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Selling Out the Delta

Farmland Investment and Small Farmer Land Access in Mississippi

By Madeleine Fairbairn, Elsa Calderon, and Jordan Treakle

Executive Summary

The financial industry is in the market for farmland. Over the past decade and a half, major financial institutions have increasingly added farmland to their investment portfolios, and investment funds targeting agricultural properties have proliferated. This unprecedented flow of financial capital into farmland markets could create additional challenges for resource-limited farmers and further complicate the struggle for racial equity in agriculture. The high cost of land is already one of the greatest obstacles facing small farmers, beginning farmers, and farmers of color, and this situation will likely only worsen as they find themselves competing for land with multi-million or billion dollar investment funds. This research brief describes growing investor presence in the Mississippi Delta, juxtaposing it against the precarious land tenure experienced by many African American farmers in the region. Black farmers face multiple intersecting threats to their land tenure, including the lack of legal protections for the collective landownership form known as heirs' property and the harmful legacy of government discrimination in farm lending. Policy action is needed to ensure that investor demand does not compound these existing injustices so that a diverse and vibrant small farm sector can thrive across the Southeast.

Investors Flock to Farmland

A soybean field in Bolivar County, MS (August 2021)

Investors have an ever-growing appetite for farmland. The financial sector's turn to farmland began around 2007, when a spike in agricultural commodity prices led to increasing farm income at the same time as the global financial crisis reduced returns on other types of investment. Investors were drawn to farmland as a way to diversify their portfolios and hedge against inflation while also earning returns in the form of rental income and land appreciation. Asset management companies responded to this unprecedented demand by creating myriad new farmland-focused investment companies and funds. A decade and a half later, farmland is now viewed by many as a financial asset class in its own right.[1]

Among the most voracious farmland investors are US-based financial institutions. Though there is no comprehensive datasource on land purchases by financial institutions, all indications suggest that they have increased substantially in recent years. The number of institutionally owned properties reporting data to the National Council of Real Estate Investment Fiduciaries (NCREIF) Farmland Index, for instance, rose three-fold from 2009 to 2022, while the market value of those properties increased from under two billion dollars to over $14 billion in the same time period (see Figure 1). Enthusiastic institutional investors in farmland include Nuveen, the investment manager of the Teachers Insurance and Annuity Association (TIAA), a financial services provider that controls $1.3 trillion in assets.[2] Since 2007, TIAA has accumulated 2.3 million acres of farmland worldwide, worth roughly $8 billion.[3] Meanwhile, Harvard Management

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[1] Madeleine Fairbairn, *Fields of Gold: Financing the Global Land Rush* (Ithaca, NY: Cornell University Press, 2020); Stefan Ouma, *Farming as Financial Asset: Global Finance and the Making of Institutional Landscapes* (Newcastle upon Tyne: Agenda Publishing, 2020).

[2] TIAA, "Who We Are," accessed September 14, 2022, https://www.tiaa.org/public/plansponsors/who-we-are.

[3] Westchester, "2021 Farmland Report," July 2021, https://www.nuveen.com/global/insights/responsible-investing/2021-farmland-report.

Company, which manages Harvard University's $50 billion endowment, had at one point amassed two million acres of farmland and timberland globally, including California vineyards, Australian cotton farms, and Brazilian vegetable operations.[4] Wealthy individuals are also buying farmland. After a 2017–2018 farmland buying spree by his financial management company, Cascade Investments LLC, software magnate Bill Gates is now America's largest individual farmland owner with almost 242,000 acres to his name.[5]

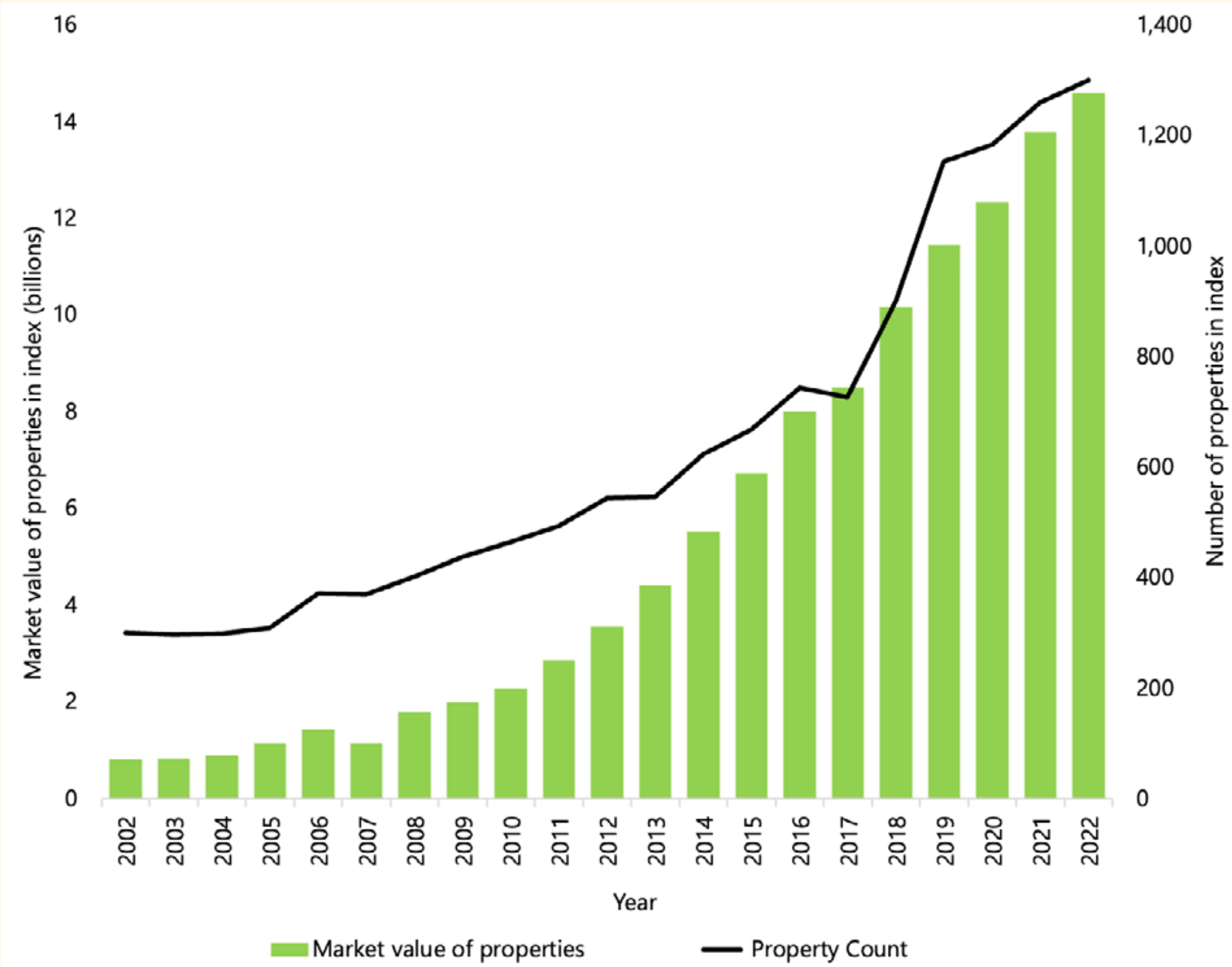

Figure 1: Number and market value of institutionally owned properties in the NCREIF Farmland Property Index (2002-2022).

Source: Image by authors based on data from NCREIF Farmland Index (through 2022, Q2).

