

Isle of Wight repays IP \$8.3 million

By Stephen Faleski
Staff Writer

Isle of Wight County has refunded International Paper \$8.3 million in machinery and tools taxes, plus interest.

A judge had ordered the county to repay IP \$5.4 million in 2021 after ruling that the locality's efforts to recoup a previous court-ordered M&T refund to the company were unconstitutional.

In February 2017, an Isle of Wight County Circuit Court judge ordered the county to repay IP \$2.4 million in M&T taxes it had collected from the company, after ruling in IP's favor when the company argued the county, over the past several fiscal years, had not been taking into account the depreciating value of IP's Franklin mill.

About three months after the 2017 ruling, Isle of Wight supervisors voted to hike the county's M&T rate 142% for a single year, raising it from \$1.75 per \$100 of assessed value to \$4.24 per \$100.

Then, in the summer of 2017, the supervisors voted to set aside funds for what the county termed an "economic development retention grant" program, providing IP with the exact

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International Paper's Franklin mill operates on the Isle of Wight County side of the Blackwater River, bordering the city of Franklin. (File photo)



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amount needed to ensure the company owed the entirety of the \$2.4 million refund, plus what it would have owed for the 2017-18 fiscal year had the county's M&T rate remained flat.

IP then sued Isle of Wight again, arguing the county had effectively defied the 2017 court-ordered refund by raising its M&T rate to compel the company to repay the refunded money. In October 2018, Isle of Wight's Circuit Court Judge Carl Eason, this time, sided with the county, but IP appealed the ruling to the Supreme Court of Virginia in 2019.

The Supreme Court ruled unanimously in 2020 that IP be given a new Circuit Court trial. The new Circuit Court trial, held June 24, 2021, this time sided with IP.

According to Assistant County Administrator Don Robertson, the county lost its final appeal of the 2021 Circuit Court verdict on Dec. 29, 2022. During the roughly 18 months of appeals by the county, interest on the \$5.4 million owed rose by nearly another \$3 million.

According to County Administrator Randy Keaton, the county paid the now \$8.3 million owed earlier this year by pulling money from its "unassigned fund balance," which refers to money

in the county's bank account that hasn't been allocated for a specific purpose in the 2022-23 budget.

A county policy requires Isle of Wight to maintain an unassigned fund balance of at least 15% of what's been budgeted for the current fiscal year. According to Keaton, the payment dropped Isle of Wight's unassigned balance from \$29.5 million to \$21.2 million, but the remainder still amounts to 23.5% of the nearly \$89 million the county budgeted for 2022-23.

On Jan. 19, the supervisors voted to move the \$8.3 million from the county's unassigned fund balance to the "judgment liability" line item in its 2022-23 budget to account for the payment to IP. The amendment, being more than a 1% change to the county's budget, required a public hearing ahead of the vote, though no one spoke at it.

The repayment to IP will also impact the neighboring city of Franklin's budget for several years to come. Franklin participates with Isle of Wight in a revenue-sharing agreement pertaining to IP and other businesses along the Carrsville Highway corridor. As of 2017, when the contested M&T taxes were due, the agreement called for Franklin to receive a 17.8%

share of what Isle of Wight collected from IP.

As a result of the agreement, Franklin will owe Isle of Wight roughly \$976,000, even though it was Isle of Wight – not Franklin – that chose to appeal the court order at the risk of accruing additional interest.

Supervisor Dick Grice, at the Jan. 19 meeting, said at the time, he'd thought the county had made a "good judgment" by continuing its efforts to appeal the court-ordered payment.

"We thought we were going to win," Grice said.

The county is proposing that Franklin repay the sum over the next four fiscal years, beginning in fiscal year 2023-24, by subtracting the payments from what the county would otherwise owe Franklin via the revenue-sharing agreement, Robertson said. The supervisors discussed but took no official vote on Jan. 19 as to how Franklin would repay the amount.

Franklin City Manager Amanda Jarratt declined to comment on the matter, stating only that "Isle of Wight County and the City of Franklin continue to maintain collaboration and partnership on a wide variety of issues" and "strongly value our long-term relationship."



