



HOUSE COMMITTEE ON  
**NATURAL RESOURCES**  
CHAIRMAN BRUCE WESTERMAN

**To:** Subcommittee on Oversight and Investigations Republican Members  
**From:** Subcommittee on Oversight and Investigations Staff,  
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**Date:** Thursday, March 7, 2024  
**Subject:** Oversight Hearing on “*Monetizing Nature and Locking up Public Land: The Implications of Biden’s Strategy for Natural Capital Accounting*”

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The Subcommittee on Oversight and Investigations will hold an oversight hearing titled “*Monetizing Nature and Locking up Public Land: The Implications of Biden’s Strategy for Natural Capital Accounting*” on **Thursday, March 7, 2024, at 10:15 a.m. in 1334 Longworth House Office Building.**

Member offices are requested to notify Cross Thompson ([Cross.Thompson@mail.house.gov](mailto:Cross.Thompson@mail.house.gov)) by 4:30 p.m. on Wednesday, March 6, if their Member intends to participate in the hearing.

**I. KEY MESSAGES**

- The Biden administration intends to use natural capital accounting to lock up America’s public lands, waters, and the environment—leaving America beholden to anti-use nonprofits, eco-activists, and foreign interests.
- The Biden administration’s adoption of natural capital accounting and ecosystem services valuation in benefit-cost analysis will have a “tremendous influence” on Federal decisions, policy outcomes, and rulemaking, while supporting subsequent litigation to challenge Federal actions.
- There are significant uncertainties and limitations to natural capital accounting and ecosystem services valuation. Notably, the complexity of ecosystems makes them extremely difficult, if not impossible, to fully quantify.
- Both the left and right have raised concerns that natural capital accounting and ecosystem services valuation could shift decisions regarding the use and control of land from local communities and stakeholders to financial elites and foreign interests.

**II. WITNESSES**

- **Mr. Marlo Oaks**, State Treasurer, State of Utah, Salt Lake City, UT
- **Mr. Ross Butcher**, Commissioner, Member District 1, Fergus County, MT
- **Ms. Kathleen Sgamma**, President, Western Energy Alliance, Denver, CO
- **Mr. David Wilkinson**, Executive Director, Tobin Center for Economic Policy, Yale University, New Haven, CT [*Minority Witness*]

### **III. BACKGROUND**

#### ***Introduction to Natural Capital Accounting, Ecosystem Services Valuation, and Arguments Proponents Make for their Adoption***

Historically, natural assets were never formally integrated into the balance sheets of nations or companies.<sup>1</sup> Over the past decade, the idea of assigning economic values to nature has spread from pockets of economists, ecologists, and scientists to international bodies and governments.<sup>2</sup> Two common approaches for assigning economic values to environmental assets are natural capital accounting (NCA) and ecosystem services valuation (ESV). Proponents generally claim NCA and ESV are tools to better account for and manage nature's role in the modern world. Critics are often concerned with the significant uncertainties and limitations of attempts to financialize nature and may describe NCA and ESV as a dangerous form of green colonialism controlled by international financiers and global elites seeking to lock up land from local stakeholders.

Natural capital is generally defined as the durable physical or biological assets or stocks in the environment.<sup>3</sup> NCA is a method of accounting for and assessing natural capital, the stock of renewable and non-renewable resources (e.g., plants, animals, air, water, soils, minerals) that provide benefits to people.<sup>4</sup> Ecosystem services are direct and indirect benefits that ecosystems provide humans.<sup>5</sup> Examples of ecosystem services include pollination, flood risk reduction, water purification, and carbon sequestration.<sup>6</sup> Whereas natural capital is a stock (a physical, set amount), ecosystem services are flows of natural goods and services that benefit humans.<sup>7</sup> ESV is a catchall term used to describe a variety of methods or processes that place a dollar amount on the ecosystem services that flow to humans.<sup>8</sup>

Proponents of NCA purport that the practice produces consistent and systematically generated information that enables broad, cross-sector policy discourses about the role of natural capital in the economy.<sup>9</sup> Proponents of NCA also argue it allows for improved natural resource management, performance, outcomes, and improved assessments of economic and business

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<sup>1</sup> See Antoine Missemer, *Natural Capital as an Economic Concept, History and Contemporary Issues*, ECOLOGICAL ECONOMICS (2018), <https://www.sciencedirect.com/science/article/abs/pii/S0921800916302671> (explaining how economists first introduced natural capital as a concept in its current meaning in the 1900s and early 1910s).

