

Congress of the United States

Washington, DC 20515

July 28, 2022

Honorable Deb Haaland
Secretary
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Dear Secretary Haaland:

We are investigating the recent decision by the U.S. Department of the Interior (Interior) to allow special interest groups to “sue and settle” with federal agencies without the input of the public and stakeholders.¹ During the Trump Administration, Interior implemented an order to ensure that the public and other stakeholders had visibility into “sue and settle” cases.² The practice of “sue and settle” allows special interest groups to achieve regulatory goals through litigation—in secret—and bypass the legislative and regulatory processes. The Biden Administration’s decision to reverse course and allow special interest groups to make policy without stakeholder input is troubling. We are requesting documents and information regarding the decision to rescind the prior order.

“Sue and settle” is the practice in which a federal agency “accepts a lawsuit from outside advocacy groups that effectively dictates the priorities and duties of the agency through legally-binding, court-approved settlements negotiated behind closed doors—with no participation by other affected parties or the public.”³ Often times these cases affect state-level considerations while shutting out the states and other critical stakeholders from the decision-making process.⁴ Previously, federal agencies had transparency tools that allowed every entity—state legislatures, private companies, interest organizations, and others—affected by the regulation at issue to have the opportunity to participate in the decision-making process. The U.S. Chamber of Commerce found a similar policy enacted by the Trump Administration’s EPA to be “well-founded.”⁵ However, after the Biden Administration changed the policy, special interest groups are now essentially taking taxpayer dollars without any public or stakeholder participation.

¹ Kaminsky, Gabe, *Biden Admin Quietly Nukes Trump-Era ‘Transparency’ Initiative Tracking Settlements and Payouts to Left-Wing Activists*, DAILY CALLER (June 21, 2022).

² Order No. 3368: Promoting Transparency and Accountability in Consent Decrees and Settlement Agreements, Dep’t of the Interior (Sept. 11, 2018).

³ U.S. Chamber of Commerce, *Sue and Settle Updated: Damage Done* (May 2017) available at https://www.uschamber.com/assets/documents/u.s._chamber_sue_and_settle_2017_updated_report.pdf.

⁴ *Id.*

⁵ *Id.*

The newly released Interior order offers no protection for taxpayers. The Interior order states, the agency is “committed to fair, transparent, and efficient resolution of all claims brought against it.”⁶ The next sentence, however, states that “[t]o help fulfill these commitments, this Order rescinds the Secretary’s Order (SO) 3368 entitled, ‘Promoting Transparency and Accountability in Consent Decrees and Settlement Agreements.’”⁷ The agency claims to be fair, transparent, and efficient but its order favors special interest groups over the American people.

Interior’s actions raise new questions about the Biden Administration’s commitment to transparency and accountability. To assist the Republicans on the Committee in conducting oversight of the effects of Interior Order No. 3408, please produce the following documents and information no later than August 11, 2022:

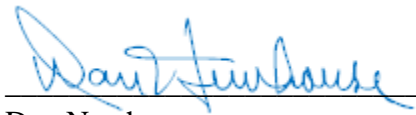
1. All documents and communications referring or relating to Interior Order No. 3408;
2. All documents and communications referring or relating to Biden Administration policy regarding litigation against executive agencies, including what is referred to as sue and settle cases;
3. All documents and communications between Interior and any groups or individuals outside the agency regarding what is referred to as sue and settle practices.

To make arrangements to deliver documents or ask any related follow-up questions, please contact the Committee on Oversight and Reform Republican Staff at 202-225-5074. The Committee on Oversight and Reform is the principal oversight committee of the U.S. House of Representatives and may investigate “any matter” at “any time” under House Rule X. Thank you for your cooperation with this inquiry.

Sincerely,



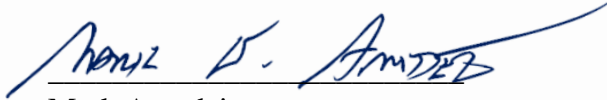
James Comer
Ranking Member
Committee on Oversight and Reform



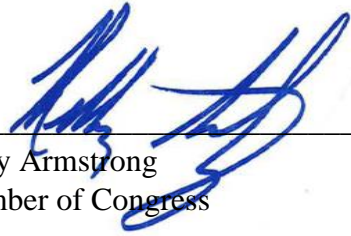
Dan Newhouse
Chairman
Congressional Western Caucus

⁶ Order No. 3408: Rescission of Secretary’s Order 3368, Dep’t of the Interior (June 17, 2022) *available at* <https://doi.gov/sites/doi.gov/files/elips/documents/so-3408.pdf>.

