



Secretary Sherry Hawyood
Assistant Secretary
Securities & Exchange Commission
Division of Trading & Markets

January 15, 2024

RE: Comments on SEC Release No. 34-98665; File. No. SR-NYSE-2023-09

To Whom it May Concern:

On behalf of United Property Owners of Montana (UPOM), we urge the Security & Exchange Commission to withdraw the proposed rule referenced above.

This rule proposal is based on deeply-flawed, discredited, and debunked assumptions about the relationship between beneficial economic activity and environmental health. Furthermore, this rule would run afoul of long-established legal precedent protecting the public's right to multiple use of public lands. Finally, this rule would result in dangerous precedents that present significant threats to America's agricultural economy and our rural communities.

Human economic activity is beneficial to the natural environment

The false premise underlying the concept of Natural Asset Companies (NACs) is that economic activity on undeveloped land is necessarily harmful to the environment. In countless ways the opposite has been demonstrated to be true.

Ranchers in Montana and around the West actively manage the range on which they operate with the objective to maximize its productivity. Wildlife populations equally benefit from that active management. It's an absurd notion (yet one underlying this rule's premise) that ranchers abuse their range resources in a way that is detrimental to the natural environment—they would not long be in business if they did!

The rule proposal also rests on the incorrect premise that "financial markets do not include the positive and negative externalities related to nature's consumption and production." The externalities related to extractive industries have for many decades been "priced in" through extensive regulation by federal, state, and local governments. Extractive industries

face rigorous permitting and review, stringent standards for emissions, discharges, disturbances and more, regular inspection by government regulators, and aggressive litigation from NGOs questioning nearly every action taken by government related to extractive industries. This expansive and expensive regulatory regime was put in place specifically to address the externalities resulting from extractive industry that affect our natural environment.

The rule proposal purports to be a “solution” to the “problem” of unaddressed externalities. But it is clear those externalities have already been roundly resolved through government intervention. The high costs of environmental regulation and associated litigation are socialized through higher prices paid by consumers for energy, wood products, housing, food, and any item containing a petroleum byproduct, among others. Financial markets are obviously aware of these costs.

By most objective measures the health of our natural environment has improved immensely as our society has become richer. Over the last half century our air and water are cleaner, our wildlife populations are more abundant, and vulnerable species are protected, to name a few. These improvements are the result of one critical factor: economic growth. The improvements in our natural environment are a hallmark of a wealthy society—people who have their basic needs met can afford luxuries, including caring about nature.

This proposed rule would move us backward. This rule is overly designed to destroy economic growth. It would make people in the affected areas poorer. Poverty and economic hopelessness do not engender a society that cares about environmental protection.

This rule violates the Multiple Use Doctrine

The Taylor Grazing Act reserves Bureau of Land Management (BLM) land for agricultural production, primarily grazing. This system of grazing permits on federal lands was set up intentionally by Congress to ensure a stable food supply for the country. That goal is perhaps even more important today in light of global events affecting supply chains, an increasingly adversarial stance by some of our trade partners, and the dramatic decline in the number of Americans employed in agricultural production.

The rule proposal would necessitate the elimination of grazing on BLM land in violation of the Taylor Grazing Act.

Furthermore, the Federal Lands Policy and Management Act requires that lands managed by BLM be open for multiple use, including livestock grazing, timber production, and energy production. The rule proposal would necessitate violating this long-established Multiple Use Doctrine.

The rule proposal states that a NAC may not participate in “traditional fossil fuel development, mining, unsustainable logging, or perpetuating industrial agriculture.” These

terms are undefined, but based on the tenor of the rule we can make an educated guess at what they mean. For instance, based on the incredible volume of litigation plaguing federal timber sales, many NGOs believe that all logging is “unsustainable,” leading to a situation of effectively shutting down timber production on land subject to an NAC.

“Industrial” agriculture is also undefined, but we have a good idea of what the proponents mean. Livestock bound for processing at a packing plant or butcher shop would likely be considered perpetuating “industrial” agriculture. Though not stated directly, it’s obvious the proponents of this rule want to eliminate grazing altogether on public land, as well as to take out agricultural production on as much private land as possible.

This rule is an existential threat to rural America

This rule proposal contemplates taking vast swathes of agricultural land out of production. That would have a devastating impact on rural America, which depends in large part on the ag economy.

Furthermore, the rule would specifically allow foreign nations to invest in NACs. America’s foreign adversaries are already making attempts to undermine American agriculture. This rule would empower them by providing a new and convenient avenue to economically attack our farmers and ranchers.

In sum, this rule should be withdrawn. It is premised on the flimsy notion that unaddressed externalities exist related to extractive industries—a premise that is completely untrue. The rule would run afoul of long-established policy related to our public lands. And most importantly, this rule would devastate rural America by wrecking its economy and displacing its inhabitants.

Sincerely,

CHARLES DENOWH
Executive Director