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[4] Eli Burnes and Andrew Zucker, "Harvard's Farmland Holdings Come Under Fire In New Report," *Harvard Crimson*, September 11, 2018, https://www.thecrimson.com/article/2018/9/11/farmland-investments/; Michael McDonald, "Harvard Spent $100 Million on Vineyards. Now It's Fighting with the Neighbors.," *Seattle Times*, November 23, 2018, https://www.seattletimes.com/business/harvard-spent-100-million-on-vineyards-now-its-fighting-with-the-neighbors/.

[5] Eric O'Keefe, "Bill Gates: America's Top Farmland Owner," *The Land Report*, January 11, 2021, https://landreport.com/2021/01/farmer-bill/.

The rising cost of land is a major barrier to resource-limited farmers. The average value of US farmland increased 12% from June 2021 to June 2022.

It's also becoming easier for ordinary citizens to invest in farmland. Two publicly listed farmland real estate investment trusts (REITs) now make it possible for "retail investors"—individuals investing on their own behalf—to essentially own stock in farmland. Gladstone Land (LAND) held its initial public offering in 2013 and now owns 115,000 acres of US farmland, while Farmland Partners (FPI), which went public in 2014, now owns 160,000 acres of US farmland and manages another 25,000.[6] Company shareholders receive dividend payments based on farm rent and land appreciation. For those who meet the eligibility criteria to become accredited investors, there are even more farmland investment options available. A spate of new farmland crowdfunding platforms, including AcreTrader, FarmTogether, FarmFolio, and FarmFundr, allow accredited investors to buy shares in farmland, with minimum investments of $10,000 or higher.[7]

This new money pouring into farmland markets has the potential to add to the obstacles already faced by small and mid-scale farmers. The cost of accessing land is already one of the biggest challenges faced by resource-limited farmers, including beginning farmers and farmers of color.[8] This challenge has only increased as farmland values have resumed their steep upward climb in recent years; the average US farmland value increased 7% from June 2020 to June 2021 and 12% from June 2021 to June 2022.[9] The current influx of investment capital into farmland markets will likely increase competition for land, putting land purchase still further out of reach for many. Tenancy opportunities for small-scale farmers may also shrink with growing farmland investment, since landlords often prefer leasing to larger-scale, more professional operators.[10]

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[6] Gladstone Land Corporation, "Company Information," accessed September 14, 2022, https://www.gladstonefarms.com/investors/company-information; "Our Portfolio," Farmland Partners, accessed September 14, 2022, https://www.farmlandpartners.com/what-we-do/our-portfolio/.

[7] Apple Crider, "Best Farmland Investing Platforms For Beginners In 2022," *Farmland Riches* (blog), July 29, 2022, https://www.farmlandriches.com/farmland-investing-platforms/.

[8] Sophie Ackoff et al., "Building a Future with Farmers 2022: Results and Recommendations from the National Young Farmer Survey" (National Young Farmers Coalition, 2022), https://www.youngfarmers.org/22survey/; Greta Moran, "Beginning Farmers, Farmers of Color Outbid as Farmland Prices Soar," *Civil Eats,* January 3, 2022, https://civileats.com/2022/01/03/beginning-farmers-farmers-of-color-outbid-as-farmland-prices-soar/

[9] USDA, National Agricultural Statistics Services, "Land Values 2021 Summary," August 2021, https://www.nass.usda.gov/Publications/Todays_Reports/reports/land0821.pdf; USDA National Agricultural Statistics Services, "Land Values 2022 Summary," August 2022, https://www.nass.usda.gov/Publications/Todays_Reports/reports/land0822.pdf.

[10] Adam Calo and Kathryn Teigen De Master, "After the Incubator: Factors Impeding Land Access along the Path from Farmworker to Proprietor," *Journal of Agriculture, Food Systems, and Community Development 6*, no. 2 (2016): 111–27.

Farmland Investment in the Mississsippi Delta

The Mississippi Delta—the fertile, Northwestern region of Mississippi state that lies between the Mississippi and Yazoo rivers—illustrates both the extent of this investment phenomenon and its potential to negatively impact family-scale farmers. The entire lower Mississippi basin region has been a target of intense investment activity in recent years (see Figure 2).[11] But the Delta is a particular hotspot. An article on the agricultural investing news website Agri Investor describes the Delta as "where institutional capital plays," attracted by abundant water resources, fertile soils, and potential for large-scale land purchases.[12] Land in the region also has a reputation

[11] Michelle Corbet, "Arkansas, Mississippi Farmland Being Seen as a Value Compared to Midwest Land," *Memphis Business Journal*, May 18, 2015, https://www.bizjournals.com/memphis/news/2015/05/18/arkansas-mississippi-farmland-hot-commodity-among.html; AcreTrader Inc, "Southern Farming And Farmland: What to Know About Mississippi Delta Land," accessed September 15, 2022, https://acretrader.com/learn/farming/southern-farming.

[12] Chris Janiec, "Peoples Expands into Mississippi Delta Region 'Where Institutional Capital Plays,'" *Agri Investor*, June 11, 2020, https://www.agriinvestor.com/peoples-expands-into-mississippi-delta-region-where-institutional-capital-plays/.

Photo: The Mississippi River in Greenville, MS, facing Arkansas (August 2021)

Investor	Total US farmland portfolio (acres)	Farmland in MS, AK, and LA (acres)
TIAA	336,603	174,763
Bill Gates	268,984	133,961
Farmland Partners	185,794	34,367
Manulife Investment Mgmt	302,247	unknown
UBS Farmland Investors	280,000	unknown
US Agriculture LLC	60,000	9,339

Figure 2: Farmland holdings of select US investment entities.

Source: Image by authors based on diverse sources.[15]

for being under-valued and under-invested. Whereas the average acre of Iowa cropland costs $9,000 and the average acre in California costs over $15,000, the average acre in Mississippi still costs about $3,000 (see Figure 3).[13] However, as California faces increased droughts and declining groundwater resources, some argue that the Delta could ramp up its specialty crop production and become the "Next California,"[14] likely leading to rapid land appreciation.

Many counties in the Mississippi Delta are experiencing intense investment activity. An examination of the property data for four Delta counties reveals tens of thousands of acres already owned or managed by financial entities (see Figures 4–7). Determining who actually controls an agricultural investment property is often difficult because they are generally held in the name of subsidiaries—usually limited liability companies (LLCs).[16] While we therefore cannot be absolutely certain of all of them, the maps and text on the following pages represent our best supposition of who owns these properties based on the data available in recent property records.

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13 USDA National Agricultural Statistics Services, "Land Values 2022 Summary."

14 Julia Kurnik, "The Next California, Phase 1: Investigating Potential in the Mid-Mississippi Delta River Region" (World Wildlife Fund), accessed September 15, 2022, https://www.worldwildlife.org/publications/the-next-california-phase-1-investigating-potential-in-the-mid-mississippi-delta-river-region.

15 All data is 2022 except for TIAA (2021) and Bill Gates (2020). Westchester, "2021 Farmland Report"; O'Keefe, "Bill Gates"; Farmland Partners, "Our Portfolio," https://www.farmlandpartners.com/what-we-do/our-portfolio/; Manulife Investment Management, "Sustainable Investing: Agriculture 2022," accessed September 16, 2022, https://www.manulifeim.com/content/dam/mim-institutional/global/documents/resources/Manulife-Investment-Management-Agriculture-SI-report.pdf; UBS Asset Management, "Food and Agriculture," accessed September 16, 2022, https://www.ubs.com/global/en/assetmanagement/capabilities/food-agriculture.html; US Agriculture, LLC, "Properties," January 23, 2020, https://us-agriculture.com/index.php/our-properties/.

