United States Senate
WASHINGTON, DC 20510

May 11, 2022

Ms. Brenda Mallory
Chair, Council on Environmental Quality
730 Jackson Place
Washington, D.C. 20503

Dear Chair Mallory,

On January 27, 2021, President Biden issued Executive Order 14008 (Order) entitled "Tackling the Climate Crisis at Home and Abroad." In Section 216 of the Order, the President directed the Secretary of the Interior, in consultation with the Secretary of Agriculture, the Secretary of Commerce, and the Chair of the Council on Environmental Quality (CEQ) (collectively, the Departments), to submit a report recommending steps the federal government should take, working with state, local, Tribal, and territorial governments, agricultural and forest landowners, fishermen, and other key stakeholders, to achieve the goal of conserving at least 30 percent of our lands and waters by 2030, otherwise known as "30x30" or "America the Beautiful."

According to a January 27, 2021, "Fact Sheet" issued by the Interior Department, 12 percent of the lands in the United States are considered "permanently protected" and about 23 percent of the United States' waters are considered "strongly protected." To reach 30 percent by 2030, hundreds of millions of acres of land and water will be impacted. A program of this magnitude requires solid legal authority and a clear plan, yet the administration has articulated neither, leaving our constituents in the dark.

What is clear, however, is the Departments are implementing the 30x30 initiative without first analyzing the program's public and environmental impact, as required by the National Environmental Policy Act (NEPA). We are calling on you to refrain from any actions in the furtherance of 30x30 until a Programmatic Environmental Impact Statement (EIS) has been completed and the legal authority under which this major federal program is proceeding has been disclosed.

On April 21, 2021, the governors of fifteen states, wrote to President Biden to express their concern regarding this new federal program. They rightly emphasized 30x30 will adversely impact the productive use of hundreds of millions of acres of land, harming local economies and infringing on private property rights. They also noted the lack of any legal justification or clear plan for implementation. They also explained the states have not been consulted on the 30x30 initiative, even though the Order and Interior Department's Fact Sheet stated the Departments would "undertake the [30x30] process with broad engagement" including engagement with states. Their letter requested answers to twelve questions regarding the 30x30 initiative. Nearly one year later, these basic questions remain unanswered and the Departments have not consulted with the states.

Despite the lack of transparency and promised consultation, 30x30 is moving forward outside the scope of public review. In December 2021, acting as the "America the Beautiful Interagency Working Group Co-Chairs," the Departments jointly published a report entitled "Year One Report America the Beautiful." The report states the 30x30 initiative will expand to other federal departments and agencies, becoming an "all-of-government initiative." Thus, the scope of this already-enormous new federal program grew even more with no authorization.

The implementation of a nation-wide federal initiative of this magnitude squarely raises the Departments' lack of compliance with NEPA. NEPA applies to proposals to take major federal actions and is intended to ensure federal agencies will identify and carefully consider the action's impact on the human environment before they are implemented.

At the heart of NEPA is the requirement for a detailed environmental analysis to be prepared and issued for public comment. According to the CEQ, this process should be integrated with the federal agency's planning and authorization processes and begin at the earliest reasonable time during the decision-making process. Until the NEPA process has been properly completed, no action concerning the proposal may be taken which may have an adverse impact or limit the choice of reasonable alternatives.

As you know, the term "major federal action" is broadly defined by the CEQ and includes, among other things, "new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by Federal agencies." CEQ's regulations also state the major federal actions subject to NEPA include: "Adoption of formal plans, such as official documents prepared or approved by Federal agencies, which prescribe alternative uses of Federal resources, upon which future agency actions will be based"; and "Adoption of programs, such as a group of concerted actions to implement a specific policy or plan; [and] systematic and connected agency decisions allocating agency resources to implement a specific statutory program or executive directive."

The 30x30 program clearly meets these definitions. The stated goal of 30x30 is to conserve at least 30 percent of the United States' lands and waters by 2030. Thus, it will potentially affect the long-term use and management of hundreds of millions of acres.

Additionally, CEQ recently proposed new NEPA rules for the federal government, increasing the federal burden for permitting any sort of infrastructure. This will inevitably increase public scrutiny of nearly every project with a federal nexus. Even the most complex road, bridge, or transmission project pales in comparison to the impact of relegating hundreds of millions of acres into conservation status. The 30x30 program cannot be achieved without substantial impacts on private property and multiple use federal lands. At minimum, it is the administration's obligation to provide a plan, legal justification, and venue for the public to participate.

For the reasons specified, we respectfully ask the Departments to comply with NEPA before proceeding any further with the 30x30 program. The NEPA process would facilitate development and disclosure of the program's details and support informed public participation,

as well as satisfying public disclosure obligations. Without full disclosure of the details of the 30x30 program, its environmental, budgetary, and legal impacts remain unknown and the public is left in the dark. This is hardly the open and transparent process the administration promised.

We respectfully request a written response providing us with a clear statement of the legal authority by which the 30x30 initiative is authorized. Additionally, if you determine a Programmatic EIS is not necessary to implement 30x30, please provide us with a written, legally-cited explanation for how the program is exempt from the requirements of NEPA by June 15, 2022.

Sincerely,

Kevin Cramer
United States Senator

Roger Marshall, M.D.
United States Senator

Shelley Moore Capito
United States Senator

Chuck Grassley
United States Senator

Cynthia M. Lummis
United States Senator

James E. Risch
United States Senator

John Hoeven
United States Senator

Bill Cassidy, M.D.
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Mike Crapo
United States Senator

M. Michael Rounds
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James M. Inhofe
United States Senator

Mitt Romney
United States Senator



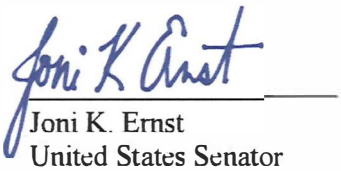
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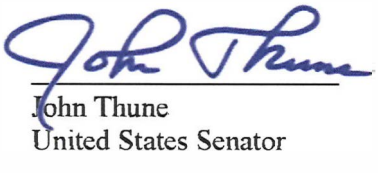
Joni K. Ernst
United States Senator



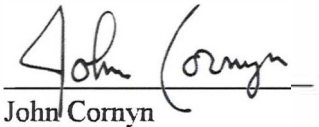
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