar or the Oregon Law Institute. This form should be retained in your own MCLE file.**

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Sponsor of CLE Activity:     **Oregon Law Institute  
of Lewis & Clark Law School**

Title of CLE Activity:       **EAT, PRAY, LAW: A FOOD FORUM**

Date and Location:         **Friday, March 13, 2015  
Lewis & Clark Law School, Portland, Oregon**

Video Date and Location:   \_\_\_\_\_

**Full Credit.**           I attended the entire program and the total authorized credits are:

   7          General

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      \_\_\_\_\_       General

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