16 Loka Ashwood et al., "What Owns the Land: The Corporate Organization of Farmland Investment," *The Journal of Peasant Studies* 49, no. 2 (2022): 233–62.

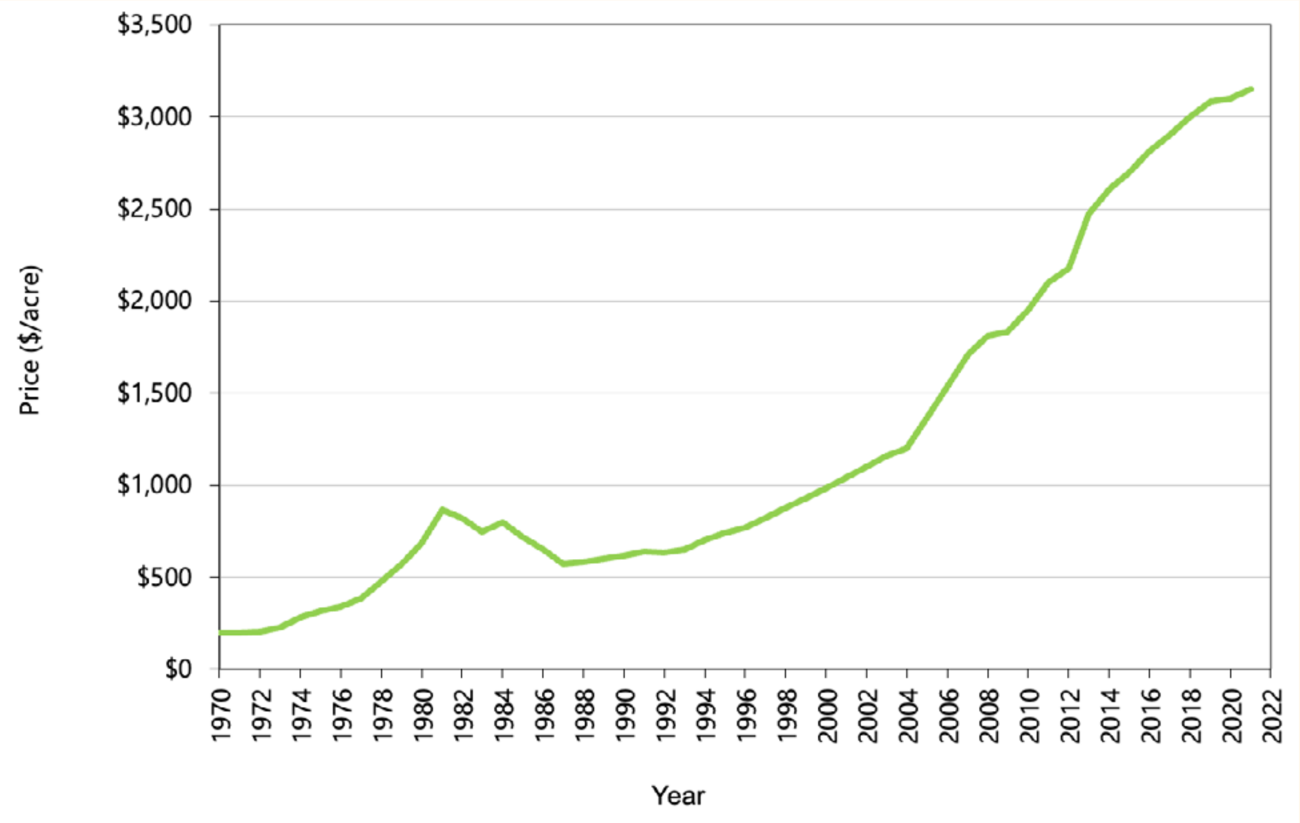

Figure 3: Average Mississippi cropland prices, 1970-2021.
Source: Bruce Sherrick, TIAA Center for Farmland Research, University of Illinois.

The Delta counties of Tunica, Bolivar, Coahoma, and Sunflower have all seen considerable investor activity, with most of the transactions occurring in the past 15 years. TIAA's agricultural investment manager, Westchester, manages properties registered to a smorgasbord of limited liability companies, adding up to 37,000 acres in Bolivar County and 18,000 acres in Coahoma County alone. Farmland Partners, the publicly listed farmland REIT, owns or manages properties in several counties under the holding company FPI Colorado LLC.[17] UBS Farmland Investors controls land registered to several different holding companies, including Midnight Sun Inc., which is reportedly the company name it uses when purchasing farms on behalf of the Alaska Retirement Management

TIAA (Teachers Insurance and Annuity Association), a retirement fund manager, now controls over 2 million acres worldwide worth about $8 billion.

[17] Farmland Partners, "Our Portfolio."

[18] The Oakland Institute, "Down on the Farm," (The Oakland Institute, January 1, 2014), https://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/OI_Report_Down_on_the_Farm.pdf

Board.[18] Oak River Farms, an agricultural asset management company linked to Bill Gates,[19] controls properties in several of these counties through a company named Woodall Farms LLC. Manulife Investment Management, which was until recently named Hancock Agricultural Investment Group, also manages properties in several of these counties through various limited liability companies. Other investors present in the region include: the private farmland REIT Chess Ag Full Harvest Partners; Farmland Reserve, Inc, the farmland investment entity of The Church of Jesus Christ of Latter-day Saints; Germany-based farmland investment firm Agriworld, Inc; and the crowdfunding platform AcreTrader.

A tractor cutting forage in Quitman County, MS (September 2022)

