

**Kathleen Sgamma
President, Western Energy Alliance**

**Testimony Before the U.S. House Committee on Natural Resources,
Subcommittee on Oversight and Investigations**

***Monetizing Nature and Locking up Public Land:
The Implications of Biden's Strategy for Natural Capital Accounting
March 7, 2024***

Chairman Gosar, Ranking Member Stansbury, and Committee Members, thank you for the opportunity to testify. The Biden Administration has implemented various “whole-of-government approaches” to climate change, drug addiction, supply chain resilience, housing, diversity, equity, environmental justice, and any other number of societal problems. Countless announcements from the White House proclaim that all government agencies will be mobilized to tackle whatever problem is at hand. One of the outcomes of this whole-of-government approach is that more agencies are regulating in more areas and with more redundancy than ever before. We’ve seen agencies [beyond the traditional energy regulatory agencies](#), from the Securities and Exchange Commission (SEC) to the Department of Labor, engaged in an ill-fated attempt to overregulate and defund domestic oil and natural gas if not completely out of existence, to as small and controlled an entity as possible.

When everything is a priority for everybody, then nothing is. Layered on top of this all-encompassing government approach are multiple new initiatives conjured up through various executive orders. Besides spawning their own regulatory actions, these initiatives add more layers of bureaucratic process to both the public and private sectors. More analysis is required for every regulatory action or decision. [Climate change risk](#) must be assessed and each agency employee is asked to consider their impact on the climate. [Diversity, equity, and inclusion](#) must be factored into every decision. [Environmental justice communities](#) must be defined and [screened](#) and the regulatory impact determined. Each action must be assessed to ensure that [good jobs](#) are being created.

None of this is codified in U.S. law. When government agencies are focused on all these initiatives and requirements, when do they actually have time to do the work they are supposed to do? If they must spend considerable time and resources figuring out how to tie their work to climate change and DEI while identifying underserved communities, when do they actually have time to provide those services to the American people, including to those underserved communities?

The initiative on natural capital accounting is but another example of bureaucratic encrustation.¹ Twenty-seven federal agencies are now busily figuring out how to account for the natural resource and ecosystem services values they control or advise on. Like other initiatives that have no basis in U.S. law, the Biden Administration looks outside the country for justification. The environmental-economic statistics are to be based on the United Nations’ System of Environmental-Economic Accounting. As the federal government struggles to provide services at a reasonable cost to taxpayers and our national debt

¹ [National Strategy to Develop Statistics for Environmental-Economic Decisions: A U.S. System of Natural Capital Accounting Associated Environmental-Economic Statistics](#), Office of Science and Technology, Office of Management and Budget, Department of Commerce, January 2023.

March 7, 2024

Page 2 of 5

has swelled to nearly \$35 trillion because the government cannot keep to its means, it is now to apply a whole new accounting framework for often subjective ecosystem services valuations.

We're told that 80 other nations have adopted these U.N. standards and that we must "modernize" our accounting practices. But since when has the U.N. become a paragon of efficiency and the standard for stewardship of economic resources? The [fiasco](#) of the U.N. sending billions of dollars of aid money to fund Hamas terrorism is but the latest example of U.N. ineffectiveness and lack of accountability. U.N. technocrats not only do not set U.S. policy but helpfully provide a model for doing the opposite. And besides pronouncements by these 80 nations of adopting the standards, I rather suspect that their level of implementation is comparable to their compliance with Paris Treaty climate goals, which somehow are never achieved.

I am struck by the fact that most of the elements to be addressed by the National Strategy to Develop Statistics for Environmental-Economic Decisions are those that are already accounted for because they have true market value.² Those that do not are to be assigned subjective values that would be highly politicized. As quoted from the strategy:

