ARTICLES

Mediating Local Intergovernmental Disputes—Reflections on the Process ................................. Richard M. Cartier

The Presidential Internment Power Established by the 1942 Internment of Americans Suspected of Disloyalty ................................................................. Paul Lyon

COMMENTS

Barriers to Education for Children of Migrant Farm Workers ................................................. Judy Wiseman

The Struggle for Water: How One Irrigation District Seeks Water Supplies ....................... Jeremy K. Lusk

The Argument for the Legalization of Industrial Hemp ............................................................ Tara Christine Brady

After the Bust: Landowner’s Liability When the Property is Used for the Manufacture of Methamphetamine ................................................................. Nitza E. Coleman

Valley Environmentalists Hold Their Breath While the EPA Rethinks the Agriculture Exemption for Farmers and Their Diesel Irrigation Pumps ..................... Alex Merriam

Title V of the Clean Air Act: The Effects of California’s Agricultural Exemption on the San Joaquin Valley ................................................................. David A. Yengoyan

FIFRA’s Puzzling Failure: To-Warn Preemption: Pesticide Use and the Right-to-Know ............ Sherrie M. Flynn

Health Risks of Genetically Modified Food: A Need for Unbiased Research into the Potential Health Risks of Genetically Engineered Crop Products ............. Chineme OK Anyadiegwu

ADDENDUM: When a Food Processor Files Bankruptcy: What Every California Grower Should Know Before Contracting to Sell Crops ................................. Jodi Lea Woodsmith

SAN JOAQUIN COLLEGE OF LAW
San Joaquin College of Law offers assistance to employers who are seeking associates, law clerks, interns, or paralegals. This free service provided by the placement office helps to link students and alumni to employers, thus easing the process for all involved.

Full-time and part-time job listings are maintained at the Law School.

For more information, please contact Cheryl Castro
Director of Placement Services

559/323-2100

901 Fifth Street
Clovis, CA 93612-1312
The *San Joaquin Agricultural Law Review* (ISSN 1055-422X) is published annually by the students of The San Joaquin College of Law. The San Joaquin Agricultural Law Review prints all matter deemed meritorious regardless of the views expressed. Views expressed herein are views of the authors and do not necessarily reflect the policies or opinions of the Law Review, its editors and staff, or San Joaquin College of Law.

Manuscripts:

The *San Joaquin Agricultural Law Review* welcomes the submission of unsolicited articles, comments, reviews, and case notes. To be considered for publication in a future issue of the *San Joaquin Agricultural Law Review*, manuscripts must be submitted on 3-1/2" computer diskettes in WordPerfect 5.1 or 6.0 IBM-compatible format accompanied by a single hard copy. Text and footnotes must appear in 12-point Times New Roman typeface printed on one side of each page. Text must be double spaced, left justified, with one-inch margins, and the initial word of each paragraph must be indented. Footnotes must be single spaced with double spacing between footnotes, left justified, and appear at the bottom of each page. Text and footnote citations should conform with the rules set forth in *The Bluebook: A Uniform System of Citation* (17th ed. 2000).

Manuscripts should be submitted to the Executive Editor at the address indicated below. If any portion of a manuscript has been published previously, or is to be published elsewhere, such information must be disclosed at the time of submission of the manuscript to the Law Review. Manuscripts cannot be returned. The Law Review will not assume responsibility for lost manuscripts.

Subscriptions:

Subscriptions are $15.00 per volume and are payable in advance. Requests for subscription information should be sent to the Production Editor at the address indicated below. Subscriptions will be continued for succeeding issues and subscribers will be billed unless notice of cancellation is received.

Correspondence:

Correspondence should be addressed to the Managing Editor at the address indicated below.

Change of Address:

The Postal Service will not forward copies. The Law Review will make reasonable efforts to notify subscribers if their issue cannot be delivered by the Postal Service and is returned. Please notify the Law Review if you do not receive your issue. Please submit address changes as soon as possible to ensure prompt delivery. The Law Review will not send duplicate copies without additional charge if nondelivery is based upon a change of address without notification. Address changes should be sent to the Production Editor at the address indicated below.