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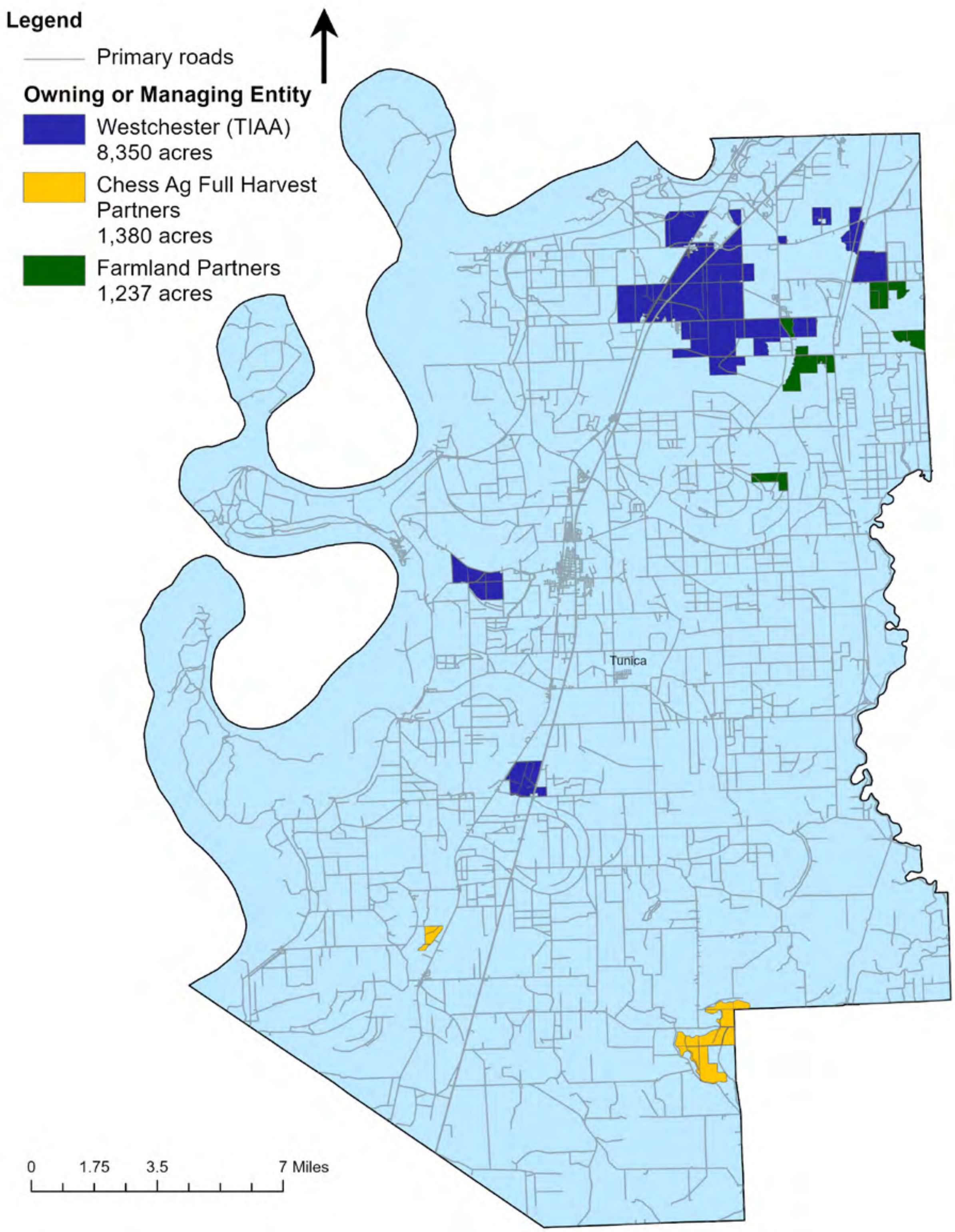
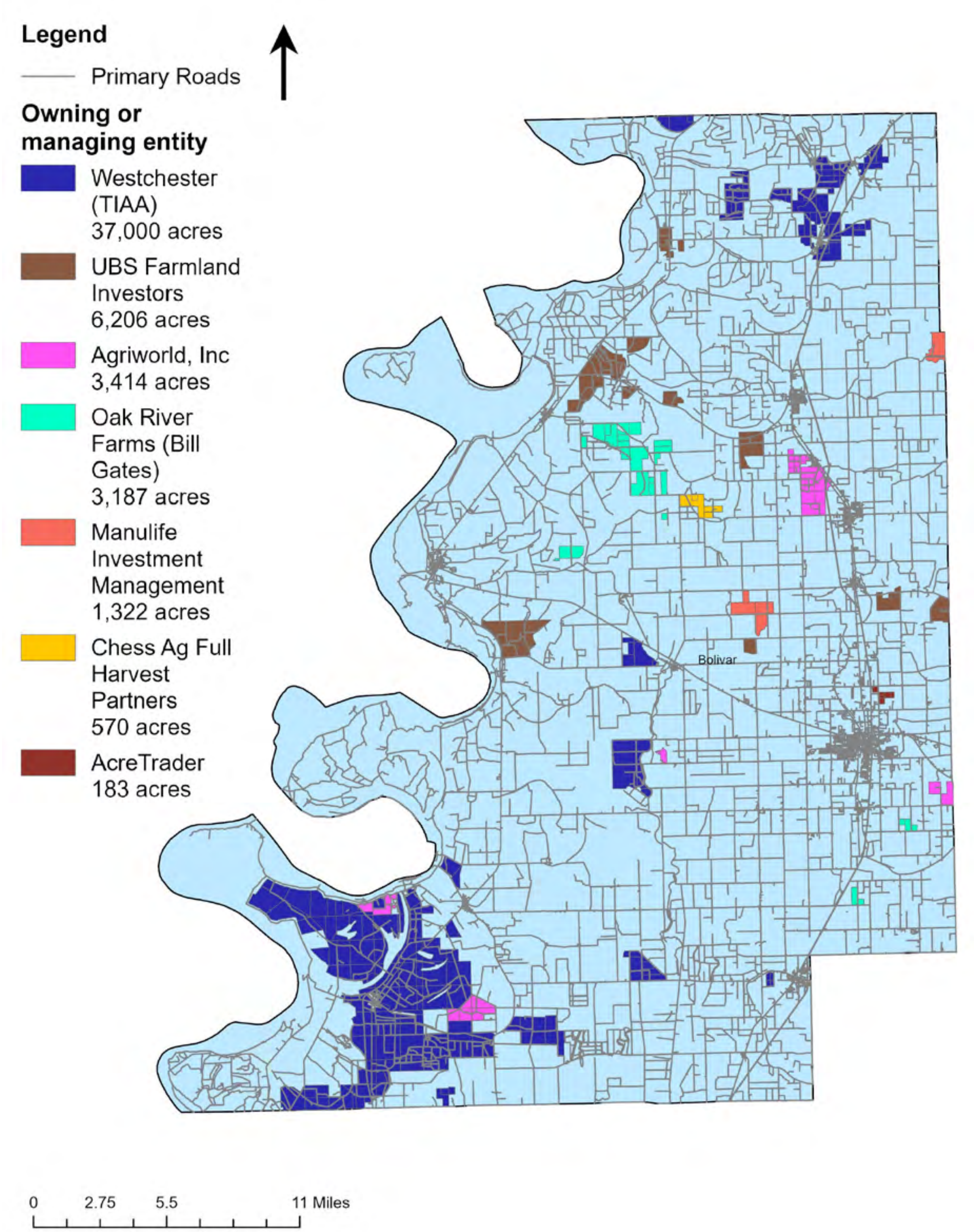
[19] Kristen Mosbrucker, "Bill and Melinda Gates Own 70,000 Acres of Louisiana Farmland; What Happens to It in Their Divorce?," *NOLA.Com*, May 4, 2021, https://www.nola.com/news/business/article_68ff8874-acf1-11eb-b3b4-936cf2ca6ed5.html; Mikkel Pates, "Entity Linked to Billionaire Bill Gates Pays $13.5 Million for Campbell Farms' North Dakota Farmland," *Agweek*, June 9, 2022, sec. Business, https://www.agweek.com/business/entity-linked-to-billionaire-bill-gates-pays-13-5-million-for-campbell-farms-north-dakota-farmland.