<sup>2</sup> See Eli Fenichel et al., *Natural Capital: From Metaphor to Measurement*, 1 JOURNAL OF THE ASSOCIATION OF ENVIRONMENTAL AND RESOURCE ECONOMISTS 1, 1 (Spring/Summer 2014), <https://www.journals.uchicago.edu/doi/epdf/10.1086/676034>.

<sup>3</sup> See Björn Döhning et al., *Reflections on the Role of Natural Capital for Economic Activity*, EUROPEAN COMMISSION, 32 (Feb. 2023), [https://economy-finance.ec.europa.eu/system/files/2023-02/dp180\\_en.pdf](https://economy-finance.ec.europa.eu/system/files/2023-02/dp180_en.pdf).

<sup>4</sup> See Kenneth J. Bagstad et al., *Lessons learned from development of natural capital accounts in the United States and European Union*, ECOSYSTEM SERVICES (Dec. 2021), <https://www.sciencedirect.com/science/article/pii/S2212041621001170>.

<sup>5</sup> Climate Hubs, *Ecosystem Services*, U.S. DEP'T OF AGRICULTURE, <https://www.climatehubs.usda.gov/ecosystem-services> (last visited Feb. 21, 2024).

<sup>6</sup> *Id.*

<sup>7</sup> System of Environmental Economic Accounting, *Natural Capital and Ecosystem Services FAQ*, UNITED NATIONS, <https://seea.un.org/content/natural-capital-and-ecosystem-services-faq> (last visited Feb. 21, 2024).

<sup>8</sup> *Id.*

<sup>9</sup> See generally Arjan Ruijs et al., *Natural capital accounting for better policy*, 48 AMBIO, 714-25 (Nov. 2018), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6509298/>.

sustainability.<sup>10</sup> Proponents of ESV argue that calculating values for ecosystem services will help policymakers and resource managers “make rational decisions that factor important environmental and human health outcomes into the bottom line.”<sup>11</sup> However, with respect to both NCAs and ESV, the views of proponents are far from universal.

Today, the private sector, international bodies, and various governments are formalizing the treatment of natural assets as capital by adopting various NCA and ESV standards. The most notable standard was developed by the United Nations (UN).

### ***The United Nations System of Natural Capital and Environmental-Economic Accounting***

Over the last several decades, the UN has adopted various statistical standards for environmental-economic accounting and pushed for countries to integrate their national systems with the UN standards.<sup>12</sup> Taken together, the UN standards created the UN System of Environmental-Economic Accounting (UN-SEEA).<sup>13</sup> The UN-SEEA is the “international statistical standard that uses a systems approach to bring together economic and environmental information to measure the contribution of the environment to the economy and the impact of the economy on the environment.”<sup>14</sup> The UN-SEEA was designed to extend national accounts and integrate natural capital and environmental information with accounting methods.<sup>15</sup>

### ***The Biden Administration Lays the Groundwork for a National Natural Capital Accounting System Through Executive Order, OMB Guidance, and Requests for Information***

President Biden has encouraged the Federal government to develop a framework for NCA, ESV, and environmental-economic accounting modeled on the UN-SEEA<sup>16</sup> through executive order (E.O.), guidance from the Executive Office, and requests for information.

On April 22, 2022, President Biden issued E.O. 14072—*Strengthening the Nation’s Forests, Communities, and Local Economies*—which ordered the Director of the Office of Management and Budget (OMB) to issue guidance on the valuation of ecosystem and environmental services and natural assets in Federal regulatory decision-making.<sup>17</sup> In response to

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<sup>10</sup> Bargstad, *supra* note 4 at 3.

<sup>11</sup> David C. Holzman, *Accounting for Nature’s Benefits: The Dollar Value of Ecosystem Services*, ENVIRONMENTAL HEALTH PERSPECTIVE (Apr. 2012), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3339477/>.

<sup>12</sup> *System of Environmental-Economic Accounting 2012—Central Framework*, UNITED NATIONS (2014), [https://seea.un.org/sites/seea.un.org/files/seea\\_cf\\_final\\_en.pdf](https://seea.un.org/sites/seea.un.org/files/seea_cf_final_en.pdf).

<sup>13</sup> System on Environmental Accounting, *Frequently Asked Questions*, UNITED NATIONS, <https://seea.un.org/content/frequently-asked-questions> (last visited Feb. 21, 2024).

<sup>14</sup> *Id.*

<sup>15</sup> Bagstad, *supra* note 4 at 2.