Please send address changes to:

San Joaquin Agricultural Law Review
William T. Richert Law Review Office
San Joaquin College of Law
901 Fifth Street
Clovis, CA 93612

Printed by Darby Printing Co., 6215 Purdue Dr., Atlanta, GA 30336.

Please cite this issue as: 13 S. J. Agric. L. Rev. 1 (2003).
SAN JOAQUIN
AGRICULTURAL LAW REVIEW

VOLUME 13 2003 NUMBER 1

BOARD OF EDITORS

Robirda Lyon
Editor-in-Chief

Gina T. Miller
Managing Editor

Edward J. Johnson
Executive Editor

Nitza E. Coleman
Executive Editor

STAFF MEMBERS

Chineme Ok Anyadiegwu
Tara C. Brady
Sherrie M. Flynn

Alex Merriam
Jeremy K. Lusk
David A. Yengoyan

FACULTY ADVISORS

Lawrence M. Artenian
Sally A. Perring
Denise M. Kerner

Kathryn McTigue-Floyd

Janice L. Pearson
NATIONAL EDITORIAL BOARD

DALE CUNNINGHAM, Retired, Sunkist Growers, Inc.
WILLIAM T. DAVOREN, Aral Sea Information Committee
DONALD A. FREDERICK, Rural Business-Cooperative Service, USDA
ED GIERMAN, J.G. Boswell Co.
JULIAN B. HERON, JR., Tuttle, Taylor & Heron
KENDALL L. MANOCK, Baker, Manock & Jensen
JAMES T. MASSEY, James T. Massey Law Offices
MICHAEL MCCLEOD, McCleod, Watkinson & Miller
JEAN-MARIE PELTIER, EPA Counselor to the Administration on Ag Policy
GEORGE E. RADOSEVICH, Colorado State University
LORETTA RAMSEYER, Retired, Bank of America
LELAND H. RUTH, California Electric Users Cooperative
KIM SCHNOOR, Robinson, Lake & Lerer
LELAND SWENSON, National Farmers Union
ROBERT TAYLOR, Tuttle, Taylor & Heron
GREGORY A. THOMAS, Natural Heritage Institute
JOHN WHETTEN, Challenge Dairy Products, Inc.
ADVISORY COMMITTEE

MICHAEL ABRIL, Borton, Petrini & Conron
BRUCE ALLBRIGHT, Allbright Agency
DENNIS BEAN, Dennis Bean and Co.
BARRY BEDWELL, Allied Grape Growers
PAUL BETANCOURT, VF Farms
THOMAS BIRMINGHAM, Westland Water District
ROSS BORBA, JR., Borba Farms
THOMAS CAMPAGNE, Thomas Campagne & Associates
CHRISTOPHER CAMPBELL, Baker, Manock & Jensen
LLOYD CARTER, Office of the Attorney General
ROBERT CASSIO, Robert Cassio, Inc.
WILLIAM B. COIT, Coit Farming Company, Mendota
VERNON CROWDER, Bank of America
DAVE DEFRANK, Anderson Clayton Co.
JAMES DEMSEY, Gilmore Wood Vinnard
LLOYD CARTER, Office of the Attorney General
ROBERT CASSIO, Rnbert Cassio, Inc.
WILLIAM B. COIT, Coit Farming Company, Mendota
VERNON CROWDER, Bank of America
SAN JOAQUIN COLLEGE OF LAW
BOARD OF TRUSTEES

DOUGLAS E. NOLL, J.D.
Chair

HON. JAMES A. ARDAIZ
Presiding Justice, California Court of Appeal, Fifth Appellate District
Vice Chair