Figure 4: Some of the Suspected Investment Properties in Tunica County, MS



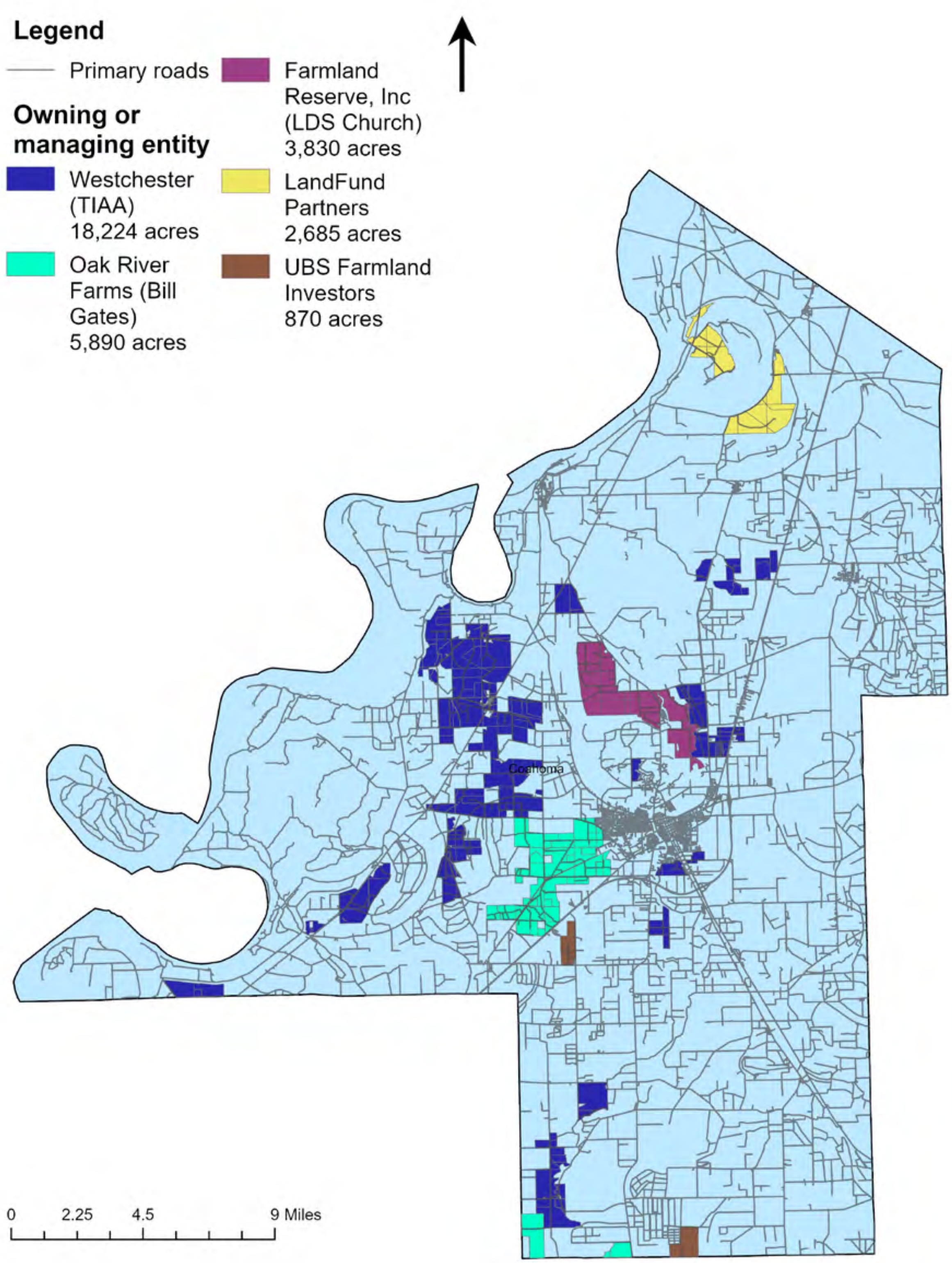
Source: Image by authors based on property data from Regrid (last updated 2/1/2022).

Figure 5: Some of the Suspected Investment Properties in Bolivar County, MS



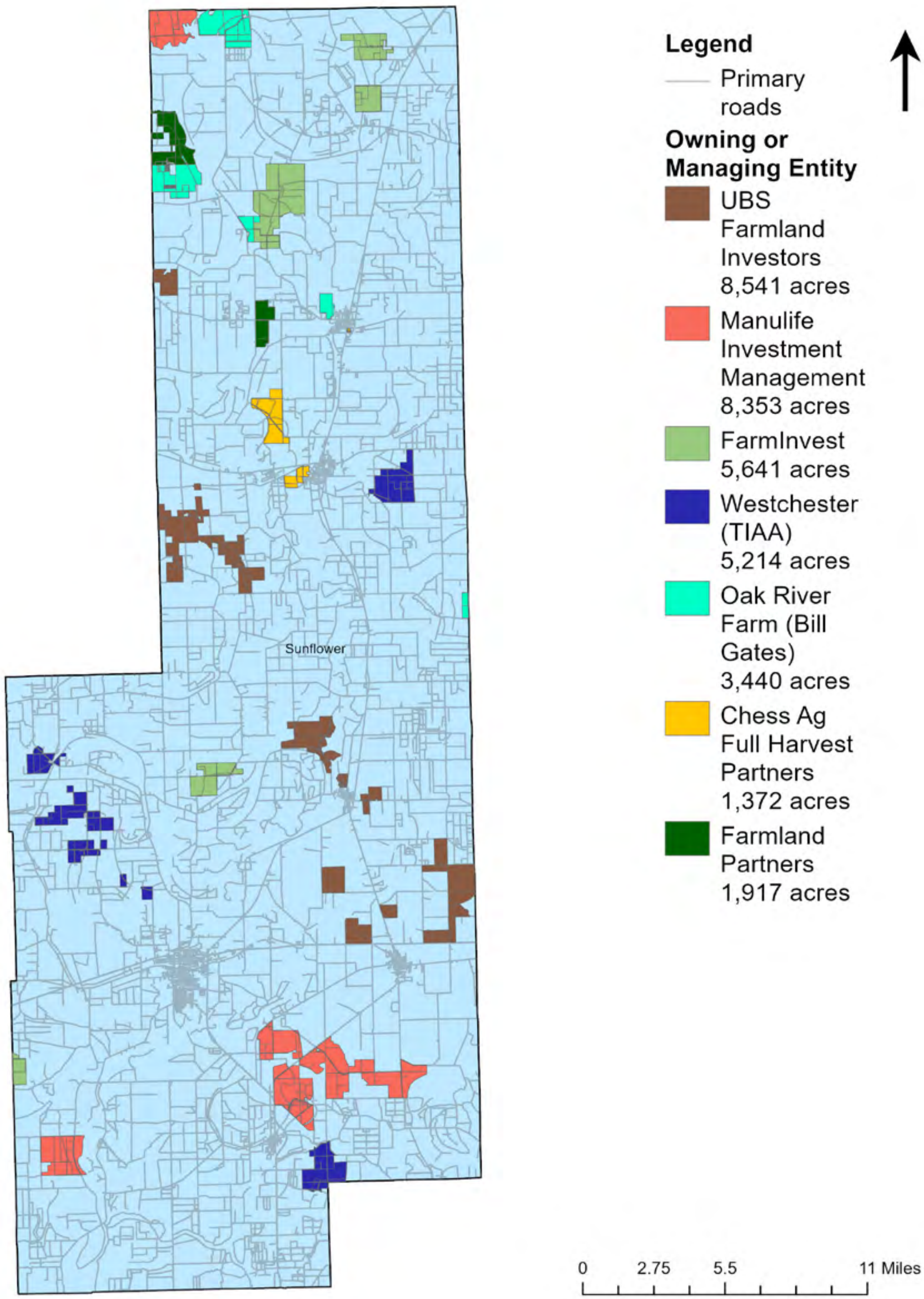
Source: Image by authors based on property data from Regrid (last updated 2/1/2022).

Figure 6: Some of the Suspected Investment Properties in Coahoma County, MS



Source: Image by authors based on property data from Regrid (last updated 2/1/2022).

Figure 6: Some of the Suspected Investment Properties in Sunflower County, MS



Source: Image by authors based on property data from Regrid (last updated 2/1/2022).

