United States Senate
WASHINGTON, DC 20510

January 24, 2024

The Honorable Gary Gensler
Chairman
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Dear Chair Gensler:

As the U.S. Securities and Exchange Commission (SEC) works to finalize the proposed "The Enhancement and Standardization of Climate-Related Disclosures for Investors" rule, also known as the Climate Disclosure Rule, we respectfully ask that you work to ensure that any final rule does not create new regulatory burdens for family farmers and ranchers. We are particularly concerned that, as written, the proposed rule's Scope 3 emissions reporting requirements could indirectly penalize small agriculture producers for doing business with publicly traded companies.

We appreciate your ongoing engagement with Congress and with our constituents who are engaged in production agriculture. In your testimony before the Senate Committee on Banking, Housing, and Urban Development in September 2022 and again in September 2023, you indicated that you and your staff are taking critical feedback seriously and working to ensure that this rule works for rural America, holds up well to scrutiny, and ensures large, publicly-traded companies are accountable for any environmental commitments to their shareholders. As you stated in these hearings, the SEC is not a climate regulator. The Commission has important work to ensure efficient and competitive markets and protect investors.

In any final rule, the SEC must balance holding public companies accountable to their claims or commitments to shareholders on climate issues while also ensuring that the rule isn't creating significant new compliance costs for American small businesses. For example, if a family farm in eastern Montana wants to sell barley to a large, publicly traded brewing company, the SEC has no business writing a rule that could require them to closely track the emissions related to their operations. Especially when it comes to Scope 3 requirements, the burden of collecting or estimating data should not outweigh the benefit to investors, and that burden cannot end up passed down to private entities in a public company's supply chain.

We are concerned about the potential impact of the proposed rule's Scope 3 requirements shifting costs and responsibilities between public companies and suppliers. This could hurt smaller operations forced to absorb the burden and cost of collecting additional information, lead to more public companies working with larger producers that can more readily supply this data, or even having public companies vertically integrate to control their own value chain and worsen consolidation in American agriculture. If a farmer or rancher can get higher premiums by choosing to sell to a public company that's looking to reward producers who go the extra mile on data collection or innovative practices that is a business decision of a private business. We

believe firmly that getting this wrong has the potential to hamper climate-smart innovation in the agricultural sector. Ultimately, these decisions should be up to farmers and ranchers and not the SEC. If it is not possible to develop Scope 3 in a way that does not burden small businesses in a public company's supply chain, including agricultural producers, it would be better to take it out of the final rule altogether.

American farmers and ranchers play a critical role in feeding the world, powering our economy, and addressing our changing climate. We all benefit when farmers and ranchers spend their time and resources towards growing food and caring for the land. The SEC must make sure that any final rule only impacts public companies, and does not indirectly regulate private companies. We appreciate your continued attention to these concerns, and stand ready to work with you to craft a better final rule.

Sincerely,

Jon Tester
United States Senator

Kyrsten Sinema
United States Senator

CC: The Honorable Hester M. Peirce, Commissioner, SEC
The Honorable Caroline A. Crenshaw, Commissioner, SEC
The Honorable Mark T. Uyeda, Commissioner, SEC
The Honorable Jaime Lizárraga, Commissioner, SEC