- "Nature starts many supply chains. Critical minerals underlie many new technologies, water and pollinators help grow the fruits and vegetables eaten at the dinner table, and trees create much of the timber framing American houses." Markets already value minerals, food, and timber.
- "Nature motivates many modern innovations. Plants and wild animals inspire designs and provide critical models and raw materials for many drugs and cosmetics." The inspiration from nature is a common good that is of such intrinsic value that to attempt to value it would be imprecise at best. Yet those inspired designs are most definitely accounted for when an artist sells a sculpture, an architect creates the blueprints for a home nestled into its mountain setting, or a new drug or natural supplement is sold to consumers.
- "Nature undergirds many firms' successes, across many sectors. Natural landmarks drive much of the tourism industry, and wild fish provide food for grocery stores and restaurants to sell." The recreation and tourism services delivered near national parks are well evaluated by the market, and of course, food is accounted for whether sold at the grocery store or at a restaurant.
- "Nature protects property and other infrastructure. Reefs, dunes, and forests reduce the damage caused by storms, floods, and other extreme weather events." The insurance industry is very adept at setting premiums based on the risk a property faces in different ecosystems, where the forces of nature are accounted for by differences in premiums between a property in

² [National Strategy to Develop Statistics for Environmental-Economic Decisions: A U.S. System of Natural Capital Accounting Associated Environmental-Economic Statistics](#), Office of Science and Technology, Office of Management and Budget, Department of Commerce, January 2023.

March 7, 2024

Page 3 of 5

hurricane-prone Florida compared to mild-weathered southern California.

- “Nature provides recreational opportunities and community and cultural connections. Forests, beaches, and wildlife underpin recreational and cultural services that are important to Americans, and these services are often free of charge.” Those recreational opportunities are accounted for with every hotel room or camping ground space occupied, while those intrinsic values of nature are rightfully shared for free.
- “Nature promotes health. Green and blue spaces and clean air facilitate mental health, and reduce heat stress, saving money on health care, increasing productivity, and improving quality of life.” The Environmental Protection Agency (EPA) already conducts cost-benefit analyses of air and water quality regulations, although the politicization of those analyses, use of inflated factors, and the double- and triple-counting of environmental benefits indicate the problems of applying subjective factors to supposedly quantitative economic analyses. Attempting to ascertain and assign monetary values to the portion of mental and physical health benefits that derive from nature are imprecise and fraught with so much subjectivity as to be unreliable at best.

Each of those points from the Natural Capital Accounting strategy paper essentially buttress continuing to rely on the Gross Domestic Product (GDP) and standard accounting practices instead of a revised system. Further, in its guidance for assessing environmental and ecosystem services, the Office of Information and Regulatory Affairs (OIRA) encourages agencies to make subjective, qualitative assessments of value when quantitative data are lacking.³ If this is an exercise in subjective assessments where true market value is not applicable, then this is truly just another layer of bureaucracy. The point of accounting and cost-benefit analyses is to provide the hard economic data to decision makers, who then balance those data with their political values and policy goals, whether that’s social justice or energy dominance. The way governmental cost-benefit analyses have been skewed to support pre-determined policy outcomes offers a cautionary note about how baking subjective factors into economic accounting contorts the data.

Natural Asset Companies

Given the complexity and additional bureaucracy that this Natural Capital Accounting strategy would impose and the lack of statutory authority for it, I appreciate that this subcommittee is providing oversight. Such influential policy decisions should only be made with full democratic debate before statutory authority is granted. Likewise, I applaud the oversight the Natural Resources Committee provided for SEC’s ill-fated rule to list Natural Asset Companies (NAC) on the New York Stock Exchange. I especially wish to thank the State of Utah for its excellent work when SEC attempted to sneak in the rule in October. The cooperation between the states and Congress is a model for ensuring accountability over the Executive Branch. Utah led the charge revealing the dangers of monetizing ecological values on

³ [“Guidance for Assessing Changes in Environmental and Ecosystem Services in Benefit-Cost Analysis,”](#) OIRA, February 28, 2024.

March 7, 2024

Page 4 of 5

public, private, and tribal lands without any mandate from Congress or meaningful engagement with the public, thereby convincing the NYSE to stand down.