FRANK "BRIAN" ALVAREZ, J.D., Representative, San Joaquin College of Law Alumni Association,
    Deputy Attorney General, State of California
ROSS BOMBA, Jr., Secretary/Treasurer, Barba Farms
RICHARD CAUJIA, J.D., Attorney at Law
HON. JANE CARDOZA, Fresno County Superior Court
DEBORAH ANN COEL, J.D., Baker Manock & Jensen
EDWARD D. FANUCCHI, J.D., Quinlan, Kershaw & Fanucchi
TRACI FRITZLER, J.D., Deputy District Attorney, Fresno County
JAN KAHN, J.D., Kahn, Soares & Conomy
JOHN E. LOOMIS, J.D., Retired Founder of San Joaquin College of Law, Secretary/Treasurer
MICHAEL MARDESSIAN, J.D., Mardeesian, Runyon, Cercone & Lehman
HON. ROBERT OLIVER, Fresno County Superior Court
ELIZABETH O'NEIL, J.D., Arbitrator, Mediator, & Evaluator
SUSIE OSTERBERG, Clovis Business Owner-Retired
WANDA L. ROGERS, President, Rogers' Helicopters
ROLAND SOLTENZ, President, SJCL Student Bar Association
DENNIS VEER, CPA, Baker, Peterson & Franklin LLP
DR. VIVIAN VIDOLI, Dean of Graduate Studies, California State University, Fresno

FACULTY, ADMINISTRATION AND STAFF

JANICE L. PEARSON, B.A., J.D., Dean and Professor of Law
SALLY A. PERKING, B.A., J.D., Associate Dean for Academic Affairs and Professor of Law
LAWRENCE M. ARTENIAN, B.A., J.D., Professor of Law and Advisor for Continuing Legal Education
RICHARD M. CARTIER, B.A., J.D., Professor of Law and Director of Regional Family Law & Mediation Center
DENISE M. KERNER, B.A., M.A., J.D., Professor of Law, Director of Legal Analysis, Research and Writing and Small Claims Supervisor
JEFFREY G. PURVIS, B.A., J.D., James K. and Carol Sellers Herbert Professor of Constitutional Law
KATHRYN McGUIGUE-FLOYD, B.A., M.L.S., J.D., Library Director
SHERYL CASTRO, Director of Paralegal Program/Placement Services
KEN CONLE, MIS Director
TARA CRABTREE, Assistant Librarian
MARK ENNS, Director of Marketing/Public Relations
MAUREEN HAYES, Assistant to Chief Financial Officer
LORETTA HIGHTOWER, Student Services Assistant
JOAN LASSLEY, Facilities Administrator/Alumni Liaison
JEANNIE LEWIS, Director of Financial Aid
KATHERINE MAXWELL, Academic Services Specialist, MCLE Coordinator
JOYCE MORODOMI, Director of Student Services
OREN PHILLIPS, Receptionist
JILL WALLER-RANDLES, Chief Financial Officer
RICHARD RODRIGUEZ, Maintenance/Custodial Supervisor
PATRICIA SMITH, Financial Services Specialist
GWEN WATT, Regulatory Compliance Officer
ADJUNCT FACULTY OF LAW