Smithfield Foods, though now owned by Hong Kong-based WH Group, maintains its corporate headquarters in Smithfield. (File photo)

Smithfield Foods unaffected by ‘foreign adversaries’ law, company, state say

By Stephen Faleski
Staff Writer

A new state law barring “foreign adversaries” from owning Virginia farmland should have no impact on the community’s Chinese-owned anchor employer,

Smithfield Foods, according to a company spokesman and the governor’s office.

Gov. Glenn Youngkin signed legislation on March 27 that declares “void” any purchase of farmland by a “foreign government or nongovernment person”

the U.S. Secretary of Commerce has determined to have “engaged in a long-term pattern or serious instance of conduct significantly adverse” to national security. The secretary’s list, as of March

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30, named five nations, including China and its Hong Kong Special Administrative Region.

The new state law allows Virginia's attorney general or any county, city or town attorney in a locality where a foreign land purchase has occurred to "file an action" to "eject the foreign adversary from possession," at which point the land would be deeded to the state at no cost.

Hong Kong-based WH Group purchased Smithfield Foods in 2013, though the global meatpacking giant remains headquartered in Smithfield, where it was founded in 1936.

According to Smithfield's vice president of corporate affairs, Jim Monroe, the company currently owns just over 3,900 acres of farmland in Virginia.

"We are not impacted because we are not owned or controlled by a foreign government," Monroe said.

Youngkin spokeswoman Macaulay Porter agreed that Smithfield Foods is "not impacted by the legislation" and is "not a foreign adversary, as defined by the bill."

WH Group, Monroe explained, is "a publicly traded company with investors from around the world, including the United States."

Simon Stevenson, the Robert Stanton endowed chair of real estate and economic development at Old Dominion University, also agrees that Smithfield should "probably be OK," though he acknowledged the possibility that "this may be something that could end up in the courts given the corporate governance issues."

"The problem with any kind of legislation is how do you make a distinction between farmland and other forms of real estate? ... Foreign investors are such major investors in real estate, both as sole owners and as investors in funds, any legislation is going to have to be phrased very carefully so as to avoid legal challenges," Stevenson said.

Just over a month after Smithfield Foods announced its merger with WH Group, then known

as Shuanghui International Holdings Ltd., the U.S. Senate Committee on Agriculture, Nutrition and Forestry held a July 10, 2013, hearing for the stated purpose of examining foreign purchases of American food companies. Daniel Slane, a former member of the U.S.-China Economic and Security Review Commission, testified at the hearing that Shuanghui was a "Chinese state-controlled company."

"For China, the question of state ownership or control can be particularly complicated because the government's role is not always straightforward or disclosed," states a written record of Slane's testimony. "Despite economic reforms and moves toward privatization, much of the Chinese economy remains under the ownership or control of various parts of the Chinese government."

The Chinese Communist Party, Slane's written testimony states, can in some cases "exert control by deciding the composition of corporate boards and the corporation's management team. China's state-owned banks may use below-market rate loans or loan forgiveness as a tool to dictate the management of corporations. The government favors certain sectors of the economy such as high technology manufacturers, with extensive subsidies, including tax abatements. ... Chinese companies seeking to invest abroad must first receive government approval. In these and other ways, the government directs the activities of companies that may be listed as private on the three Chinese stock exchanges but are in fact government owned or controlled."

Former Smithfield Foods President and CEO Larry Pope, who also spoke at the 2013 hearing, testified that the company would be "the same old Smithfield, only better" and asserted the Chinese government had "absolutely no ownership stake or management control in Shuanghui."

Monroe, reacting to Slane's now nearly decade-old allegations, reaffirmed the company's

position that Smithfield is not owned or controlled by the Chinese government but rather by a U.S.-based management team headquartered here in town.

Since WH Group's purchase, Smithfield Foods has grown in revenue from \$13 billion in 2013 to \$19 billion in 2022, and in total employees from 37,000 to roughly 40,000, Monroe said.

