



Office of the Secretary
Washington, DC 20250

March 29, 2023

THE HONORABLE DAN NEWHOUSE
U.S. House of Representatives
504 Cannon House Office Building
Washington, DC 20515

Dear Congressman Newhouse:

Thank you for your letter of February 27, 2023, co-signed by your colleagues, regarding implementation of the Agricultural Foreign Investment Disclosure Act of 1978 (AFIDA).

AFIDA became law in 1978 and requires foreign investors who acquire, transfer, or hold an interest in U.S. agricultural land to report such holdings and transactions to the Secretary of Agriculture. The U.S. Department of Agriculture's (USDA) role is to receive and compile the data required to be submitted pursuant to AFIDA and report it to Congress annually. USDA has a very limited investigatory or legal enforcement power under AFIDA beyond the ability to assess penalties for late or erroneous filings, those filings that are knowingly submitted that are incomplete or contain information that is misleading or false, or failure to file at all as required by law. USDA also does not have a role in the review of the purchase or sale of U.S. agricultural land.

I share your concern that insufficient resources and staffing previously devoted to AFIDA over several years resulted in the absence of penalties being imposed on late and non-filers. I agree this was unacceptable and have sought to address the staffing and budget needs to ensure USDA is able to assess penalties in a timely fashion and complete the annual report to Congress as accurately as possible. In the 2016-2020 period, there ranged from between only two to three headquarters employees responsible for all data entry from the FSA-153 paper-based forms and the development of the annual report to Congress. At the time, given this limited staffing, priority was given to providing the most accurate data to Congress in the annual report over the issuance of penalties.

In the past 6 months, I have sought to ensure additional staff have been hired to focus on this area of work. Today there are now six AFIDA specialists at USDA headquarters, including one person focused on penalty assessments. With the increase of staffing, USDA now has a tracking process in place to document the date of receipt relative to the land purchase or sales date and can assess ex post penalties starting with late filings in the 2021 calendar year. The Department has also been increasing outreach to stakeholders who have a role in foreign land transactions to remind them of the legal obligation to file, to minimize late or erroneous filings, and modernizing the way we collect, compile, and disseminate ownership data. Any significant changes to the reporting process would require Congressional action.

The most recent AFIDA report, transmitted to Congress in December 2022 and posted on the FSA website at fsa.usda.gov/programs-and-services, shows that foreign ownership represents 40 million acres or 3.1 percent of all privately held agricultural land and 1.8 percent of all land in the United States. Canadian investors own the largest amount of foreign-held agricultural and non-agricultural land at 12.8 million acres. Foreign persons from the Netherlands, Italy, the United Kingdom, and Germany collectively held 12.4 million acres. Investors from China account for about 383,935 acres, and investors from Russia, Iran and North Korea collectively held 4,397 acres.

THE HONORABLE DAN NEWHOUSE

Page 2

Again, thank you for your letter. I have every intention of providing adequate staffing to the extent that is possible within the resources provided by Congress. Furthermore, I welcome your support of the Farm Production and Conservation Business Center S&E account in the FY 2024 budget to ensure that USDA has the necessary resources to further expand our efforts to modernize and strengthen this area of work. A similar letter has been sent to your colleagues.

Sincerely,

THOMAS J. VILSACK

Secretary