<sup>16</sup> Office of Science and Technology Policy, Office of Mgmt. & Budget, and Dep’t of Commerce, *National Strategy to Develop Statistics for Environmental-Economic Decisions: A U.S. System of Natural Capital Accounting and Environmental Economic Statistics*, THE WHITE HOUSE (Jan. 2023), <https://www.whitehouse.gov/wp-content/uploads/2023/01/Natural-Capital-Accounting-Strategy-final.pdf> (declaring that America’s system for environmental-economic accounting should “align with” the UN-SEEA) [hereinafter National Strategy for Natural Capital Accounting].

<sup>17</sup> Exec. Order No. 14072, 87 Fed. Reg. 24851 (Apr. 22, 2022), <https://www.federalregister.gov/documents/2022/04/27/2022-09138/strengthening-the-nations-forests-communities-and-local-economies>.

E.O. 14072, on July 22, 2022, OMB issued a memorandum instructing agencies to promote efforts to account for ecosystem and natural capital services (OMB Natural Capital Memo).<sup>18</sup> A month later, on August 22, 2022, OMB issued a request for information for the development of “Government-wide natural capital accounts and standardized environmental-economic statistics” to align with international norms (OMB RFI).<sup>19</sup> Then, on October 31, 2022, the Office of Science and Technology Policy (OSTP) issued a request for information on behalf of the United States Global Change Research Program to help “inform the framing, development, and eventual use of the first National Nature Assessment” and help assess ecosystem services.<sup>20</sup>

### ***The Biden Administration Issues the National Strategy for Natural Capital Accounting***

On January 19, 2023, the Biden administration released a national strategy for NCA and ESV, the *National Strategy to Develop Statistics for Environmental-Economic Decisions: A U.S. System of Natural Capital Accounting and Environmental Economic Statistics* (National Strategy for Natural Capital Accounting),<sup>21</sup> to create “a U.S. system to account for natural assets.”<sup>22</sup> The National Strategy for Natural Capital Accounting directs the Federal government to treat “nature as an asset” and incorporate “natural assets on the national balance sheet.”<sup>23</sup> Specifically, the National Strategy for Natural Capital Accounting directs Federal agencies to (a) embed natural capital accounts and associated environmental-economic statistics in the broader U.S. economic statistical system,<sup>24</sup> (b) use a 15-year phased approach,<sup>25</sup> and (c) coordinate across agencies to develop and update the system of natural capital accounts and environmental-economic statistics.<sup>26</sup> In doing so, the National Strategy for Natural Capital Accounting directed Federal agencies to use the UN-SEEA to develop natural capital accounts for the United States.<sup>27</sup>

### ***The Biden Administration Plans to Use Natural Capital Accounting and Ecosystem Services Valuation in Support of a Partisan Agenda***

There may be legitimate, nonpartisan reasons for NCA or ESV, such as ensuring responsible natural resource development, effective conservation, and stabilizing America’s economy and environment. However, instead of using NCA and ESV to promote nonpartisan

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<sup>18</sup> Office of Mgmt. & Budget, *Memorandum on Multi-Agency Research and Development Priorities for the FY 2024 Budget*, EXEC. OFFICE OF THE PRESIDENT, (July 22, 2022), <https://www.whitehouse.gov/wp-content/uploads/2022/07/M-22-15.pdf> (“Agencies should promote R&D efforts to include ecosystem services in cost-effectiveness and benefit-cost analyses; track natural assets through the emerging national system of natural capital accounts and associated environmental-economic statistics; and synthesize knowledge of these and other connections between nature, climate, economy, and society through the National Nature Assessment”).

<sup>19</sup> Office of Mgmt. & Budget, *Request for Information To Support the Development of a Strategic Plan on Statistics for Environmental-Economic Decisions*, EXEC. OFFICE OF THE PRESIDENT, 87 Fed. Reg. 51450 (Aug. 22, 2022), <https://www.federalregister.gov/documents/2022/08/22/2022-17993/request-for-information-to-support-the-development-of-a-strategic-plan-on-statistics-for>.

<sup>20</sup> Office of Science and Technology Policy, *Framing the National Nature Assessment*, EXEC. OFFICE OF THE PRESIDENT, 87 Fed. Reg. 65622 (Oct. 31, 2022), <https://www.federalregister.gov/documents/2022/10/31/2022-23593/framing-the-national-nature-assessment>.

<sup>21</sup> National Strategy for Natural Capital Accounting, *supra* note 16.

<sup>22</sup> *Id.* at iv.

<sup>23</sup> *Id.* at viii.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at ix.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.* at viii.

aims, the Biden administration intends to use the National Strategy for Natural Capital Accounting to lock up America's public lands, waters, and the environment, leaving American land beholden to anti-use nonprofits, eco-activists, wealthy elites, and foreign interests.

