

# Is New Mexico's Land Up for Grabs?

By: Gabriella Hoffman

# What **This** **Presentation** Will Cover

- Types of Land Grabs
- How Private & Public Land Aren't Safe
- Rules Inviting Land Grabs by Federal Gov't + Crony Capitalists

# #1 – What is Behind New Land Grabs?

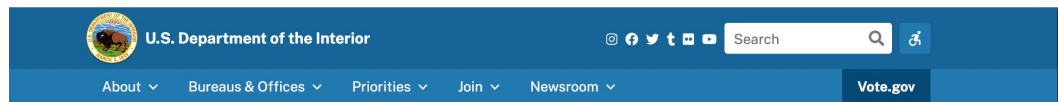
# How New Mexico Will Be Impacted

- **Executive Orders**
- **Rulemaking from Agencies**
  - Bureau of Land Management & Securities and Exchange Commission
- **Crony Corporatism Between Government & Financial Asset Managers**
  - Environmental, Social, Governance (ESG) investing masquerading as market demand
  - Institutional farmland ownership

# Biden Executive Orders

## January 2021: Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis

- Sec. 216. Conserving Our Nation's Lands and Waters: America the Beautiful (30-by-30)
  - "To achieve the goal of conserving at least 30 percent of our lands and waters by 2030."
  - Antiquities Act



### America the Beautiful

*Spotlighting the work to restore, connect and conserve 30 percent of lands and waters by 2030*



# UN Agenda 2030



“The 2030 Agenda for Sustainable Development, adopted by all United Nations Member States in 2015, provides a shared blueprint for peace and prosperity for people and the planet, now and into the future.”

Source: <https://sdgs.un.org/goals>



# NM Signs Onto 30-by-30

- New Mexico has its own 30-by-30 plan signed by MLG Fall 2021



Office of the Governor

**MICHELLE LUJAN GRISHAM**

**ABOUT THE GOVERNOR**

**OUR LEADERSH**

## **Gov. Lujan Grisham sets 2030 preservation goal, protecting N.M. land, watersheds, wildlife and heritage**

Aug 25, 2021 | Press Releases

SANTA FE – Governor Michelle Lujan Grisham on Wednesday signed an executive order to conserve at least 30 percent of all lands in New Mexico by 2030. New Mexico's "30 x 30" framework complements a nationwide effort to protect the nation's lands and waters but is tailored to honor New Mexico's traditional land uses while promoting biodiversity, encouraging recreation opportunities and protecting watersheds.

# Biden Executive Orders Con't



[Administration](#) [Priorities](#) [The Record](#)

## JUSTICE40

A WHOLE-OF-GOVERNMENT INITIATIVE



ENVIRONMENTAL JUSTICE

*"We'll create good jobs for millions of Americans...and we'll do it all to withstand the devastating effects of climate change and promote environmental justice."*

PRESIDENT JOE BIDEN, 2022 STATE OF THE UNION

### What is the Justice40 Initiative?

**F**or the first time in our nation's history, the Federal Government has made it a goal that 40 percent of the overall benefits of certain Federal investments flow to disadvantaged communities that are marginalized, underserved, and overburdened by pollution. President Biden made this historic commitment when he signed Executive Order 14008 within days of taking office.

### January 2021: Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis

- Sec. 223. Justice40 Initiative: "certain Federal investments might be made toward a goal that 40 percent of the overall benefits flow to disadvantaged communities."

Concern: Government meddling in property rights & public lands access



# Biden Executive Orders Con't

- **April 2022: Executive Order on Strengthening the Nation's Forests, Communities, and Local Economies**
  - Accounting for Ecosystem Services in Benefit-Cost Analysis - August 2023
    - Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) issued first-ever guidance on factoring in "Ecosystem services" in cost-benefit analysis for rules and reg.
    - **Ecosystem Services:** things that nature provides to us—i.e. timber, pollinators, forests, and wetlands—without a supposed cost.
    - **Natural Assets:** "durable physical or biological elements of nature" that endure and add to "current or future economic production, human enjoyment, or other services people value."

