

Congress of the United States
Washington, DC 20515

February 27, 2023

The Honorable Thomas J. Vilsack
Secretary
United States Department of Agriculture
1400 Independence Ave SW
Washington, DC 20250

Dear Secretary Vilsack:

We write today with deep concerns regarding a recently publicized United States Department of Agriculture (USDA) memo written by Farm Production and Conservation Division Deputy Undersecretary Gloria Montañó Greene (memo), regarding the Agricultural Foreign Investment Disclosure Act (AFIDA). This memo, obtained by *Agri-Pulse* through a Freedom of Information Act (FOIA) request, revealed many concerning details regarding USDA's complete lack of accountability and oversight of foreign acquisition of U.S. agricultural land.

As you know, AFIDA requires disclosure of any foreign acquisition of U.S. agricultural land to the Secretary of Agriculture and in a report to Congress.¹ According to the USDA Farm Service Agency foreign investment disclosure handbook, failure to report these disclosures, late-filed reports, or any reports that contain incomplete, misleading, or false information can result in penalties up to 25 percent of the market value of the foreign person's interest in the land.² This penalty is in place to ensure USDA can enforce accurate reporting and data collection on U.S. agricultural land being purchased by foreign actors.

As the aforementioned memo states, the number of foreign acquisition disclosures increased significantly between 2015 and 2018.³ However, USDA did not assess a single penalty for failure to report foreign acquisition of U.S. agricultural land during this period and this lapse of accountability was not included in USDA's AFIDA annual report to Congress during that timeframe. The memo's stated reasoning for these failures of staffing challenges and turnover is unacceptable, especially given the four-year period in which these failures occurred.

Foreign ownership of agricultural land threatens small family farm operations and the overall health of the agricultural supply chain. As the foreign acquisition of farmland increases, it is evident that more oversight is needed to protect local farmers, rural communities, and our national security.

¹ Code of Federal Regulations. "7 CFR Part 781 - Disclosure of Foreign Investment in Agricultural Land." 6 Sept. 1984. www.ecfr.gov/current/title-7/subtitle-B/chapter-VII/subchapter-D/part-781.

² United States Department of Agriculture Farm Service Agency. "FSA Handbook: Foreign Investment Disclosure." 27 Jan. 2006. www.fsa.usda.gov/Internet/FSA_File/1-afida_r02_a02.pdf.

³ Montañó Greene, Gloria. "Agricultural Foreign Investment Disclosure Act (AFIDA) Economic and Policy Analysis Division/FPAC." 2022. <https://www.agri-pulse.com/ext/resources/2023/AFIDA-memo.pdf>

Food security is national security, and we must work to protect the finite amount of agricultural land we have in America. We cannot allow failures to report foreign acquisition of U.S. agricultural land to go unpunished. We request the following information expanding on the memo regarding USDA's executions of its statutory requirements under AFIDA:

1. Why did USDA fail to assess penalties as described in the memo?
2. What actions has USDA taken to address these issues since the memo was produced?
3. What is USDA's course of action to address these issues in the future?
4. Will USDA pursue applying retroactive AFIDA enforcement penalties for the period from 2015-2018?

Additionally, we are requesting you provide any and all correspondence regarding USDA's failure to assess penalties, including the redacted sections of the memos obtained through *Agri-Pulse's* FOIA request, as well as any and all correspondence with USDA's Office of the General Counsel from the time period of 2015 to the present regarding the failure to assess AFIDA penalties. We ask for a response to these questions by April 1, 2023. Thank you, and we look forward to your timely reply.

Sincerely,



Elise M. Stefanik
Member of Congress



Mark Pocan
Member of Congress



Mike Flood
Member of Congress



Eric A. "Rick" Crawford
Member of Congress



Dan Newhouse
Member of Congress



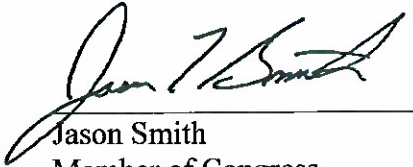
Ruben Gallego
Member of Congress



Frank D. Lucas
Member of Congress



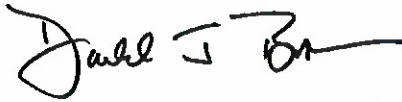
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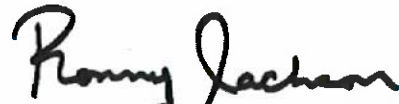
Don Bacon
Member of Congress



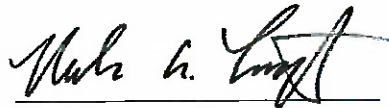
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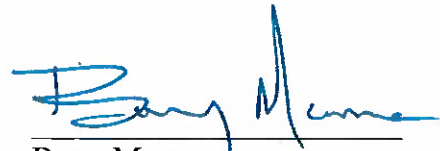
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