



Securing The Agricultural Supply Chain

An Opportunity for Winnebago County to Lead

OCTOBER 2022

RESOLUTION AUTHORED BY COUNTY SUPERVISORS

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Background

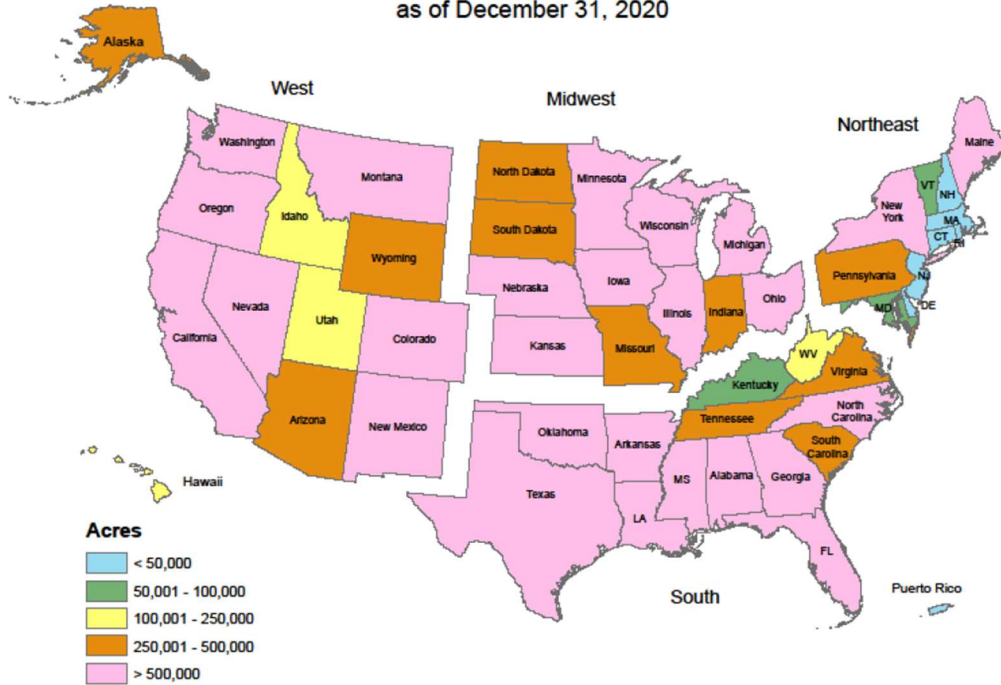
According to the USDA's annual Agricultural Foreign Investment Disclosure Act (AFIDA) report in 2020, "there was an increase of over 2.4 million acres from the December 31, 2019 report"¹ in terms of foreign-owned farmland nationwide. In Wisconsin alone, there was an increase of just under 26,000 acres sold to foreign entities to nudge our state over the 500,000 acres of foreign-owned farmland. The graphic below highlights this.²

¹ Farm Service Agency, Tricia Barnes, Mary Estep, Veronica Gray, Cassandra Goings-Colwell, Catherine Feather, and Phil Sronce, Foreign Holdings of U.S. Agricultural Land Through December 31, 2020 § (2020). https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdfiles/EPAS/PDF/2020_afida_annual_report.pdf.

² Farm Service Agency, Tricia Barnes, Mary Estep, Veronica Gray, Cassandra Goings-Colwell, Catherine Feather, and Phil Sronce, Foreign Holdings of U.S. Agricultural Land Through December 31, 2020 § (2020). https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdfiles/EPAS/PDF/2020_afida_annual_report.pdf.

Figure 2

**State Concentration of Foreign Holdings of Agricultural Land
as of December 31, 2020**



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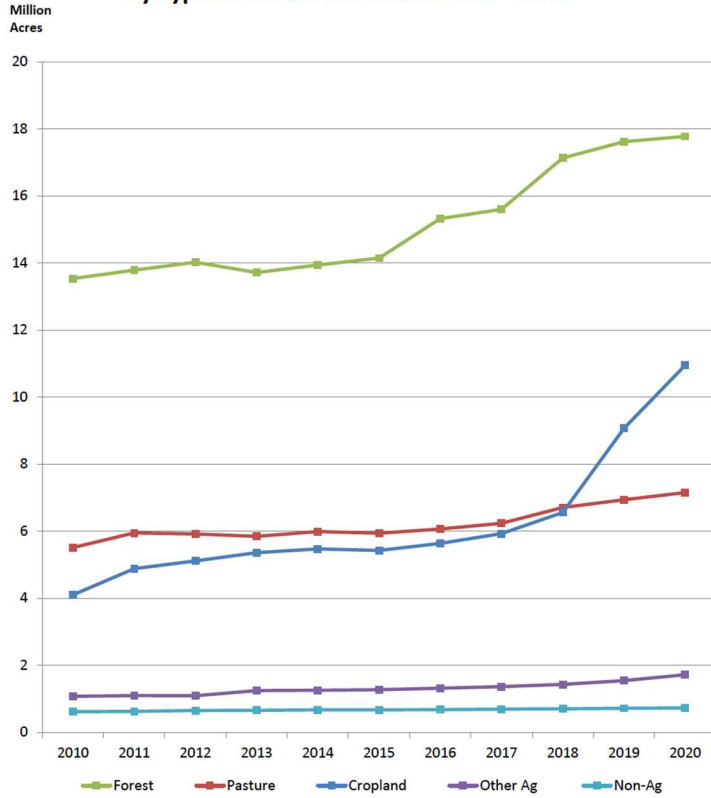
While most foreign-owned farmland in the United States is owned by either Canada, the UK, Germany, Italy, and Netherlands, 403,000 acres of the foreign-owned farmland in Wisconsin is owned by none of these nations.³ To add to this, AFIDA 2020 reports that cropland is rapidly becoming the one of the most popular types of agricultural land by usage that is being bought up by foreign owners. Below is a chart displaying that trend of the past decade.⁴

