



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 1814

Date Filmed 1/2/85 Camera No. --- 2

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Routing Slips

copy of letter to compl and resp re. file closing

clocket address instructions

Assignment sheet

The above-described material was removed from this file pursuant to the following exemption provided in the Freedom of Information Act, 5 U.S.C. Section 552(b):

- | | |
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| <input type="checkbox"/> (1) Classified Information | <input type="checkbox"/> (6) Personal privacy |
| <input checked="" type="checkbox"/> (2) Internal rules and practices | <input type="checkbox"/> (7) Investigatory files |
| <input type="checkbox"/> (3) Exempted by other statute | <input type="checkbox"/> (8) Banking Information |
| <input type="checkbox"/> (4) Trade secrets and commercial or financial information | <input type="checkbox"/> (9) Well Information (geographic or geophysical) |
| <input checked="" type="checkbox"/> (5) Internal Documents | |

Signed

Matt Benson by TAD

date

1/2/85



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 11, 1984

Ms. Vicki Jackson, Esquire
Rogovin, Hugel and Lenzner
1730 Rhode Island Avenue, N.W.
Washington, D.C. 20036

RE: MUR 1814
The Wilderness Society

Dear Ms. Jackson:

On October 12, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on December 7, 1984, determined that on the basis of the information in the complaint, and information provided by you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. Please be advised that the Commission is not empowered to assess attorney's fees against the complaining party. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 11, 1984

John T. Dolan
National Conservative Political
Action Committee
1001 Prince Street
Alexandria, Virginia 22314

RE: MUR 1814
The Wilderness Society

Dear Mr. Dolan:

The Federal Election Commission has reviewed the allegations of your complaint dated September 28, 1984, and determined that on the basis of the information provided in your complaint and information provided by the respondent, there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed. Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
The Wilderness Society) MUR 1814

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on December 7, 1984, the Commission decided by a vote of 6-0 to take the following actions in MUR 1814:

1. Find no reason to believe that The Wilderness Society violated the Federal Election Campaign Act, as amended.
2. Close the file.

Commissioners Aikens, Elliott, Harris, McDonald, McGarry and Reiche voted affirmatively in this matter.

Attest:

12-7-84

Date

Jody C. Ranson
for Marjorie W. Emmons
Secretary of the Commission

Received in Office of Commission Secretary:
Circulated on 48 hour tally basis:

12-4-84, 1:09
12-5-84, 11:00

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary
FROM: Office of General Counsel *Cut*
DATE: December 4, 1984
SUBJECT: MUR 1814 - First General Counsel's Report

The attached is submitted as an Agenda document
for the Commission Meeting of _____
Open Session _____
Closed Session _____

CIRCULATIONS

48 Hour Tally Vote [x]
Sensitive [x]
Non-Sensitive []

24 Hour No Objection []
Sensitive []
Non-Sensitive []

Information []
Sensitive []
Non-Sensitive []

Other []

DISTRIBUTION

Compliance [x]
Audit Matters []

Litigation []
Closed MUR Letters []

Status Sheets []
Advisory Opinions []

Other (see distribution below) []

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SENSITIVE

FEDERAL ELECTION COMMISSION
1325 K Street, N.W.
Washington, D.C. 20463

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FEC

SECRETARY

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION: 12/4/84-1:10

84 DEC 4 11:09
MUR: 1814
DATE COMPLAINT
RECEIVED BY OGC:
October 9, 1984
DATE OF NOTIFICATION
TO RESPONDENT:
October 12, 1984
STAFF MEMBER:
Matt Gerson

COMPLAINANT'S NAME: National Conservative Political Action
Committee
John 'Terry' Dolan

RESPONDENT'S NAME: The Wilderness Society

RELEVANT STATUTE: 2 U.S.C. § 431(8)A(i)
2 U.S.C. § 441b
2 U.S.C. § 441d
11 C.F.R. § 110.11(a)(1)
11 C.F.R. § 114.3(a)(1)
AO 1984-14
AO 1984-17

RELEVANT CASES:

Miller v. American Telephone and Telegraph Company, 507 F.2d. 758
(3d. Cir. 1974).

United States v. United Automobile Workers, 352 U.S. 567 (1957)

INTERNAL REPORTS CHECKED: None

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

On October 9, 1984, the Federal Election Commission received from the National Conservative Political Action Committee (hereinafter "NCPAC") a complaint alleging that The Wilderness Society (hereinafter "TWS") violated 2 U.S.C. § 441d by not including a disclaimer statement on direct mailings that allegedly advocated Ronald Reagan's defeat. By its reference to AO 1984-14, NCPAC has raised the question whether TWS violated

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2 U.S.C. 441b by making expenditures in connection with a federal campaign and distributing partisan material beyond the class of people that a corporation may contact lawfully.

TWS responded through counsel on October 30, 1984.