Smithfield Foods employs about 3,000 people locally between its headquarters and the meatpacking plant in town.

Virginia's "foreign adversaries" farmland law was passed as two identical bipartisan bills, one in the House of Delegates and one in the State Senate.

Senate Bill 1438 passed the Senate 23-16 with support from 19 Republicans and four Democrats. House Bill 2325 passed the House 67-29 with the support from 51 Republicans and 16 Democrats.

During "crossover" in February, when each chamber gets to vote on the other's approved bills, SB 1438 passed the House 67-30 with support from 50 Republicans and 17 Democrats. A Senate substitute for HB 2325 passed the Senate 23-16 with support from 19 Republicans and four Democrats.

A provision of the new law requires the state to compile an annual report containing the total amount of agricultural land under foreign ownership. The state is to release its first report by July 1.

Del. Robert Bloxom, R-Accomack, who'd sponsored the House version, told The Smithfield Times the legislation "shouldn't restrict business with adversarial ties" but "does prevent the adversarial governments from directly buying land."

A wave of anti-China bills

"Where it gets interesting is that the U.S. has largely lagged behind a lot of other countries in farmland being owned by investors, so these kinds of issues haven't really arisen

before, at least to the same extent," Stevenson said.

Stevenson, who is originally from the United Kingdom, explained institutional investors like pension funds started investing in U.K. farmland, especially large arable farms, back in the 1970s.

The new Virginia law, Stevenson said, is part of a wave of similar legislation in Texas and other states aimed at curtailing Chinese influence. Forbes Magazine reported in 2021 that Texas Gov. Greg Abbott had signed the Lone Star Infrastructure Protection Act, which aims to prevent "hostile nations" from accessing Texas's electrical grid. The bill, according to Forbes, was a direct response to a Chinese billionaire's plans to build a wind farm near Laughlin Air Force Base.

Youngkin's signing of Virginia's "foreign adversaries" farmland law followed the state Senate's defeat a month earlier of a bill by Del. Emily Brewer, R-Isle of Wight, that would have prohibited state agencies from entering into contracts for goods or services with any "scrutinized company." The bill defined the term to mean any company "owned or operated by a foreign adversary," and had further proposed expanding Youngkin's 2022 executive order banning TikTok and WeChat apps from government-issued cellphones, by also applying the prohibition to any "person or entity contracting with" a Virginia executive branch agency.

Youngkin, in his December order, called TikTok and WeChat "a channel to the Chinese Communist Party." He used a similar justification when his administration pushed Virginia to withdraw from consideration as the site of a new Ford car battery factory last year.

According to Associated Press reporting, Youngkin called the proposed joint venture between Ford and a Chinese company a "front" for the Chinese Communist Party. Ford has since announced plans to build the \$3.5 billion factory in Michigan instead.

Smithfield Foods disputes state data

By **Stephen Faleski**
Staff writer

A Smithfield Foods subsidiary accounts for the majority of Chinese-owned farmland in Virginia, according to a report by the state's Department of Agriculture and Consumer Services. The world's largest pork processor disputes the numbers.

A new state law barring China and other designated "foreign adversaries" from owning Virginia farmland requires the department to release data on foreign-owned agricultural land annually on July 1. For 2021, the most recent year listed in the report, the document lists 13,389 acres, or 96% of the state's 13,890 acres of Chinese-held land, as being under the ownership of Smithfield hog-farming subsidiary Murphy Brown LLC.

Five-hundred-one acres spanning Loudoun, Charlotte and Stafford counties account for the remaining 4%, and the state's only

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Chinese-owned land not tied to Smithfield Foods. The report lists 91 of those acres as being in non-agricultural use.

Jim Monroe, vice president of corporate affairs for Smithfield Foods, contends the company and its subsidiaries own less than 4,000 acres statewide.