As explained in detail in the [hearing memo](#) for the Subcommittee on Oversight and Investigation's February 15, 2024, hearing on NCA and ESV, the National Strategy for Natural Capital Accounting will support the America the Beautiful Initiative's 30x30 goals to lock up 30% of America's land by 2030 and the BLM's misguided Conservation and Landscape Health Rule to elevate conservation as a "use" within the Federal Land Policy and Management Act's multiple-use framework without Congressional authority.<sup>28</sup>

Likewise, NCA, ESV, and the National Strategy for Natural Capital Accounting are essential to the development of Natural Asset Companies (NACs),<sup>29</sup> a new form of company that plans to "hold the rights to the ecological performance" of prescribed areas, including public lands, for "conservation, restoration, or sustainable management."<sup>30</sup> Like President Biden's National Strategy for Natural Capital Accounting, the underlying accounting methodology for NACs is based on the UN-SEEA.<sup>31</sup> Additionally, President Biden's National Strategy for Natural Capital Accounting explicitly referenced how "Natural Asset Companies" will "facilitate liquidity between natural capital and financial capital."<sup>32</sup>

Following public backlash and the oversight work of the House Committee on Natural Resources,<sup>33</sup> on January 17, 2024, the Securities and Exchange Commission announced that the New York Stock Exchange (NYSE) withdrew a proposed rule change to allow the listing of NACs on the NYSE.<sup>34</sup> However, the Intrinsic Exchange Group (IEG), the company behind the NACs concept, remains undeterred by news of the rule withdrawal. IEG Chair and CEO Douglas Iger said the company is "moving ahead" and will look at "different options" on how to bring NACs to the market, even if that means using private capital before introducing NACs as public

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<sup>28</sup> *Bidenomics & Land Management: The Misguided National Strategy to Develop Environmental Economic Decisions, Hearing before the H. Comm. on Natural Resources, Subcomm. on Oversight and Investigations*, 118<sup>th</sup> Cong. (2024) (hearing memo), [https://naturalresources.house.gov/uploadedfiles/hearing\\_memo\\_-\\_sub\\_on\\_oi\\_ov\\_hrg\\_on\\_natural\\_capital\\_accounting\\_02.15.24.pdf](https://naturalresources.house.gov/uploadedfiles/hearing_memo_-_sub_on_oi_ov_hrg_on_natural_capital_accounting_02.15.24.pdf).

<sup>29</sup> *Id.*

<sup>30</sup> Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change To Amend the NYSE Listed Company Manual To Adopt Listing Standards for Natural Asset Companies, SECURITIES AND EXCHANGE COMMISSION, 88 Fed. Reg. 68811 (proposed Sep. 29, 2023), <https://www.federalregister.gov/documents/2023/10/04/2023-22041/self-regulatory-organizations-new-york-stock-exchange-llc-notice-of-filing-of-proposed-rule-change>.

<sup>31</sup> *Id.*

<sup>32</sup> National Strategy for Natural Capital Accounting, *supra* note 16 at 10.

<sup>33</sup> Lydia DePillis, *Nature Has Value. Could We Literally Invest in It?*, N.Y. TIMES (Feb. 18, 2024), <https://www.nytimes.com/2024/02/18/business/economy/natural-assets.html> (describing how the oversight letter from the House Committee on Natural Resources to the Securities and Exchange Commission "may have been the final straw" in the NYSE proposal to list NACs on the NYSE).

<sup>34</sup> Division of Trading and Markets, *Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Withdrawal of Proposed Rule Change To Amend the NYSE Listed Company Manual To Adopt Listing Standards for Natural Asset Companies*, SECURITIES AND EXCHANGE COMMISSION, 89 Fed. Reg. 4354 (Jan. 17, 2024), <https://www.sec.gov/files/rules/sro/nyse/2024/34-99355.pdf>, <https://www.federalregister.gov/documents/2024/01/23/2024-01189/self-regulatory-organizations-new-york-stock-exchange-llc-notice-of-withdrawal-of-proposed-rule>.

companies on a different stock exchange.<sup>35</sup> Indeed, on February 18, 2024, the New York Times reported that IEG is working to fund NACs through private markets and identified several forthcoming projects, including one involving “1.6 million acres owned by a North American tribal entity.”<sup>36</sup>

### ***The Biden Administration’s Adoption of Natural Capital Accounting and Ecosystem Services Valuation for Benefit-Cost Analysis Will Have a “Tremendous Influence” over Federal Actions and Subsequent Litigation***