Perhaps SEC was unaware of the impact of the NAC rule on public and tribal lands and the interaction its proposed rule would have had with inconvenient federal lands statutes. The Bureau of Land Management's (BLM) organic statute, the Federal Land Policy and Management Act (FLPMA), mandates that the "principal or major uses" of public lands include "mineral exploration and production." See 43 U.S.C. § 1702(l). SEC's proposed rule envisioned companies controlling resource values on public lands rather than federal land managers. Perhaps privatization of federal lands would be a better way to monetize their resource values, but short of that, the NAC rule was an ill-conceived, roundabout method of doing so in conflict with current statute.

More likely however, given the Biden Administration's whole-of-government approach, the rule was a purposeful effort to circumvent existing law regarding multiple-use public lands. The NAC rule seemed to assume that the ten-year conservation leases proposed in BLM's conservation rule would be finalized and stand legal scrutiny such that NACs could then hold and monetize federal conservation leases. As BLM's proposed conservation leases are on shaky legal grounds, SEC's proposed NACs rule assigning ecological performance rights would have been just as susceptible.⁴ While SEC has withdrawn the rule, there are signs that the concept is far from dead as the administration moves forward with the Natural Capital Accounting strategy.

Another aspect of the interaction of the NAC rule and BLM's conservation rule is the circumvention of FLPMA's multiple-use mandate. Together or singly, these rules are intended to stop oil and natural gas leasing and development on the federal mineral estate. Yet with FLPMA, Congress directed that "the public lands be managed in a manner which recognizes the Nation's need for domestic sources of minerals, food, timber, and fiber from the public lands[.]" 43 U.S.C. § 1701a)(12). Courts have expressly recognized that one use that BLM must balance with others includes "the nation's immediate and long-term need for energy resources." *Theodore Roosevelt Conservation P'ship v. Salazar*, 744 F. Supp. 2d 151, 157 (D.D.C. 2010). Despite FLPMA's clear mandate and case law, the Biden Administration continues to look for ways to circumvent the multiple-use mandate on non-park, non-wilderness federal lands that are appropriate for energy development and other productive uses.

The ill-conceived NAC rule failed to consider how NACs would return a fair share of their proceeds from monetizing natural resource values on public lands with the American people. For years and continuing to this day, politicians and special-interest groups cry that the oil and natural gas industry does not pay its fair share, even though costs were increased substantially by the mis-named Inflation Reduction Act. My industry pays billions in royalties and leasing revenue back to the American taxpayer every year from public lands. The NAC rule would have allowed companies to profit from federal lands yet pay no royalties. The Biden Administration seems to be on a path to allowing companies to profit from public lands over time without paying their "fair share."

⁴ [Western Energy Alliance et al. comment letter to BLM on the Conservation and Landscape Health Rule](#), July 5, 2023; [Western Energy Alliance comment letter to SEC on the Natural Asset Companies Rule](#), January 17, 2024.

March 7, 2024

Page 5 of 5

As a practical matter, the values on federal lands that the Natural Capital Accounting system would track quantitatively involve productive natural resource activities like ranching and energy development. Yet the NAC and BLM conservation rules are intended to limit today's FLPMA-approved principle uses on federal lands and replace them with so-called sustainable uses. The preferred "sustainable" activities contemplated by these rules would generate much less value for local communities. It is far from clear how successful NACs would be in monetizing ecosystem services, especially in comparison to those FLPMA principle uses that provide resources Americans use every day and have intrinsic value in the marketplace.

Perhaps the qualitative nature of the NCA system is intentional. Were the BLM conservation rule to stand as proposed, revenue generated from federal lands would fall precipitously and there would not be much left to account for except those intrinsic, qualitative values that nature provides. As a nation, we have already set aside hundreds of millions of acres of public lands for preservation only in national parks, wilderness areas, wildlife refuges, other protective designations. The BLM conservation rule would ensure multiple-use lands appropriate for productive activities would be treated the same. The result would be to deprive local communities near public lands and the American taxpayer of the jobs, tax revenue, royalties, conservation funding,⁵ and economic impact deriving from those activities that provide true value in the marketplace.

⁵ Oil and natural gas onshore and offshore leasing revenue and royalties provide 94% of the conservation and public lands infrastructure funding under the Great American Outdoors Act. See [Conserving the Great American Outdoors](#), Western Energy Alliance, 2022.