# Impact on New Mexico

- A. Counties opposed federal & NM Governor's 30 by 30 declarations
  - i. 44% (33.9 million acres of NM's 77.7 million acres) is private-held
- B. Forbid new oil and gas leasing and mining claims for 20 years within 10-mile radius of Chaco Culture National Historical Park
- C. BLM Conservation & Landscape Rule would impact access to **13.5 million** acres managed by the agency.
- D. Mimbres Peaks National Monument - 245K acres for a new monument



# #2 – Agency Rulemaking Impact on Lands Access in New Mexico

# Federal Agency Rules Impacting Lands Access

- **BLM Conservation Landscape & Health Rule - Summer 2023**
  - To put “conservation” on equal footing with multiple-use management of federal lands
- **Securities and Exchange Commission Natural Asset Companies Listing Designation - October 2023**
  - To create new New York Stock Exchange listing greenlighting Natural Asset Companies

# BLM Rule Implications

- **13.5 million** potentially closed off access - even recreational opportunities
- Conservation is already considered as a use under the Federal Land Policy and Management Act of 1976 (FLPMA)
  - a. Me in WSJ: “But all uses of land entail conservation. The aim of the rule is to reduce sustained-yield land uses like grazing, mining and timber in favor of recreation spaces, watershed preservation, wildlife and fish protection, and “natural scenic, scientific, and historical values.”



Power Grab at the Bureau of Land Management

That program may threaten the accessibility of public land. While the rule claims that such land would “in general” remain open, it makes no promises and admits that “some public lands could be temporarily closed to public access,” depending on the purpose of the conservation lease. This may give undue influence to powerful environmental organizations, which would be able to prevent access to large areas of land for 10 years or longer, depending on the terms of the lease. It’s hard to see how closing off public lands from development and recreation would meet the BLM’s mission to manage lands under a multiple-use and sustained-yield policy.

The BLM’s program for conservation leases has other problems. The rule doesn’t specify which existing uses, including hunting and fishing, would be permitted on leased land. Moreover, the program would let the BLM decide on a case-by-case basis to let solar and wind companies offset the negative impact of their development on high-value habitats by committing to restore or enhance adjacent low-quality habitats to protect affected wildlife.

# Conservation Leases = Offsetting

Section 6102.4(a)(3) would specify that conservation leases may be issued either for ``restoration or land enhancement'' or ``mitigation.'' The proposed rule would only authorize issuance of conservation leases for ecosystem protection where that protection is related to a restoration or land enhancement project or to support mitigation for a particular action. For example, as part of authorizing a renewable energy project on public lands, the BLM and the project proponent may agree to compensate for loss of wildlife habitat by restoring or enhancing other habitat areas. A conservation lease could be used to protect those areas. Similarly, the BLM may require compensatory mitigation for residual impacts that cannot be avoided. A conservation lease could be used to put compensatory mitigation dollars to work restoring compromised landscapes.

# Proposed SEC Rule to List NACs on NYSE

The Security and Exchange Commission (SEC) has **proposed** a new rule to list natural asset companies on the N.Y. Stock Exchange:

- Published October 4th, comments closed on October 25th



The screenshot shows the Federal Register website interface. At the top, there is a navigation bar with links for Sections, Browse, Search, Reader Aids, and My FR. Below this is the Federal Register logo and the text "The Daily Journal of the United States Government". A blue banner with the word "Notice" is visible. The main heading of the notice is "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". Below the heading, it states "A Notice by the Securities and Exchange Commission on 10/04/2023". The notice text begins with "September 29, 2023. Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ('Act')<sup>[1]</sup> and Rule 19b-4 thereunder,<sup>[2]</sup> notice is hereby given that, on September 27, 2023, New York Stock Exchange LLC (the 'Exchange' or 'NYSE') filed with the Securities and Exchange Commission ('Commission') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons." On the right side, there is a "DOCUMENT DETAILS" section with links for "Printed version:", "PDF", "Publication Date: 10/04/2023", "Agency: Securities and Exchange Commission", and "Document Type:".