Black Landownership Under Threat

Sharing farming advice in Forrest County, MS (September 2021)

This growing investor interest in the Mississippi Delta poses a potential threat to Black farmers. The Southeastern US boasts the highest proportion of Black farmers in the US, but their land tenure is precarious. Over the course of the twentieth century, landownership among Black farmers declined at a much faster rate than that of white farmers. The amount of farmland in the hands of Black landowners declined from 16–19 million acres in 1910 to only 1.5 million acres in 1997.[20] Between 1910 and 1997, Black farmers lost roughly 90% of the farmland they owned. While white farmers also experienced significant farm loss during this period, foreclosured-on farms owned by white farmers generally have been consolidated into other farms owned by white farmers. This has meant that while over the past century there has been a significant decline in the number of family farmers regardless of race, total farmland owned by white farmers only decreased by 2% between 1910 and 1997 (Figure 8).[21] Today 97% of farmland is owned by white people.[22]

Black land loss is systemic, underpinned by structural causes. One of these causes is the lack of legal protections for the collective landownership form known as heirs' property. Heirs' property arises when a landowner dies without a probated will, with the result that their heirs become tenants-in-common with undivided shares of the property as a whole.[23] Since the Civil War,

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[20] Jess Gilbert, Spencer Wood, and Gwen Sharp, "Who Owns the Land? Agricultural Land Ownership by Race/Ethnicity," *Rural America*, Winter 2002, https://www.ers.usda.gov/webdocs/publications/46984/19353_ra174h_1_.pdf.

[21] Nathan Rosenberg and Bryce Stucki, "How USDA Distorted Data to Conceal Decades of Discrimination against Black Farmers," *The Counter*, June 26, 2019, https://thecounter.org/usda-black-farmers-discrimination-tom-vilsack-reparations-civil-rights/.

[22] Megan Horst and Amy Marion, "Racial, Ethnic and Gender Inequities in Farmland Ownership and Farming in the US," *Agriculture and Human Values* 36, no. 1 (2019): 1–16.

[23] Conner Bailey et al., "Heirs' Property and Persistent Poverty among African Americans in the Southeastern United States," in *Heirs' Property and Land Fractionation: Fostering Stable Ownership to Prevent Land Loss and Abandonment*, ed. Cassandra Gaither et al. (Asheville, NC: USDA, 2019), 9–19, https://www.srs.fs.usda.gov/pubs/gtr/gtr_srs244.pdf.

many generations of Black landowners have passed without wills, for reasons that range from lack of access to legal services to distrust in the legal system to differing cultural norms around property.[24] Today, it is estimated that roughly a third of Black-owned land in the South is heirs' property.[25] While heirs' property can be a source of deep family identity and connection to place, its lack of legal recognition and protection is also a source of vulnerability. Heirs' property is accorded little if any value as collateral and so cannot be used to establish businesses, fund a university education, or make seasonal investments in farm operations. In the absence of legal protections, its fractured ownership structure also leaves heirs vulnerable to predatory real estate companies and speculators, which are often able to acquire heirs' property through court ordered partition sales or tax foreclosure sales.[26] Though eighteen states have enacted

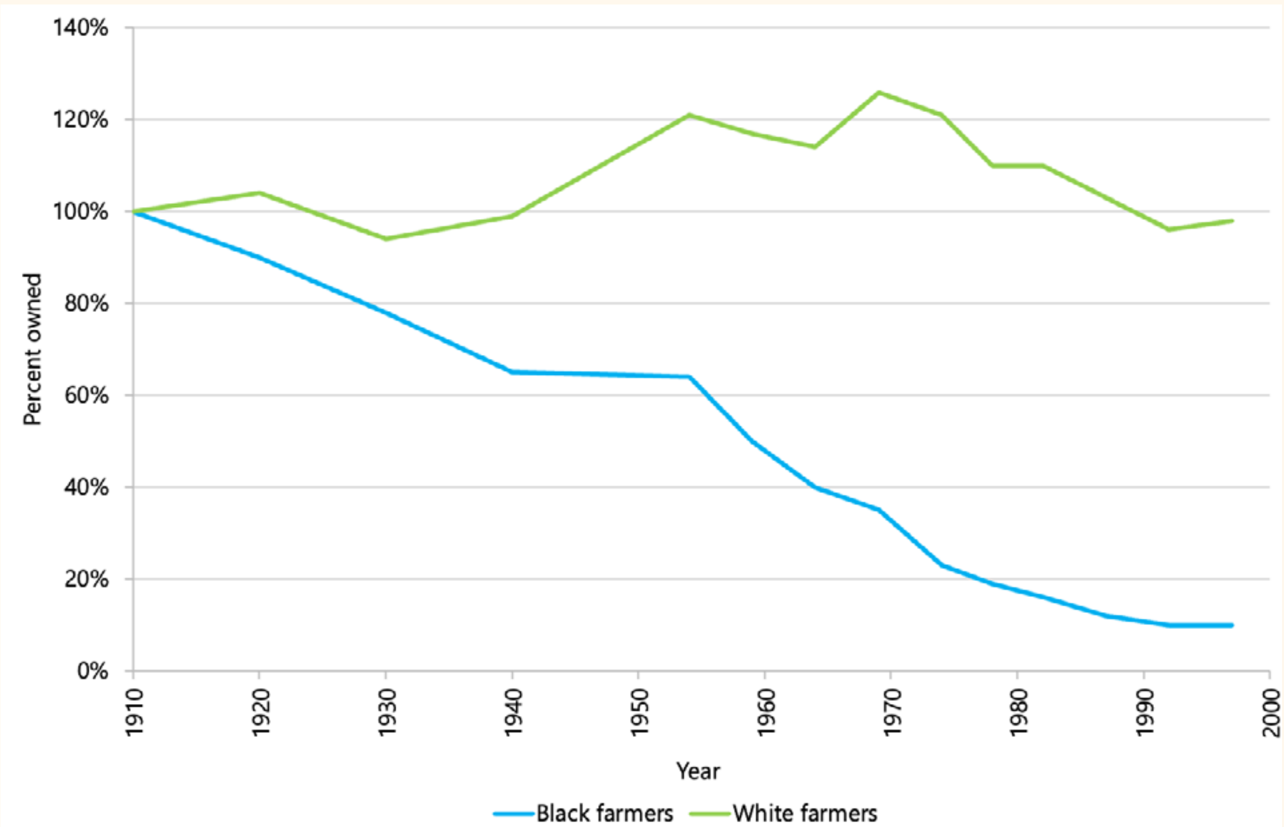

Figure 8: Approximate ownership of farmland relative to 1910, by race.
Source: Image by authors based on data from Rosenberg and Stucki, "USDA Distorted Data."

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[24] Janice F Dyer and Conner Bailey, "A Place to Call Home: Cultural Understandings of Heir Property among Rural African Americans," *Rural Sociology* 73, no. 3 (2008): 317–38.

[25] Michelle Chen, "Black Lands Matter: The Movement to Transform Heirs' Property Laws," *The Nation*, September 25, 2019, https://www.thenation.com/article/archive/heirs-property-reform/.

[26] Bailey et al., "Heirs' Property and Persistent Poverty"; Jess Gilbert, Gwen Sharp, and M Sindy Felin, "The Loss and Persistence of Black-Owned Farms and Farmland: A Review of the Research Literature and Its Implications," *Southern Rural Sociology* 18, no. 2 (January 1, 2002): 1–30.

the Uniform Partition of Heirs' Property Act (UPHPA), which aims to reduce exploitative partition sales, heirs' property remains a significant cause of dispossession among Black communities in the South.


Turning compost in Quitman County, MS (September 2022)

Many Black Mississippi farmland owners – particularly those with heirs' property – face intense pressure to sell their land. In interviews, Black farmers and farmland owners across the Southeast described being bombarded with fliers and phone calls encouraging them to sell their property to investors, developers, or just other community members. "It's frustrating," one Tunica County, Mississippi farmer explained, before going on to describe a familiar playbook from these phone calls: "They're going to ask you if you're interested in converting some of your resources to cash, and then they go into the thing of the possibility, the lucrative market now [...] so many buyers out [there], and it'll make you think that this opportunity could pass you by." An heirs' property owner living out of state said that after her parents died "my phone was ringing off the hook [...] to the point where I had to threaten harassment suits." Mailers frequently target heirs' property owners who may be out of touch with the land with promises of quick cash in exchange for their land. One letter sent to an heirs' property owner by a Utah-based investment company, reads:

> "If you've tried selling your property, then you know how slow and frustrating the process can be. We make it as easy as possible. We have helped provide solutions for almost any land situation you can think of... probated, forgotten, unwanted, unneeded, divorced, and 'dream has changed' land. [...] We have been buying and selling real estate since 2013 and our team has successfully helped over 700 clients with selling their land for CASH!"