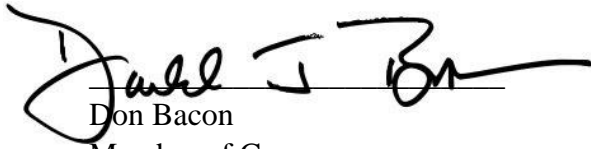
⁷ *Id.*



Mark Amodei
Member of Congress



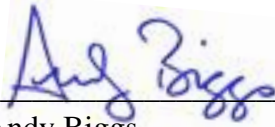
Kelly Armstrong
Member of Congress



Don Bacon
Member of Congress



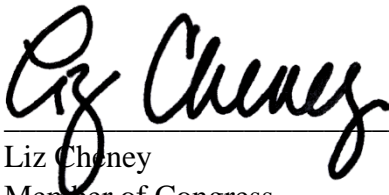
Cliff Bentz
Member of Congress



Andy Biggs
Member of Congress



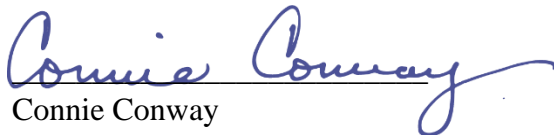
Earl L. "Buddy" Carter
Member of Congress




Liz Cheney
Member of Congress



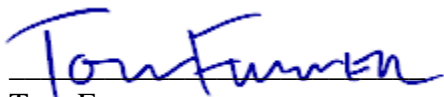
Michael Cloud
Member of Congress



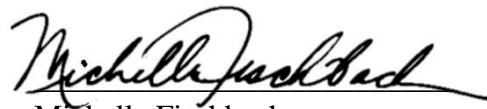
Connie Conway
Member of Congress



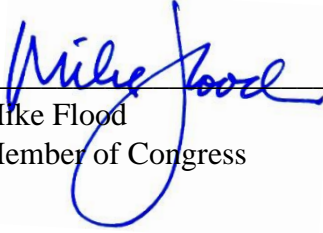
Byron Donalds
Member of Congress



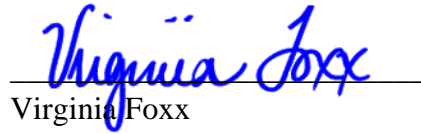
Tom Emmer
Member of Congress



Michelle Fischbach
Member of Congress



Mike Flood
Member of Congress



Virginia Foxx
Member of Congress



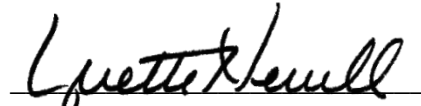
C. Scott Franklin
Member of Congress



Bob Gibbs
Member of Congress



Glenn Grothman
Member of Congress



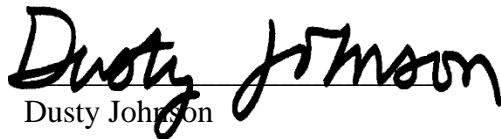
Yvette Herrell
Member of Congress



Jody Hice
Member of Congress



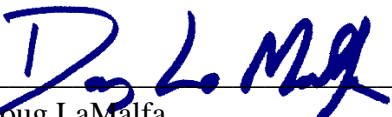
Darrell Issa
Member of Congress



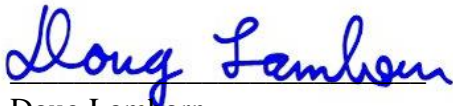
Dusty Johnson
Member of Congress



Fred Keller
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Doug LaMalfa
Member of Congress



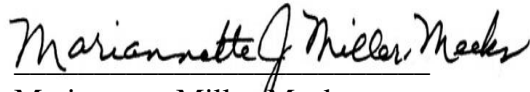
Doug Lamborn
Member of Congress



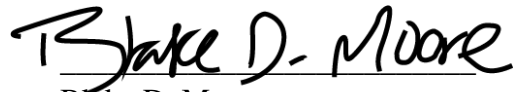
Nancy Mace
Member of Congress



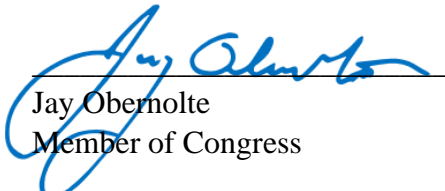
Tom McClintock
Member of Congress



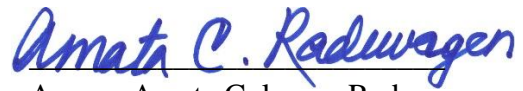
Mariannette Miller Meeks
Member of Congress



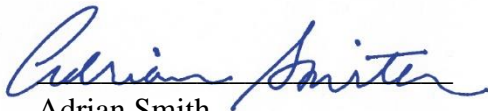
Blake D. Moore
Member of Congress



Jay Obernolte
Member of Congress



Aumua Amata Coleman Radewagen
Member of Congress



Adrian Smith
Member of Congress



Pete Stauber
Member of Congress



Chris Stewart
Member of Congress



David G. Valadao
Member of Congress

cc: The Honorable Carolyn Maloney, Chairwoman
Committee on Oversight and Reform