**FEDERAL REGISTER**  
The Daily Journal of the United States Government

**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**

A Notice by the Securities and Exchange Commission on 10/04/2023

**PUBLISHED DOCUMENT**

September 29, 2023.  
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Securities and Exchange Commission

**Document Type:**

# SEC Listing Standards for Natural Asset Companies

- Why this new New York Stock Exchange Listing Standard?
  - *“Ending the overconsumption of and underinvestment in nature requires bringing natural assets into the financial mainstream. To that end, the Exchange proposes to adopt listing standards to introduce a new type of public company called a NAC...” - SEC*



# Who Will Oversee NACs?

NACs will be corporations that hold the rights to the ecological performance (i.e., the value of natural assets and production of ecosystem services) produced by natural or working areas, such as national reserves or large-scale farmlands, and have the authority to manage the areas for conservation, restoration, or sustainable management. These rights can be licensed like other rights, including “run with the land” rights (such as mineral rights, water rights, or air rights), and NACs are expected to license these rights from sovereign nations or private landowners.

# Sustainable Revenue-Generating Operations: Carbon Credits

the production of ecosystem services). While a core purpose of a NAC is to maximize ecological performance, under the proposed rules, a NAC would also be required to seek to conduct sustainable revenue-generating operations ( e.g., eco-tourism in a natural landscape or production of regenerative food crops in a working landscape) provided that such operations are consistent with the NAC's charter and do not cause any material adverse impact on the condition of the natural assets under the NAC's control and seek to replenish the natural resources being used. Therefore, all NACs are prohibited from directly or indirectly conducting unsustainable activities, such as mining, that lead to the degradation of the ecosystems it is trying to protect. In conducting its revenue-generating operations, a NAC could monetize ecosystem services that have markets ( e.g., through the sale of carbon credits). All revenues and expenses would be reported in the financial statements of the NAC prepared under generally accepted accounting principles ("GAAP") and filed with the SEC as part of the NAC's required annual report on Form 10-K, 20-F or 40-F, as applicable. In order to align the interests of local communities with the objectives of maximizing the value of natural assets and the production of ecosystem services, a NAC would also be able to use its funds for activities that support local community well-being ( e.g., education, health), provided that such activities are sustainable.

“In conducting its revenue-generating operations, a NAC could monetize ecosystem services that have markets ( e.g., through the **sale of carbon credits**).” - SEC Rule

# What are NACs?

- **A New Type of ESG Investment**
  - Kiplinger in September 2021

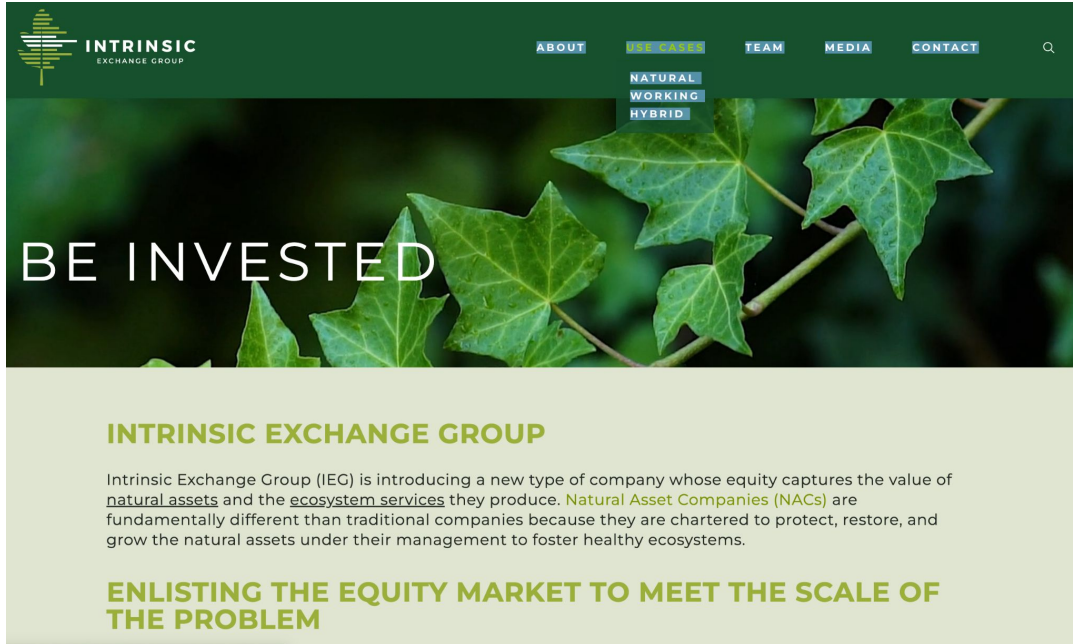
## Natural Asset Companies (NACs): A New Type of ESG Investment

The NYSE is launching natural asset companies (NACs) - a new asset class that will assign value to natural services such as clean water.