³ Farm Service Agency, Tricia Barnes, Mary Estep, Veronica Gray, Cassandra Goings-Colwell, Catherine Feather, and Phil Sronce, Foreign Holdings of U.S. Agricultural Land Through December 31, 2020 § (2020). https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdfiles/EPAS/PDF/2020_afida_annual_report.pdf.

⁴ Farm Service Agency, Tricia Barnes, Mary Estep, Veronica Gray, Cassandra Goings-Colwell, Catherine Feather, and Phil Sronce, Foreign Holdings of U.S. Agricultural Land Through December 31, 2020 § (2020). https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdfiles/EPAS/PDF/2020_afida_annual_report.pdf.

Figure 7

Trends in Foreign Holdings of Agricultural Land
by Type of Use for the Period 2010 - 2020



Note: Data for 2010 forward is through December.

When you analyze Wisconsin’s trends in foreign ownership of farmland with the extensive acreage of cropland in the state and combine that with seemingly pedestrian constraints on foreign ownership of farmland in statute, you can see why a supply chain disruption like COVID-19 would merit looking into changing the statute. A relatively exposed supply chain susceptible to foreign purchases by powers with their own interests ahead of international cooperation both threatens the family farm way of life and food security.

Legal Considerations

There are some jurisdictional questions when it comes to whether or not companies or individuals party to hostile foreign governments can be “banned” from buying

farmland. Is this a state or federal issue? Do international trade treaties that the US is party to preclude new state or federal legislation? According to a 2014 opinion, then Attorney General J.B. Van Hollen issued the following statement. The full opinion is also included in this packet.

1. Wisconsin's law specifically exempts most uses of land owned by foreign investors and corporations from the 640-acre limit, but does not exempt agriculture and forestry uses. Given that the Wisconsin statutes were amended numerous times to specifically exempt certain uses from the limit but not agriculture and forestry uses, the opinion determined that the legislature's intent was to clearly limit the amount of agricultural and forestry land that could be owned by foreign investors
2. The federal GATS Treaty is one of the exceptions in Wisconsin's law, and the treaty applies to a long list of service sectors, but not the agriculture or forestry service sectors. Thus, because the federal GATS Treaty does not apply to agriculture or forestry service sectors, the opinion reasons that agriculture and forestry land are not exempt from the 640-acre limit.⁵

This opinion shows that the State Legislature does have the power to change the 1887 law as the General Agreement on Trade in Services Treaty does not supersede Wis. Stat. 710.02.



Scope of the Resolution

While this resolution seeks to start a dialogue and discussion on the topic (and will not dictate the outcome of the state's action on this matter), we recommend that this be a scalpel instead of a hammer. There are many foreign parties in Wisconsin that own farmland whose governments largely follow international trade practices and labor laws

⁵ Larson, Tom. "Made in the USA: Attorney General's Opinion Clarifies Limits on Foreign Ownership of Land in Wisconsin." Wisconsin Real Estate Magazine. Wisconsin Realtors Association, February 5, 2015. <https://www.wra.org/WREM/Feb15/Ownership/#:~:text=Since%201887%2C%20Wisconsin%20law%20has,Wisconsin%2C%20not%20just%20contiguous%20property.>

in good faith. They contribute to our economy as well. Thus, we are asking the state to restrict the purchase eligibility of bad international actors who do the following:

- That seek to disrupt and abuse trade practices and laws
- Abuse international labor standards and human rights
- Harbor and promote state owned enterprises and/or monopolies to artificially tinker with the price of goods
- Commit acts of armed aggression abroad

With this criteria in mind, the scope of this resolution applies to individuals and corporations party to Communist Party of China, the government of the Russian Federation, the government of the Islamic Republic of Iran, and the government of the Democratic People's Republic of Korea.



Goal of the Resolution

Telling the state to begin to look at this topic via simple communication resolution has little downside but carries lots of upside. Winnebago County can lead the way on this issue as there have been no other resolutions passed like this by one of the 72 counties in recent memory. We can take the opportunity to learn from the pandemic and recent international events to protect our farmland from bad international actors.