II. FACTUAL AND LEGAL ANALYSIS

The Wilderness Society is a nonprofit organization recognized as exempt from taxation under section 501(c)(3) of the Internal Revenue Code. The communication in question was addressed, "Dear Friend of Wilderness" and sought two types of action: completion of a nationwide conservation survey, "to let the Reagan Administration know that citizens all across the country are concerned about the future of our public land system," and enrollment as a member of The Wilderness Society. See Attachment 1.

NCPAC alleges that TWS's direct mailer should have contained a disclaimer statement. 2 U.S.C. § 441d requires that

whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any ... direct mailing ...

the communication must indicate who paid for it, and where required, who authorized such communication. The Commission's regulations promulgated pursuant to 2 U.S.C. § 441d(a) specify that a sponsor's identification ("disclaimer") must

be presented in a clear and conspicuous manner to give the reader, observer or listener adequate notice of the identity of the persons who paid for ... the communication.

11 C.F.R. Section 110.11(a)(1).

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Thus, the issues under 2 U.S.C. 441d and 11 C.F.R. § 110.11(a) (1) are: (1) whether the communication expressly advocated Ronald Reagan's defeat, or (2) whether the communication solicited contributions for the purpose of influencing a federal election. 2 U.S.C. § 431(8)A(i). The answers to both these questions rely on the Commission's interpretation of the language that TWS used in its direct mailing.

The four page letter criticized the "Reagan Administration's assault on (America's) natural resources," discussing in detail the actions of "Interior Department political appointees."

One paragraph states:

Since Ronald Reagan took office, The Wilderness Society has fought to block some of his most destructive public land policies.

In soliciting members, the letter states:

... I invite you to join The Wilderness Society. You'll be supporting our nationwide campaign to undo the damage that Reagan and (former Interior Secretary) Watt have done to our wilderness, our National Parks, ... and our other irreplaceable public lands.

It is of primary importance that there is no express advocacy in the direct mailer. In Buckley, the Supreme Court held that in order for communications to be considered express advocacy, they must be unambiguously related to the campaign of a particular federal candidate and must expressly advocate one's election or defeat with terms such as "vote for," "elect," "vote against" and "defeat." In the instant case, the lack of reference to Reagan's candidacy and its lack of a message expressly advocating Reagan's defeat places the communication outside the strictures of 2 U.S.C. § 441d in that regard.

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In addition, because the General Counsel is of the opinion that the communication did not solicit contributions for the purpose of influencing a federal election, it is not governed by 2 U.S.C. § 441d on that basis. 2 U.S.C. § 431(8)(A)(i). The purpose was to generate funds to sustain TWS' policy objectives. It appears that all the factors noted in AO 1984-17 as indicating a "non-influencing purpose" are also present here:

- TWS' material is issue-oriented and not election or candidate-oriented
- no one is referred to as a candidate in any federal election
- no information is given regarding elections
- no one is urged to vote on the basis of the letter or to take the information it conveys into account in voting
- there is no suggestion of a relationship between the issues and the election. See AO 1984-17 addressing a corporation's lawful distribution of congressional voting records to the general public.

NCPAC has raised the possibility of a 2 U.S.C. § 441b violation through its reference to AO 1984-14.^{1/} TWS is a Not-for-Profit corporation that may not make an expenditure in connection with a federal election nor make partisan communications to non-members in connection with any federal

^{1/} In AO 1984-14, the Commission ruled that a Not-for-Profit membership organization could distribute to the general public a voter guide compiling voting records of candidates and advocating positions on issues, so long as it did not favor one candidate or political party over another. The compilation was lawful because the language did not evince, "an election-influencing purpose," i.e. noting that a certain candidate is easier to convince when he's looking for votes then after he's safely in office.

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election 114.3(a)(1). It is the General Counsel's view that TWS' expenditures were not in connection with the President's reelection campaign since there is no nexus between the mailings and a federal election. See Miller v. American Telephone and Telegraph Company, 507 F.2d 758 (1974). TWS makes no reference to a federal campaign. Instead, it emphasizes its disapproval of the President's handling of environmental issues and asks sympathizers for support. There is no "active electioneering" but only a recitation of the administration's record. See United States v. United Automobile Workers, 352 U.S. 56 (1957). Finally, because the mailer contains only legislative and issue advocacy, it is not partisan material and may be distributed beyond the statutorily restricted class.^{2/}

^{2/} The Wilderness Society suggests that the Commission consider whether it has authority, inherent or otherwise, to assess attorneys' fees against the complaining party. It is the General Counsel's opinion that the Commission does not have such authority. Attorneys' fees are not ordinarily recoverable in the absence of a statutory provision specifically providing that remedy. Fleischmann Distilling Corp. v. Maier Brewing Co., 386 U.S. 714 (1967). While the Supreme Court has endorsed certain exceptions to this rule, there is no precedent for the Commission to do so.