Another letter, sent to an heirs' property owner by an Idaho-based investor, reads:

> If [...] you'd rather have quick and easy cash instead of land, then please consider the rest of my letter. What is it for you? Paying off a car? Less debt? That RV you promised yourself? A little extra padding in the nest egg? College tuition? A second honeymoon? Cash for medical bills? Whatever it is that you'd rather have instead of land, I'm here to make it as easy as possible to get you cash for that unwanted land.

Here the possible financial hardships faced by landowners are named explicitly to encourage them to give up a valuable, ever-appreciating asset (land) in exchange for "quick and easy cash." While major financial institutions are unlikely to target heirs' property owners in this way, their investments — and the social impact of those investments — can only be understood against this backdrop of land tenure insecurity.

> ***Black farmers have faced persistent land loss due to systemic discrimination. Their land tenure insecurity will likely only be exacerbated as deep-pocketed financial institutions increasingly hunt for investment properties in the Delta.***

Another well-documented cause of Black farmland loss is the discriminatory lending practices of the USDA. For decades, local USDA offices across the Southeast systematically discriminated against Black farmers, granting them smaller loans than were granted to white farmers, delaying their loans until they were no longer useful, or denying loan applications outright.[27] Black farmers brought a lawsuit against the USDA, *Pigford v. Glickman*, which in 1999 resulted in the largest class-action discrimination settlement against a federal agency to date. However, many Black farmers feel that the USDA has yet to fully redress this injustice or ensure equity in its current programs.[28]

Many Black farmers continue to be affected by the discriminatory lending practices faced by previous generations. One farmer from Quitman County, Mississippi, for instance, explained that his father died indebted as a result of local USDA agents consistently delaying his loan payments:

> He would borrow money from the USDA, and they always would make it very difficult for him to borrow the money. He would always get it, but most of the time when he got it, it was after the time that he really needed it. [...] It was a systematic thing, to try to weed out Black farmers. They intentionally did that. There was no way, because other similarly situated White farmers, they didn't get that. They always got their funding in plenty of time. They almost set it up for you to fail.

Others have struggled against discriminatory government lending within their own lifetimes. A farmer from Panola County, Mississippi, for instance, described his experience with the USDA this way:

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[27] Pete Daniel, *Dispossession: Discrimination Against African American Farmers in the Age of Civil Rights* (Chapel Hill, NC: University of North Carolina Press, 2013); Katrina Quisumbing King et al., "Black Agrarianism: The Significance of African American Landownership in the Rural South," *Rural Sociology* 83, no. 3 (2018): 677–99.

[28] Rosenberg and Stucki, "USDA Distorted Data."

> I started out trying to get a loan through USDA, had the property, everything required. I found out over the years, they would give me an application [and] as fast as I'd done it, they throwed it in the garbage can. There was never no record of me doing my application.

These discriminatory lending practices—which many farmers describe as on-going—compound the economic vulnerability identified and exploited by some land investors.

The uneven legal and financial playing field faced by Black farmers makes it difficult for them to compete for land, particularly as deep-pocketed financial institutions increasingly enter the market. A county-level official in one Mississippi Delta county connected growing investment activity in the region to rising land values:

> A good bit of the Mississippi land in this area that sold recently has been bought by investment firms. Most of them are out of state. One of the larger ones that we see is from Colorado, and they're buying land and they're paying money that the local farmers can never even think about paying. Land has gone from being $2,000 an acre to right now, it's bringing $5,000 an acre, just in the past few years. [...] The local farmer, the family farmer, is just being priced out. [...] But these investment firms are purchasing it. And then the rent is going way up right now.

A farmer walks in his corn field in Panola County, MS (July 2022)

This trend is not isolated to one county. A farmer from Coahoma County, Mississippi explained that many young people in the Delta would love to farm but are priced out by high land values. "Farmland in the Mississippi Delta got higher enough till it outreaches the hands of your normal farmer. No farmer can't pay $5,000 an acre for land."

The financial institutions now hunting for land in the Delta didn't create the land access challenges experienced by Black farmers, but they are almost certainly making them worse.

Policies to Strengthen Black Landownership Against Growing Investment Pressures

Despite the potentially major impacts that this trend could have on the structure of US agriculture, it has received very little attention from regulators. When the first fund for investing pension capital in US farmland was proposed in 1977, it was met with a political outcry. A subcommittee of the House of Representatives Committee on Agriculture held three days of hearings, in which Republicans and Democrats alike expressed concern that allowing financial institutions to buy farmland would drive up land costs at the expense of family farmers.[29] Yet today, when TIAA explicitly positions itself as "facilitating the separation of farming operations from its capital base,"[30] there has been virtually no national-level policy response. It is tacitly accepted that farmers will increasingly bear all of the risk and expense of farming operations,

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[29] Fairbairn, *Fields of Gold.*

[30] Nuveen, "Institutional Farmland Ownership: Facilitating the Separation of Farming Operations from Its Capital Base," 2019, https://documents.nuveen.com/documents/institutional/default.aspx?uniqueid=fd737fa7-b53b-4c47-bb73-04c268a8f399&subid=6%7c7.

Photo: A farmer uses his tractor to plant seeds in Forrest County, MS (September 2021) while institutional investors own the greatest source of security and wealth in agriculture: the land itself.

One possible regulatory approach comes in the form of state-level “corporate farming laws,” which aim to protect the economic viability of family farms by limiting the ability of non-family corporations to own farmland or engage in certain farming activities. Such laws have been enacted in nine Midwestern U.S. states since the 1930s, either as statutes or as constitutional provisions.[31] Family corporations are generally exempt from the laws, provided that they meet key requirements, such as having below a certain number of non-family shareholders or having at least one shareholder who lives and works on the farm.[32] By privileging landownership by family farms, these laws aim to bolster the economic and social viability of rural communities, reduce barriers to entry for new farmers, and encourage environmentally responsible farming practices by embedding ownership in local social ties.[33] Though not targeted at financial corporations in particular, several of these laws name pensions, trusts, and other financial entities explicitly among the corporations whose farmland ownership is restricted.[34] Research suggests that such laws have been at least somewhat effective in reducing landownership by non-family corporations and absentee landowners and that their presence correlates with the economic health of rural communities.[35] However, corporate farming laws also vary greatly in their stringency and many have been relaxed or repealed over time. In particular, recent legal challenges have sought—sometimes successfully—to dismantle them on grounds that they violate the “dormant

There are no federal-level restrictions on corporate-owned farmland, but several states have laws that explicitly aim to protect land ownership by family farms.

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[31] These states are: Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Wisconsin. National Agricultural Law Center, “Corporate Farming Laws Overview,” accessed September 16, 2022, https://nationalaglawcenter.org/overview/corporatefarminglaws/. National Agricultural Law Center.

[32] Rick Welsh, “The Importance of Ownership Arrangements in US Agriculture,” *Rural Sociology* 63, no. 2 (1998): 199–213.

[33] Anthony B Schutz, “Corporate-Farming Measures in a Post-Jones World,” *Drake Journal of Agricultural Law* 14 (2009): 97–147.