Recent guidance issued by the Biden administration that formally incorporates NCA and ESV into benefit-cost analysis (BCA) will have “tremendous influence” on regulatory decisions, outcomes, and subsequent litigation challenging actions by the Federal government.<sup>37</sup> The U.S. Government uses BCA to identify, assess, quantify, and compare expected benefits and costs of an investment, action, rule, or policy.<sup>38</sup> All major regulations must undergo BCA, and the Executive Branch is responsible for conducting BCA.<sup>39</sup> Federal agencies are increasingly using BCA to analyze environmental policies and policies with environmental impacts.<sup>40</sup> For instance, the Environmental Protection Agency uses BCA to consider “environmental, social and public health outcomes” for “green infrastructure projects.”<sup>41</sup> Additionally, the Federal government has an interagency working group to estimate the social cost of carbon for use in BCAs.<sup>42</sup>

Recent guidance from the Biden administration now directs agencies to account for ecosystem services and natural capital in BCA. After the Biden administration issued the National Strategy on Natural Capital Accounting in January 2023, on August 1, 2023, OMB’s Office of Information and Regulatory Affairs (OIRA), in collaboration with OSTP, released a draft of the Federal government’s first-ever guidance on accounting for ecosystem services in BCA, *Guidance for Assessing Changes in Environmental and Ecosystem Services in Benefit-Cost Analysis*,<sup>43</sup> and, on February 28, 2024, OMB finalized and published the guidance

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<sup>35</sup> Jennifer Yachnin, *Natural asset companies' felled by critics*, E&E NEWS (Jan. 18, 2024), <https://subscriber.politicopro.com/article/eenews/2024/01/18/natural-asset-companies-felled-by-critics-00136273>.

<sup>36</sup> DePillis, *supra* note 33.

<sup>37</sup> *YSE Professors Help Federal Government Account for Environment in Regulatory System*, YALE SCHOOL OF THE ENVIRONMENT, <https://environment.yale.edu/news-in-brief/yse-professors-help-federal-government-account-environment-regulatory-system> (last visited Feb. 21, 2024).

<sup>38</sup> *See What Is a Benefit-Cost Analysis (BCA)?*, U.S. DEP’T OF TRANSPORTATION, <https://www.transportation.gov/grants/dot-navigator/what-is-a-benefit-cost-analysis> (last updated Jan. 23, 2024).

<sup>39</sup> *See* Maeve P. Carey, CONG. RESEARCH SERV., IF12058, *Cost-Benefit Analysis in Federal Agency Rulemaking* (Mar. 9, 2022), <https://crsreports.congress.gov/product/pdf/IF/IF12058>.

<sup>40</sup> Joseph E. Aldy et al., *Environmental Benefit-Cost Analysis: A Comparative Analysis Between the United States and the United Kingdom*, HARVARD KENNEDY SCHOOL (Mar. 2021), <https://www.hks.harvard.edu/publications/environmental-benefit-cost-analysis-comparative-analysis-between-united-states-and>.

<sup>41</sup> *Green Infrastructure Cost-Benefit Resources*, ENVIRONMENTAL PROTECTION AGENCY, <https://www.epa.gov/green-infrastructure/green-infrastructure-cost-benefit-resources#costbenefitanalysis> (last updated Jan. 18, 2024).

<sup>42</sup> Aldy, *supra* note 40.

<sup>43</sup> Office of Information and Regulatory Affairs, *Guidance for Assessing Changes in Environmental and Ecosystem Services in Benefit-Cost Analysis*, OFFICE OF MANAGEMENT AND BUDGET (Aug. 2023), <https://www.whitehouse.gov/wp-content/uploads/2023/08/DraftESGuidance.pdf>.

(Ecosystem Services BCA Guidance).<sup>44</sup> In a White House blog post from OIRA Administrator Richard L. Revesz and OSTP Director Arati Prabhakar, the Biden administration described the Ecosystem Services BCA Guidance as an “important step” to implement America the Beautiful’s 30x30 initiative and the Nature-Based Solution Roadmap, while complementing the National Strategy for Natural Capital Accounting.<sup>45</sup>

Following release of the draft Ecosystem Services BCA Guidance, on November 9, 2023, OMB issued an updated Circular No. A-4,<sup>46</sup> the Federal government’s primary document for guiding BCA.<sup>47</sup> The updated Circular No. A-4 formally integrates NCA and ESV into BCA analysis, mandating Federal agencies to “account for effects on environmental or ecosystem services, or changes in the value of natural assets” in any BCA.<sup>48</sup> Eli Fenichel, PhD, a Yale Professor of Natural Resource Economics who went on leave from the university to serve in the Biden administration’s OSTP, declared that Circular No. A-4 has “tremendous influence over what government agencies consider, how they consider it when they make regulatory decisions, and also over the ability of the government to defend or be challenged in court over those decisions.”<sup>49</sup> Previously, Fenichel, who has helped draft regulatory updates for Biden’s OSTP and OMB, discussed how NCA and ESV would impact baseline assessments for regulatory actions.<sup>50</sup>