MARK C. AMENT, B.A., J.D.
HON. JAMES A. ARDAOZ, B.A., J.D.
AJT BAGGETT, B.S., M.S., J.D.
HAL BOLLEN, B.S., M.B.A., J.D.
HON. ANTHONY DENNIS CARTON, B.A., J.D.
LLOYD CARTER, B.S., J.D.
HON. HILARY CHITTICK, B.A., J.D.
JOHN P. ELEAZARIAN, B.A., M.A., J.D.
SARA HEDGPETH-HARRIS, B.A., J.D.
ALLEN E. JUNKER, B.S., J.D.
STEPHANIE KRAUSE-COTA, B.A., J.D.
WILLIAM T. McLAUGHLIN II, B.S., J.D.
HON. LAWRENCE J. O'NEIL, B.A., M.A., J.D.
KIMBERLY NYSTROM-GUPT, B.A., J.D.
ALEX PELTZER, B.A., M.A., J.D.
N.L. PEREIRA, B.A., J.D.
ROSE SAFARIAN, B.A., J.D.
SARAH A. SCHMIDT, B.S., J.D.
HON. MARK SNAUFFER, B.A., J.D.
HON. DENISE WHITEHEAD, B.S., J.D.
JACQUELYN YATES, B.A., J.D.
LINDA M. ANDERSON, B.A., M.A., Ph.D., J.D.
JESSE J. AVILA, B.A., J.D.
BARRY J. BENNETT, B.A., J.D.
STANLEY A. BOONE, B.A., J.D.
DAVID M. CAMERON, B.A., J.D., M.B.A.
CATHERINE J. CERNA, B.A., J.D.
JONATHAN B. CONKLIN, B.A., J.D.
CHRISTINE GOODRICH, B.A., J.D.
HON. MICHAEL HAUBNER, B.S., J.D.
KATHY KESSELMAN, B.A., J.D.
MICHAEL P. MALLERY, B.A., J.D.
MARK D. MILLER, B.S., J.D.
DOUGLAS E. NOLL, B.A., J.D., M.A.
DEBRA DAVIS OWDOM, B.A., J.D.
HON. ROSENDO PENA JR, B.A., J.D.
RUSSELL K. RYAN, B.S., J.D.
REN TURNER-SAMPLE, B.S., J.D.
MICHAEL SENG, B.S., J.D.
DAVID J. WILKIN, B.A., J.D.
E. ROBERT WRIGHT, B.S., J.D.

SAN JOAQUIN AGRICULTURAL LAW REVIEW DONORS

BETHANY R. BAKER*
DENNIS BEAN, CPA
BLANKENSHIP & SCHULTZ, CPAs
BOLEN, FRANKEN & BOOYSTROM, LLP
STEVEN J. BOLM
DEBORAH BOYD
JULIA ANN BRUGESS*
BURFORD FARMS
LLOYD CARTER
JAMES O. DEMEY
JOHN DEMELI
A. BEN EWELL, JR.
DAN J. GERMAN
DONALD O. GERMINO*
M. GREEN AND COMPANY, CPAs*
JOHN C. HARRIS
DAVID M. HOLMAN*
JOAN LASSLEY
KYLE W. LATHROP
PRICE, PAIGE & COMPANY*
THOM R. SNYDER
WAYNE H. THOMAS, JR.*
WESTLAKE FARMS, INC.
LAW OFFICES OF WALTER W. WHELAN
FOREWORD
Robirda Lyon, Editor in Chief

The *San Joaquin Agricultural Law Review* is one of two agricultural law reviews currently published in the United States. Far from being a narrow specialty, the variety of legal issues related to agriculture is extensive and absorbing. The articles and comments presented in this year's volume exemplify the broad range of topics which have significant impact on the agricultural community.

Richard Cartier is a graduate of Humphreys College of Law, and a professor at San Joaquin College of Law where he teaches Civil Procedure, and courses in private law including Community Property, Family Law, Children and the Law, and Family Law Mediation. His summary of the mediation process and its applicability to agricultural, environmental, and municipal issues is documented in his article *Mediating Local Intergovernmental Disputes—Reflections on the Process*. Mr. Cartier also serves as the Director of the San Joaquin College of Law Regional Family and Mediation Center.

Paul Lyon's compelling article on the 1942 internment of Japanese Americans explores the constitutional issues within the scope of agricultural concerns. Mr. Lyon is a 1985 graduate of the University of Arizona School of Law. He specializes in civil and criminal trial work, and is licensed to practice in California and Washington. Mr. Lyon is a noted historian and the author of *From Under God's Wing*, a historical narrative of the battle of the Alamo, to be released this year by Eakin Press.

Judy Wiseman's comment, *Barriers to Education for Children of Migrant Farm Workers* underscores one of the social problems unique to the agricultural community. The editors are particularly proud to present Ms. Wiseman's comment, as it was written while she not only struggled with maintaining her top grades in law school, but also with cancer. Ms. Wiseman passed away prior to the publication of this volume, but her comment is a memorial to her commitment and dedication.

Water allocation is a long standing agricultural issue, remaining at the forefront of most agricultural controversies. Jeremy Lusk follows the legal and physical constraints and complications of water allocation for one of the world's largest water districts in his comment, *The Struggle for Water: How One Irrigation District Seeks Water Supplies*.