Newsletter sign up

# Intrinsic Exchange Group

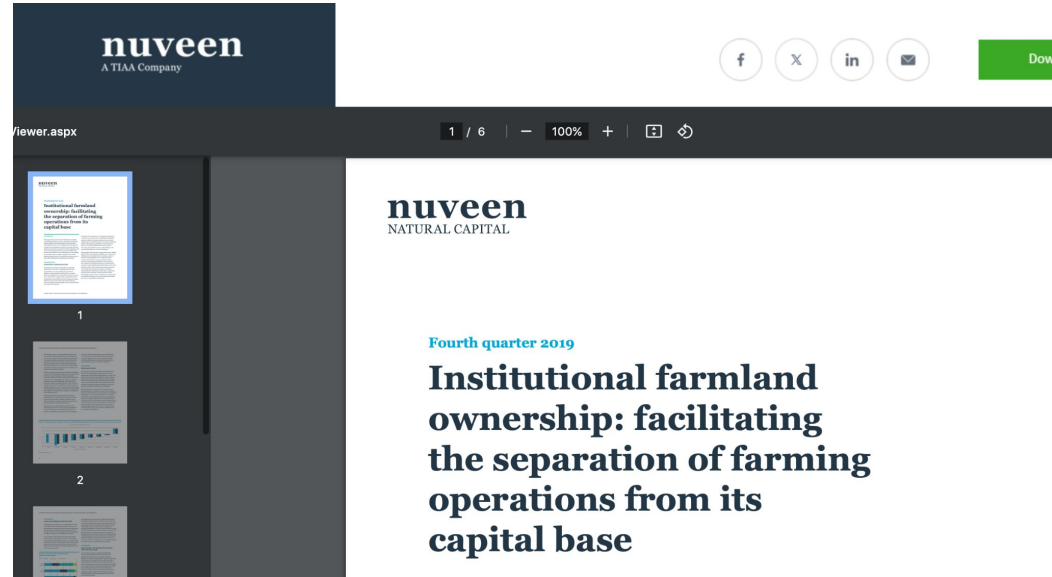


## Three Use Areas

- Natural
- Working
- Hybrid
  - Conservation Areas made up of federal, state, & private lands

# NACs Would Mimic “Institutional Farmland Ownership”

- NACs also parallels corporate farming efforts - commonly referred to as “institutional farmland ownership” to usher in the “the separation of farming operations from its capital base.”



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## PERCEIVED CHALLENGES WITH INSTITUTIONAL INVESTMENT IN FARMLAND

Land ownership is an emotive subject as is the ongoing consolidation of farming operations globally. Likewise, the topics of rural land ownership and food production often raise political concerns. Although changes in the industry's organization have accompanied and facilitated major improvements in agricultural productivity and efficiency, which has increased total global agricultural production, critics argue that largescale farming operations are forcing small farms out of business, damaging the viability of rural communities and creating environmental risks through their production practices.

Institutional investment can act to improve governance of farming operations by improving environmental standards and employment, while also facilitating research and development, training and trade, as well as contributing to social improvements in rural economies. Institutional investors, who invest third-party capital, can act as stewards helping to implement appropriate ESG policies and procedures that inform the land acquisition due diligence process and the ongoing management of the farmland.

Another issue is the accusation that institutional investors have inflated land prices and prevented smaller farmers from purchasing land. However,

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“Institutional investors, who invest third-party capital, can act as stewards helping to implement appropriate ESG policies and procedures that inform the land acquisition due diligence process and the ongoing management of the farmland.” - Nuveen

# Questions?

Let's connect!

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