Despite the “tremendous influence” the updates will have over agency action and Federal rulemaking, the Biden administration has yet to explain:

- a) How Federal agencies will use the Ecosystem Services BCA Guidance, including how it may contribute to the America the Beautiful Initiative’s 30x30 goals;
- b) The relationship between the Ecosystem Services BCA Guidance and the National Strategy for Natural Capital Accounting;
- c) How the Ecosystem Services BCA Guidance will impact Federal decision-making and actions, including the management of public lands, waters, and the environment; and
- d) How Circular No. A-4’s integration of ESV and NCA will impact administrative rulemaking, decisions, baseline assessments, and the Federal government’s ability to defend its actions.

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<sup>44</sup> Office of Information and Regulatory Affairs, *Guidance for Assessing Changes in Environmental and Ecosystem Services in Benefit-Cost Analysis*, OFFICE OF MANAGEMENT AND BUDGET (Feb. 28 2024), <https://www.whitehouse.gov/wp-content/uploads/2024/02/ESGuidance.pdf>.

<sup>45</sup> Richard L. Revesz and Arati Prabhakar, *Accounting for Ecosystem Services in Benefit-Cost Analysis*, THE WHITE HOUSE (Aug. 1, 2023), <https://www.whitehouse.gov/omb/briefing-room/2023/08/01/accounting-for-ecosystem-services-in-benefit-cost-analysis/>.

<sup>46</sup> *Circular No. A-4*, OFFICE OF MANAGEMENT AND BUDGET (NOV. 9, 2023), <https://www.whitehouse.gov/wp-content/uploads/2023/11/CircularA-4.pdf>.

<sup>47</sup> YALE, *supra* note 37.

<sup>48</sup> *Circular No. A-4*, *supra* note 46.

<sup>49</sup> YALE, *supra* note 37.

<sup>50</sup> *Id.*

***Proponents of NCA and ESV Admit Significant Limitations of the Approaches, while Critics from the both the Left and Right Describe Serious Flaws***

Proponents of NCA and ESV recognize the inherent uncertainties and limitations of putting a price on nature. Additionally, the complexity of ecosystems makes them extremely difficult, if not impossible, to quantify. There are also ethical concerns with widespread plans to financialize nature. Meanwhile, the Biden administration's push to institutionalize NCA and ESV, and the corresponding plan to bring NACs to the market, has made strange bedfellows with critics from the both the left and right critiquing NCA and ESV for shifting the use and control of land from local communities and stakeholders to financial elites and foreign interests.

***The Methodological Limitations of NCA and ESV: Faulty Models, Poorly Understood Ecosystems, and “Gobbledygook” Attempts to Put a Price on Nature***

There are significant uncertainties and limitations to NCA, ESV, and general attempts to financialize nature. Even proponents of NCA and ESV recognize the inherent uncertainties and limitations with attempts to apply these practices and reduce nature to a balance sheet, including:<sup>51</sup>

- Human understanding of ecosystems and the “complex interactions that determine the regeneration or collapse of ecosystems” is “very incomplete,” limiting ecosystem assessment at both a “small scale” (e.g., soils) and a “global scale” (e.g., climate cycle);<sup>52</sup>
- Ecosystems are hard to measure, making it difficult to quantify natural capital, ecosystem services, and variations in nature;<sup>53</sup>
- Global estimates are not precise enough to be used for policy decisions (even if potentially useful for “awareness-raising”);<sup>54</sup>
- The failure to capture any intrinsic values;<sup>55</sup> and
- Faulty models with an overreliance on assumptions and conditions that aren't met in practice.<sup>56</sup>

Recent attempts to apply NCA to local management projects have confirmed the conceptual concerns. For example, a relatively small, localized study of two national parks in the United Kingdom discovered and exposed several significant limitations with NCA and ESV, including:<sup>57</sup>

- Widespread instances of insufficient and missing data;<sup>58</sup>

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<sup>51</sup> Döhring, *supra* note 3.

<sup>52</sup> *Id.* at 32.

<sup>53</sup> *Id.* at 23, 29, 30.

<sup>54</sup> *Id.* at 24

<sup>55</sup> *Id.* at 26.

<sup>56</sup> *Id.* at 26.