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III. RECOMMENDATIONS

1. The Commission find no reason to believe that The Wilderness Society violated the Federal Election Campaign Act, as amended.
2. Close the file.

Charles N. Steele
General Counsel

Dec 4, 1984
Date

Kenneth A. Gross
BY: Kenneth A. Gross
Associate General Counsel

Attachments

1. TWS' response
2. Letter to respondent
3. Letter to complainant

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GCC#5410

M. Gerson

LAW OFFICES
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1730 RHODE ISLAND AVENUE, N. W.
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JAMES F. NEAL
OF COUNSEL

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SAUL B. GOODMAN
RANDALL LEE SPECK
MICHAEL D. LOWE
GARY K. HARRIS
LISA R. MARX
JEFFREY H. BLATTNER
JAMES E. PFANDER

October 30, 1984

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24 OCT 30 P 2:39

BY HAND

Charles N. Steele, General Counsel
Kenneth A. Gross, Associate General Counsel
Matthew Gerson, Esq.
Federal Election Commission
1325 K Street, N.W.
5th Floor
Washington, D.C. 20463

Re: MUR 1814

Dear Gentlemen:

This letter will respond to your letter of October 12, 1984 (received on October 15, 1984), advising of a complaint alleging that The Wilderness Society and Mr. William A. Turnage, Executive Director of The Wilderness Society, had violated 2 U.S.C. § 441d. The gist of this complaint is that a membership solicitation sent by The Wilderness Society, a nonprofit organization recognized as exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, was intended to influence the presidential election.

For the reasons that follow, this claim is frivolous and the complaint should be dismissed forthwith.

Title II, U.S. Code § 441d requires certain disclosures to accompany communications "expressly advocating the election or defeat of a clearly identified candidate." 2 U.S.C. § 441d(a). The communication in question was addressed "Dear Friend of Wilderness" and sought two types of action: completion of a nationwide conservation survey, to "let the Reagan Administration know that citizens all across the country are concerned

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Matthew Gerson, Esq.
October 30, 1984
Page 2

about the future of our public land system," and enrollment as a member of The Wilderness Society. The four page letter criticized the "Reagan Administration's assault on our natural resources," discussing in detail the actions of "Interior Department political appointees."

Section 44ld applies only to expenditures for communications "expressly advocating the election or defeat of a clearly identified candidate." There is no such express advocacy in this document; indeed, there is not even any reference to an election at all. Accordingly, under the plain language of this statute, the communication that was the subject of this complaint is not within the statutory language.

In FEC v. Central Long Island Tax Reform Immediately Comm., 616 F.2d 45 (2d Cir. 1980), the Second Circuit, sitting en banc, construed this very provision. In that case, which involved the publication of voting records together with favorable or adverse characterizations of votes of individual Congressmen facing election, the Court said, "We have no difficulty . . . in concluding that 2 U.S.C. §§ 434(e) and 41ld do not apply to defendants' conduct." 616 F.2d at 52. The Court noted that the "expressly advocating" language had been added to the statute by Congress to conform to the Supreme Court's holding in Buckley v. Valeo, 424 U.S. 1 (1975), that speech, not by a candidate or political committee, could be regulated only to the extent that the communication did expressly advocate the election or defeat of a candidate. It specifically noted the Supreme Court's view that "express advocacy" would limit the application of the statutes to "communications containing express words of advocacy of election or defeat, such as 'vote for,' 'elect,' 'support,' 'cast your ballot for,' 'Smith for Congress,' 'vote against,' 'defeat,' 'reject.'" 616 F.2d at 52 (quoting 424 U.S. at 44 n. 52).

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October 30, 1984
Page 3

Addressing the argument suggested by complainant here -- that § 441d applies to express or implied advocacy ^{1/} -- the Court firmly rejected that interpretation, holding that it would "nullify the change in the statute ordered in Buckley v. Valeo, and adopted by Congress in the 1976 amendments." Indeed, the Court of Appeals said, "The position is totally meritless." 616 F.2d at 53 (emphasis added).

In this case as well, the communication complained of makes no reference to an election. There is no solicitation of the recipients of the communication to support or oppose any candidate in any election. There is no reference to the views and policies of any other candidates for public office. In short, there are no indicia of any election-related advocacy, much less of the express advocacy required by § 441d.

As noted above, The Wilderness Society is a § 501(c)(3) organization. As such, it is prohibited by statute and by its own Articles of Incorporation from participating or intervening, directly or indirectly, in any political campaign on behalf of any candidate for public office. ^{2/} The Wilderness Society accordingly has not and will not support, oppose, or endorse any candidates for any elected public office. At the same time, The Wilderness Society is permitted, as a 501(c)(3) organization, to engage in a limited amount of lobbying activities. To the extent that TWS' communications and activities are oriented towards legislative or administrative policies rather than electoral questions, they plainly may refer to the actions of elected or appointed

^{1/} The NCPAC Complaint itself notes what it calls the "lack of an outright admonition to vote against President Reagan in the upcoming Presidential election." (Emphasis added.) In fact, there is no reference at all to elections.