[34] J Peter DeBraal and Kenneth Krause, “Corporate, Foreign and Financial Investors in U.S. Agriculture,” *South Dakota Law Review* 29 (1983): 378–427.See, for instance, Minnesota Statute § 550.24.

[35] Welsh, Carpentier, and Hubbell, “On the Effectiveness of State Anti-Corporate Farming Laws in the United States,” Food Policy 26, no. 5 (2001): 543-548; Annette Aurélie Desmarais et al., “Investor Ownership or Social Investment? Changing Farmland Ownership in Saskatchewan, Canada,” *Agriculture and Human Values* 34, no. 1 (2017): 149–66; Thomas A Lyson and Rick Welsh, “Agricultural Industrialization, Anticorporate Farming Laws, and Rural Community Welfare,” *Environment and Planning A: Economy and Space* 37, no. 8 (2005): 1479–91.

commerce clause" of the US constitution by discriminating against out-of-state corporations.[36] Such legal challenges could be avoided, however, through key modifications to these state-level laws,[37] or through the enactment of federal-level limits on corporate landownership.

Another relevant set of laws are those limiting foreign ownership of farmland. Many of the same US states with corporate farming laws also have "alien land laws" on the books, which restrict farmland ownership by some or all non-US citizens and corporate entities, impose reporting requirements, or both.[38] At the federal level, the 1978 Agricultural Foreign Investment Disclosure Act (AFIDA) also requires that all non-US farmland holdings must be reported to the Secretary of Agriculture, and the Secretary must provide regular reports on the extent of these holdings to the President, Congress, and the states.[39] Interest in this type of law has recently re-emerged, with bills to restrict foreign farmland ownership being proposed at the federal level, as well as in states such as Missouri and California.[40] Depending on how they are written, such laws may indirectly curtail farmland acquisitions by financial institutions, since even US-based investment funds will generally have some international investors.[41] However, such laws are deeply imperfect, both because complex corporate structures can lead to enforcement difficulties,[42] and because of their potential to stoke racist and xenophobic sentiment.

Overall, the purchase of farmland by financial institutions is very minimally and spottily regulated. As long as this lack of regulation persists, the nation's richest and most productive farmland will continue to pass into the portfolios of multi-billion dollar financial institutions and further out of reach of family farmers, beginning farmers, and farmers of color.

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[36] Schutz, "Corporate-Farming Measures in a Post-Jones World"; Anthony Schutz, "Nebraska's Corporate-Farming Law and Discriminatory Effects under the Dormant Commerce Clause," *Nebraska Law Review* 88 (2009): 50; Chris Erchull, "The Dormant Commerce Clause-A Constitutional Barrier to Sustainable Agriculture and the Local Food Movement," *Western New England Law Review* 36 (2014): 371.

[37] Schutz, "Corporate-Farming Measures in a Post-Jones World."

[38] Grant Wilson, "Reforming Alien Agricultural Landownership Restrictions in Corporate Farming Law States: A Constitutional and Policy View from Iowa," *Drake Journal of Agricultural Law* 17 (2012): 709–53.

[39] USDA Farm Service Agency, "Agricultural Foreign Investment Disclosure Act (AFIDA)," 2020, https://fsa.usda.gov/programs-and-services/economic-and-policy-analysis/afida/index.

[40] Congressional Research Service, "Foreign Farmland Ownership in the United States," November 18, 2021, https://crsreports.congress.gov/product/pdf/IF/IF11977#:~:text=Current%20law%20imposes%20no%20restrictions,ownership%20of%20U.S.%20agricultural%20land.

[41] Chris Janiec, "Foreign Ownership Ban Reaches California Governor's Desk," *Agri Investor*, August 31, 2022, https://www.agriinvestor.com/foreign-ownership-ban-reaches-california-governors-desk/.

[42] Jamie Grey et al., "Secret Acres: Foreign-Owned Agricultural Land Inaccurately Tracked by Government," Midwest Center for Investigative Reporting, January 26, 2022, https://investigatemidwest.org/2022/01/26/secret-acres-foreign-owned-agricultural-land-inaccurately-tracked-by-government/; Madeleine Fairbairn, "Foreignization, Financialization and Land Grab Regulation: Foreignization, Financialization and Land Grab Regulation," *Journal of Agrarian Change* 15, no. 4 (2015): 581–91.

1 Public policy needs to restrict speculative and extractive investment schemes in the United States. This effort should start by strengthening oversight of corporate ownership of farmland and increasing data and research into the financialization of farmland:

» Strengthen and expand laws limiting corporate ownership of farmland.
» Fund the USDA Tenure, Ownership, and Transition of Agricultural Land (TOTAL) survey, conducted every four years, and hold public hearings on its findings related to the socio-economic and ecological impacts of land tenure changes in the U.S.
» Require that the USDA have the oversight and regulatory responsibility for tracking the scale and scope of foreign investment in US farmland, including US companies buying land with capital sourced from abroad, and making this information readily available to the public.

2 Public policy needs to increase and protect access to land for farmers:

» Increase assistance to heirs' property owners including scaling up the Heirs' Property Relending Program with permanent baseline funding.
» Provide public resources to support the formation of land trusts, agrarian commons, and other community-based land tenure arrangements; ensure farmers involved in these land tenure arrangements have equal access to all USDA programs.
» Create a public land access grant program in the USDA to support aspiring historically underserved farmers and ranchers.
» Expand funding for, and effectively implement, the Indian Tribal Land Acquisition Loan Program and the Highly Fractionated Indian Land Loan Program.

3 Public policy needs to support family farmers—especially young and beginner, historically underserved, and small and mid-scale—to invest in local food systems and succeed economically:

» Scale up the Local Agriculture Marketing Program (LAMP).
» Scale up the Farming Opportunities Training and Outreach (FOTO) Grant program.
» Increase loan flexibility, set asides, and targeted outreach for access to agricultural credit programs for young and beginner, historically underserved, and small and mid-scale farmers and ranchers; guarantee that heirs' property farmers have equal access to all agricultural credit programs.
» Support fair prices for farmers that reflect Parity Pricing to ensure that farmers and workers are paid the equivalent of living wages

Acknowledgements

The authors would like to thank Dañia Davy, Cornelius Blanding, Ben Burkett, Darnella Burkett Winston, Joan Richardson, Ashton Norwood, Joe Barnes, Maya Crooks, Tremelle Sherman, and Pamela Madzima for their facilitation of this research, as well as the Federation of Southern Cooperatives and the Mississippi Association of Cooperatives more generally for their inspiring work to help Black farmers and farmland owners.

We would also like to thank Marielena Benavides for invaluable research assistance, the UCSC Institute for Social Transformation for funding this research, and Samantha Cave of the National Family Farm Coalition for designing this brief.

Above all, we are grateful to the Mississippi farmers and landowners who shared their experiences with us.

All photos within this brief are by Elsa Calderon and are used with the permission of the people pictured.

NFFC NATIONAL FAMILY FARM COALITION

Since 1986, National Family Farm Coalition has been mobilizing family farmers and ranchers to achieve fair prices, vibrant communities, and healthy foods free of corporate domination. Today, NFFC's 31 member groups span 44 states and represent family farmers, ranchers, fisherfolk, and rural advocates across the United States.

FEDERATION OF SOUTHERN COOPERATIVES LAND ASSISTANCE FUND

The Federation of Southern Cooperatives/Land Assistance Fund is a regional cooperative and rural economic development organization founded in 1967, serving a membership of Black farmers, landowners, cooperatives, and other low-income rural people in the South with coop development, land retention, and advocacy.

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