



December 7, 2021

Special Committee on the Federal 30x30 Initiative
The Honorable Ken Rahjes, Chairman
Room 582-N, State Capitol Building
300 SW 10th Avenue
Topeka, KS 66612-1504

Subject: *Written Testimony, of the Kansas Natural Resource Coalition on NHAs and the Federal 30 x 30 Initiative*

Chairman Rahjes and the Committee on the Federal NHAs and the 30x30 Initiative:

My name is Tracey Barton, and I am appearing before the Committee today on behalf of Kansas Natural Resource Coalition (KNRC). KNRC is an instrumentality of Kansas Boards County Commissioners, and our membership currently stands at twenty-five member counties, which is approximately one-third of the state of Kansas.

The 30 x 30 initiative is distinguished from the National Heritage Areas (NHAs) in that the 30 x 30 has foundation in President Biden's Executive Order (EO) 14008. For their part, National Heritage Areas are governed under longstanding Federal Statutes and administered by the National Park Service (NPS) of the Department of Interior.

The statutory process enacted by the Congress for designating NHAs includes a Feasibility Study under the National Environmental Policy Act (NEPA). Following issuance of a Finding of No Significant Impact (FONSI) by the Secretary of the Interior, then an NHA proposal must be designated and appropriated by the Congress, after which and the NHA is administered by the National Park Service (NPS).

From a federal procedural standpoint, it is important to note that the Kansas Nebraska Heritage Area is not formally in the NEPA process, and so from regulatory perspective there is ample time for citizens, counties or even the Kansas legislature to participate in and affect the Federal process. In contrast, the Freedom's Frontier NHA - located in the eastern part of Kansas - was signed into law by President Bush in 2006. It is noteworthy that the footprint of the proposed Kansas Nebraska Heritage Area and the existing Freedom's Frontier NHA contains the same four Kansas counties: Clay, Pottawatomie, Geary and Riley - and so it would appear that the planning process might not have an extraordinarily high attention to detail.

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Because the Freedom's Frontier NHA has been enacted into law, modification of its boundaries can only take place through an act of Congress, and this would require legislation and a sponsor from the state delegation to the Congress. There are precedents in the public record where Congress has modified the boundaries of an NHA: In March 2005, following intense public concern of the size and the potential for imposition of zoning and land use restrictions, the boundaries of the Yuma Crossing, NHA were significantly reduced.¹

For members of the committee who may not be familiar with EO 14008 of January 27, 2021, that is the Executive Order that orders the transition of the United States to a carbon-free economy by using the purchasing and banking power of the United States to demonetize investments in the fossil fuel industry and encourage the multinational banking community to divert capital support from the coal, natural gas, and fossil fuel sectors to green energy. On this point it is important to note that EO 14008 not only is picking winners and losers in the energy industry, but by ordering the demonetization of an entire industry the government of the United States is attempting to target which private businesses may succeed and which may fail.

Under the Regulatory Flexibility Act of 1980 (RFA), the Office of Management and Budget (OMB) and federal agencies are required to quantify the effect of major federal actions to small businesses, small organizations, and small governmental jurisdictions like the counties that make up KNRCs membership. According to RFA the impact assessment requirement may be waived if the Director of OMB certifies that the major federal action will have a de minimis impact on costs and revenues to the Federal Government or impact to local businesses and communities.

I have included in your handout the astonishing, one paragraph certification from acting OMB Director Robert Fairweather dated January 2021 that the outworking's of EO 14008 are projected to have a de minimis budgetary impact on small businesses, communities, and the economy of the United States as a result of the demonetization of the entire fossil fuel industry and transition of the energy sector of the United States to a carbon neutral economy.

No, really.

Tucked into Section 216 of EO 14008 on page 7627 is President Biden's priority of conserving 30 percent of the nation's lands and waters by 2030. While KNRC continues to grapple with the sheer magnitude of EO 14008, we offer some preliminary observations for consideration by the committee:

¹ See S. 505. A Bill to Amend the Yuma Crossing National Heritage Area Act of 2000. March 3, 2005.

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- Long term participation in the Paris Agreement requires ratification by the U.S. Senate;
- The presidential mandate to leverage the massive purchasing power, banking influence, and fiscal power of the United States government is creating winners and losers in the private, fossil fuel energy business sector;
- The presidential authority to issue Executive Orders that direct the activities of the federal agencies under his control is constrained to the scope of the mandates that have been delegated to the federal agencies by the Congress. While the President does have broad discretionary power over the federal agencies, he does not have the authority to expand, supersede, or preempt authorities delegated to Federal agencies by the Congress.

In Section 204 on Page 7623, the President may be preempting and redefining agency mandates over public lands, resources, fiscal procurement, and the private sector effectively negating Congressional mandates in the following acts:

- Regulatory Flexibility Act
- Small Business Runaway Extension Act
- Data Quality Act
- Federal Land Policy Management Act
- Administrative Procedures Act
- Congressional Review Act
- National Forest Management Act
- Public Rangeland's Improvement Act
- Multiple Use and Sustained Yield Act

KNRC respectfully offers the following recommendations for consideration by the Special Committee on the Federal 30 x 30 Initiative:

1. Several of the thirty-one (31) Kansas Counties that occupy the footprint of the Freedom's Frontier NHA are publicly known to be in opposition to that NHA designation. Consider an initiative that informs each of the 31 NHA counties, landowners, and interested citizens groups of the benefits, zoning issues, and land use problems that can be associated with NHAs. If counties or individual landowners desire designation carve outs, the Kansas legislature could encourage the Kansas delegation to sponsor legislation in the Congress like the Yuma Crossing reduction bill.
2. Conduct a state sponsored, RFA impact analysis to small businesses, communities, and the economy of Kansas counties that will result from implementation of Executive Order 14008. Depending upon the outcome and impacts, consider actions to challenge or rescind EO 14008, perhaps with like-minded attorneys general.

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Kansas Natural Resource Coalition

Bringing Voice and Environmental Decision-making to Local Government

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Thank you in advance for your time spent in consideration of our viewpoint.

Sincerely,

Tracey Barton for James R. Carlson

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cc: KNRC Board
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Sen. Roger Marshall
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