<sup>57</sup> Michela Faccioli et al., *Local Natural Capital Accounting: does it deliver useful management information? A case study of Dartmoor and Exmoor National Parks*, SOUTH WEST PARTNERSHIP FOR ENVIRONMENTAL AND ECONOMIC PROSPERITY (June 2020), <https://sweep.ac.uk/wp-content/uploads/2023/01/004-NCA-Final-report-2.pdf>.

<sup>58</sup> *Id.* at 10



- Inconsistent methodology for change detection;<sup>59</sup>
- The wide range of assumptions underpinning natural capital accounts, datasets, and methodologies produce wide-ranging, multiple alternative estimates for the same benefit estimates;<sup>60</sup> and
- The inability to measure certain goods and services, such as wildlife, drinking water, flood protection, plants, seeds, and minerals.<sup>61</sup>

In addition to the specific shortcomings highlighted by NCA and ESV proponents and practitioners, there is a basic concern that oversimplifying the vast expanse and interconnectedness of the natural world to the binary oppositions of double-entry accounting practices will provide humans with a dangerous illusion of environmental control.<sup>62</sup> Indeed, one critic of a government plan to “unbundle” ecosystem services and individually trade them in a financial market argued that “if there is one thing we know about ecosystems...it’s that you cannot safely disaggregate their functions without destroying the whole thing.”<sup>63</sup> Hence, efforts to price ecosystems were described as “gobbledygook.”<sup>64</sup>

A commonly cited example of the overconfidence of humans and governments to design, operate, and control natural ecosystems by reducing them to a mathematical equation is the utopian attempt by Prussians to create a monocultural forest in the 18<sup>th</sup> and 19<sup>th</sup> centuries. As recounted by Yale Professor of Political Science, Anthropology, and Forestry James C. Scott<sup>65</sup> in *Seeing Like a State*, the Prussian attempt to simplify a forest into a “one-commodity machine” failed in two growing generations given the exceptionally complex and poorly understood local ecosystem.<sup>66</sup> Today, the more ambitious attempt by proponents of NCA and ESV to count, classify, manage, and monetize the natural world through administrative ordering by private companies, nation-states, and international bodies may suffer a similar but more disastrous fate. Thus, some accounting experts argue that as “neither the extent of influence nor the limits of control are fully understood, there is merit in a precautionary approach” towards NCA while limiting the application of economic and accounting analysis to nature.<sup>67</sup>

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<sup>59</sup> *Id.* at 11.

<sup>60</sup> *Id.* at 13.

<sup>61</sup> *Id.* at 9.

<sup>62</sup> See Christine Cooper, *The Non and Nom of Accounting for (M)other Nature*, 5 ACCOUNTING, AUDITING AND ACCOUNTABILITY JOURNAL, 16-39 (Sep. 1, 1992), <https://www.emerald.com/insight/content/doi/10.1108/09513579210017361/full/html>.

<sup>63</sup> George Monbiot, *Put a price on nature? We must stop this neoliberal road to ruin*, THE GUARDIAN (July 24, 2014), <https://www.theguardian.com/environment/georgemonbiot/2014/jul/24/price-nature-neoliberal-capital-road-ruin>.

<sup>64</sup> *Id.*

<sup>65</sup> James C. Scott, *Curriculum Vitae*, YALE, [https://politicalscience.yale.edu/sites/default/files/scott\\_james-cv-2018-08-02.pdf](https://politicalscience.yale.edu/sites/default/files/scott_james-cv-2018-08-02.pdf) (last visited Feb. 21, 2024).

<sup>66</sup> James C. Scott, *SEEING LIKE A STATE* (Yale University Press 1998).

<sup>67</sup> Richard Barker and Colin Mayer, *Seeing double corporate reporting through the materiality lenses of both investors and nature*, ACCOUNTING FORUM (Feb. 8, 2024), <https://www.tandfonline.com/doi/full/10.1080/01559982.2023.2277982?af=R>.

### Moral and Ethical Concerns with Monetizing and Commodifying Nature

Even if humans *can* put a price on natural capital and ecosystem services, questions arise on whether we *should* and whether it is ethical. Many critics of NCA and ESV are doubtful. Critics of NCA and ESV believe that using money to measure nature’s worth or assigning an economic value to nature’s worth misses the point and trivializes both nature and human relationships in the process.<sup>68</sup> In doing so, critics argue such calculative approaches to nature valuation and management “seem designed to remove ethical considerations both from decision-making processes and from individual action” by turning “nature management” into a technical accounting exercise.<sup>69</sup>

### Liberal Critics Claim NCA and ESV Reinforce Existing Structures of Global Capital Distribution, Leading to Injustice, Ecological Loss, and Green Colonialism