Some of the criminal issues found in agriculture are exemplified by Tara Brady's comment, *The Argument for the Legalization of Industrial Hemp*, an analysis of the economic benefits of this crop, as well as Nitza Coleman's comment, *After The Bust: Landowner's Liability When the Property is Used for the Manufacture of Methamphetamine*. Ms. Coleman's comment details the perils for not only the landowner in the criminal system, but the toxic effects to the land itself.

Other environmental issues are showcased in Alex Merriam's comment, *Valley Environmentalists Hold Their Breath While the EPA Rethinks*
Agriculture Exemption for Farmers and Their Diesel Irrigation Pumps; and David Yengoyan’s comment, Title V of the Clean Air Act: The Effects of California’s Agricultural Exemption on the San Joaquin Valley. These comments provide two thoughtful viewpoints on the impact of the air quality exemption on agriculture and the surrounding communities.

The impact on the community by agricultural legislation is addressed also in Sherrie Flynn’s comment, FIFRA’s Puzzling Failure-to-Warn Preemption: Pesticide Use and the Right-to-Know. Ms. Flynn presents many of the contradictions and difficulties found in preemptive legislation.

The highly technical issues of genetic modification are addressed in Chineme Anyadiegwu’s comment, Health Risks of Genetically Modified Food: A Need for Unbiased Research into the Potential Health Risks of Genetically Engineered Crop Products. Ms. Anyadiegwu examines the hazards and benefits of this current and controversial technology.

Together, these articles and comments provide an interesting and absorbing view into only a few of the diverse legal and social interests both confronted by those engaged in the field of agriculture, and those impacted by the practices and environment created by agriculture.
ACKNOWLEDGMENTS

The following San Joaquin College of Law students contributed to the production of the *San Joaquin Agricultural Law Review, Volume 13*:

**GINA T. MILLER**
**EDWARD J. JOHNSON**

**ROBIRDALYON**
**NITZA E. COLEMAN**

**JEREMY LUSK**
**TARA C. BRADY**

**MICHELLE SASSANO**
**CHINEME OK ANYADIGWU**

**ALEX MERRIAM**
**DAVID A. YENGOYAN**

**MARCELLA HOWE**
**SHERRIE M. FLYNN**
# SAN JOAQUIN AGRICULTURAL LAW REVIEW

## TABLE OF CONTENTS

### ARTICLES

- **Mediating Local Intergovernmental Disputes—Reflections on the Process**
  - Richard M. Cartier

- **The Presidential Internment Power Established by the 1942 Internment of Americans Suspected of Disloyalty**
  - Paul Lyon

### COMMENTS

- **Barriers to Education for Children of Migrant Farm Workers**
  - Judy Wiseman

- **The Struggle for Water: How One Irrigation District Seeks Water Supplies**
  - Jeremy K. Lusk

- **The Argument for the Legalization of Industrial Hemp**
  - Tara Christine Brady

- **After the Bust: Landowner’s Liability When the Property is Used for the Manufacture of Methamphetamine**
  - Nitza E. Coleman

- **Valley Environmentalists Hold Their Breath While the EPA Rethinks the Agriculture Exemption for Farmers and Their Diesel Irrigation Pumps**
  - Alex Merriam

- **Title V of the Clean Air Act: The Effects of California’s Agricultural Exemption on the San Joaquin Valley**
  - David A. Yengoyan

- **FIFRA’s Puzzling Failure-To-Warn Preemption: Pesticide Use and the Right-to-Know**
  - Sherrie M. Flynn

- **Health Risks of Genetically Modified Food: A Need for Unbiased Research Into the Potential Health Risks of Genetically Engineered Crop Products**
  - Chineme Okaigwe

- **Addendum: When a Food Processor Files Bankruptcy: What Every California Grower Should Know Before Contracting to Sell Crops**
  - Jodi Lea Woodsmith

---

Copyright © 2003 by San Joaquin College of Law