According to the report, Murphy Brown's acreage has been under Chinese ownership since 2013, the same year Hong Kong-based WH Group purchased Smithfield Foods for just under \$5 billion. Smithfield acquired Murphy Farms Inc. in 2000 and merged its hog-farming operations with Brown's of Carolina Inc. in 2001 to form Murphy Brown, according to past reporting by The Smithfield Times and Associated Press.

Of the reported 13,389 acres, 2,089 are listed as being in Isle of Wight County, where Smithfield Foods has been based since its 1936 founding. Murphy Brown is listed as owning 8,534 acres in Surry County and 479 acres in Southampton County, both of which border Isle of Wight to the west. The remaining 2,287 acres are divided between Sussex and Greensville counties.

Monroe contends Smithfield owns 1,042 acres in Isle of Wight – less than half the acreage listed in the state report. The company's Commerce Street headquarters in the town of Smithfield, its meatpacking plant on North Church Street and

other non-agricultural company-owned properties in or near the town account for roughly 365 acres, according to Isle of Wight County tax records.

In Surry, local tax records show – and Monroe confirmed – that the company owns seven parcels totaling 853 acres. The Surry parcels are owned by Smithfield-Carroll's Farms, another subsidiary.

According to Michael Wallace, a Virginia Department of Agriculture and Consumer Services spokesman, the data in the July 1 report came from a U.S. Department of Agriculture report on foreign-held land nationwide.

The USDA's Farm Service Agency, Wallace said, disseminates its own annual report as required under the federal Agriculture and Foreign Investment Disclosure Act.

The act requires any foreigner who purchases or transfers interest in agricultural land to report the transaction to the U.S. Secretary of Agriculture within 90 days.

China, according to the Virginia report, accounts for 5.4% of the state's 254,494 acres of foreign-held agricultural land. Canada holds the most, at 41,357 acres, or 16%, followed by the United Kingdom at 39,289 acres, or 15%.

The percentages roughly mirror the largest foreign landowners nationwide.

According to the USDA's 2021 report, Canadian inves-

tors owned 12.8 million acres across the United States, or 31%, accounting for the single largest percentage of foreign-held agricultural and non-agricultural land. The Netherlands, Italy, the United Kingdom and Germany collectively held another 31%. China held 383,935 acres, accounting for just under 1%.

Gov. Glenn Youngkin signed the "foreign adversaries" legislation on March 27, declaring "void" any purchase on or after Jan. 1, 2023, of farmland by a "foreign government or nongovernment person" the U.S. Secretary of Commerce has determined to have "engaged in a long-term pattern or serious instance of conduct significantly adverse" to national security. The secretary's list, as of March 30, named five nations, including China and its Hong Kong Special Administrative Region.

The new state law allows Virginia's attorney general or any county, city or town attorney in a locality where a foreign land purchase has occurred to "file an action" to "eject the foreign adversary from possession," at which point the land would be deeded to the state at no cost.

But given that the two largest foreign landowners in Virginia are United States allies, "VDACS does not recommend any legislative, regulatory, or administrative policy changes in light of the information in this report," the Virginia report states.

Smithfield Foods is "not owned or controlled by a foreign government" and therefore won't be impacted by Virginia's new foreign adversaries law, Monroe contended in April. WH Group, he explained then, is publicly traded with investors from around the world, including the United States.

Just over a month after Smithfield announced its now decade-old merger with WH Group, then known as Shuanghui International Holdings Ltd., former U.S.-China Economic and Security Review Commissioner Daniel Slane testified at a July 10, 2013, U.S. Senate Committee hearing that Shuanghui was a "Chinese state-controlled company." Former Smithfield President and CEO Larry Pope, at the same hearing, testified that the company would be "the same old Smithfield, only better" and asserted the Chinese government had "absolutely no ownership stake or management control in Shuanghui."

Del. Robert Bloxom, R-Accomack, who sponsored the House of Delegates version of the foreign adversaries bill, and Simon Stevenson, the Robert Stanton endowed chair of real estate and economic development at Old Dominion University, each told the Times in April they concurred that Smithfield Foods would likely be unaffected, as did Youngkin spokeswoman Macaulay Porter.