Liberal critics of NCA and ESV assert that entities—whether governments, private companies, or individuals—obtaining rights over the ecosystem services in a different geographic area may lead to exploitation, extraction, and “risks becoming a path to profound injustice and ecological loss.”<sup>70</sup> Such critics argue NCA and ESV will reinforce unjust economic and ecological dynamics—both within a country and between countries—across geographic locations and between generations.<sup>71</sup> Additionally, liberal critics tend to be concerned with proposals that will pull regulation and control away from local stakeholders, including indigenous populations and democratically elected governments, to the private authority of firms, often for decades on end.<sup>72</sup> For example, some environmental nonprofits and activists oppose NACs over worries that “monetizing the benefits” of natural capital and ecosystem services would shift power from local stakeholders and “enrich the wealthy without reliably delivering the promised environmental upside.”<sup>73</sup> Hence, leftwing critics often describe NCA, ESV, and the larger project to financialize nature as a form of “green colonialism” or “neo-colonialism.”<sup>74</sup>

### Conservative Critics Claim NCA and ESV are a Threat to the Property Rights of Local Stakeholders and May Lead to Foreign Ownership of American Land

Conservative critics identify NCA and ESV as a means to shift control of property rights and natural resources from local stakeholders to global financiers, radical nonprofits, and foreign interests intent on locking up America’s land. For example, a prominent property rights advocate argues that the creation of NACs and the underlying NCA methodologies underpinning NACs’ existence will shift local economic power from local companies that buy goods and services from the community to nonprofits funded by financiers across the country and/or foreign

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<sup>68</sup> See Sian Sullivan and Mike Hannis, “Mathematics maybe, but now money”: *On Balance Sheets, Numbers, and Nature in Ecological Accounting*, 30 ACCOUNTING, AUDITING & ACCOUNTABILITY JOURNAL (Sep. 18, 2017), <https://www.emerald.com/insight/content/doi/10.1108/AAAJ-06-2017-2963/full/html>.

<sup>69</sup> *Id.* at 1474.

<sup>70</sup> Adrienne Buller, *THE VALUE OF A WHALE 233* (Manchester University Press 2022).

<sup>71</sup> *Id.* at 262-63.

<sup>72</sup> *Id.* at 265.

<sup>73</sup> DePillis, *supra* note 33.

<sup>74</sup> See Buller, *supra* note 70 at 263; Patrick Bond and Rahul Basu, ‘Unequal ecological exchange’ worsens across time and space, creating growing Northern environmental liabilities, CADTM (May 19, 2021), <https://www.cadtm.org/Unequal-ecological-exchange-worsens-across-time-and-space-creating-growing>.

interests.<sup>75</sup> Likewise, the Treasurer of the State of Utah, a state where the Federal government owns 67% of the land, argues NCA and ESV will be used to justify NACs raising money to purchase land and lock it away from local productive uses.<sup>76</sup>

#### **IV. CONCLUSION**

President Biden’s National Strategy for Natural Capital Accounting directs the Federal government to treat “nature as an asset” and incorporate “these natural assets on the national balance sheet,” aligning with a UN reporting framework in the process. But, instead of using NCA and ESV to promote nonpartisan aims, the Biden administration intends to use the National Strategy for Natural Capital Accounting to lock up America’s public lands, waters, and the environment—leaving America beholden to anti-use nonprofits, eco-activists, and foreign interests. Additionally, for the first time in U.S. government history, the Biden administration has incorporated NCA and ESV into BCA. The Biden administration’s adoption of NCA and ESV into BCA will have a “tremendous influence” on Federal decisions, policy outcomes, and rulemaking, while helping litigants challenge the Federal government’s actions.

Alarming, there are also significant uncertainties and limitations to NCA, ESV, and general attempts to financialize nature. Notably, the complexity of ecosystems makes them extremely difficult, if not impossible, to quantify. Hence, there are concerns that oversimplifying the vast expanse and interconnectedness of the natural world to the binary oppositions of double-entry accounting practices will provide humans with an illusion of environmental control. Finally, liberal and conservative critics alike critique NCA and ESV for shifting the use and control of land from local communities and stakeholders to financial elites and foreign interests.

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<sup>75</sup> Margaret Byfield, *Monetizing the Air We Breathe*, FEDERAL NEWSWIRE (Aug. 24, 2023), <https://thefederalnewswire.com/stories/649087694-monetizing-the-air-we-breathe>.

<sup>76</sup> Marlo Oaks, *Companies that Can’t Make Money*, WALL STREET JOURNAL (Nov. 15, 2023), <https://www.wsj.com/articles/biden-administration-invents-companies-that-cant-make-money-ad71f8f3>.