^{2/} This absolute prohibition specifically applies to "the publishing or distributing of statements." 26 U.S.C. § 501(c)(3).

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Charles N. Steele, General Counsel
Kenneth A. Gross, Associate General Counsel
Matthew Gerson, Esq.
October 30, 1984
Page 4

government officials in connection with such issues -- not for the purpose of influencing their election or defeat as candidates, but rather for the purpose of educating the public or members of the public with respect to policies on environmental issues of direct concern to the organization. 3/

Advisory Opinion 1984-14, cited by NCPAC in its complaint in this matter, only reenforces the conclusion that the instant communication is not within the scope of § 44ld. The Commission there ruled that it was permissible to distribute a voter guide compiling voting records of candidates and advocating positions on issues, so long as it did not favor one candidate or political party over another. Such a guide, however, is directly intended to influence the views of voters in a general election. In this respect, it is markedly different from the kind of communication at issue here which makes no reference, explicit or implicit, to any election, or to the exercise of the right to vote. The basis for regulation in the distribution of such voter guides is self-evident, since their very purpose is to assist voters in deciding how to vote. By contrast, the purpose of the communication sent out by The Wilderness Society in this case was to encourage persons (1) to enroll as members of The Wilderness Society (an activity that has no relationship to influencing elections, in view of the observed restrictions on The Wilderness Society's activities) and (2) to express their views on certain current issues of legislation or policy (similarly non-electoral in character). 4/

3/ Any implication by The Wilderness Society of the need to "battle . . . President Reagan," NCPAC Complaint, clearly refers to a battle for wilderness and for a "change in the Administration's approach to conservation and conservation issues." TWS Letter, p. 3.

4/ It is difficult to determine the basis for NCPAC's charge that the survey included in the material "exclusively focuses upon various policies of the Administration in an effort to harm the candidacy of Ronald Reagan." The Wilderness Society has long limited its activities primarily to public lands owned

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Kenneth A. Gross, Associate General Counsel
Matthew Gerson, Esq.
October 30, 1984
Page 5

For all these reasons, this complaint should be dismissed. 5/

Respectfully submitted,



Mitchell Rogovin
Vicki C. Jackson
Susan L. Carney

Counsel for The Wilderness Society

by the Federal Government. Accordingly, the only level of government with which it would commonly deal is the Federal Government. It discusses only the policies of the Reagan Administration since those are the policies which have been controlling use of public lands for the past several years. An analysis of current policies, even when phrased in strong tones, is protected by the First Amendment, and in no way can be said to "expressly advocate" the election or defeat of any candidate.

5/ In addition, The Wilderness Society suggests that the Commission consider whether it has authority, inherent or otherwise, to assess attorneys' fees against the complaining party. Bregstone v. United States, 4 Cl. Ct. 507 (1984); Alyeska Pipeline Service Co. v. The Wilderness Society, 421 U.S. 240, 258-59 (1975) (discussing courts' inherent authority to award fees where opponent acts in bad faith, vexatiously, wantonly or for oppressive reasons). Four years ago, the Court of Appeals for the Second Circuit unanimously described the position NCPAC attempts to assert here as "totally meritless." 616 F.2d at 53. The passage of time has only made that position more, rather than less, meritless. Yet, even frivolous complaints can have a chilling effect on protected First Amendment activities. And the limited funds of organizations like The Wilderness Society should not be depleted by having to respond to such complaints. In the event the Commission determines it has such authority, The Wilderness Society would request attorneys' fees in an amount to be determined upon dismissal of the Complaint.

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6CC#5410

M. Gerson

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October 30, 1984

34 OCT 30 P 2: 39

RECEIVED
OFFICE OF THE
GENERAL COUNSEL

BY HAND

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1325 K Street, N.W.
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In this case as well, the communication complained of makes no reference to an election. There is no solicitation of the recipients of the communication to support or oppose any candidate in any election. There is no reference to the views and policies of any other candidates for public office. In short, there are no indicia of any election-related advocacy, much less of the express advocacy required by § 441d.

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^{2/} This absolute prohibition specifically applies to "the publishing or distributing of statements." 26 U.S.C. § 501(c)(3).

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3/ Any implication by The Wilderness Society of the need to "battle . . . President Reagan," NCPAC Complaint, clearly refers to a battle for wilderness and for a "change in the Administration's approach to conservation and conservation issues." TWS Letter, p. 3.

4/ It is difficult to determine the basis for NCPAC's charge that the survey included in the material "exclusively focuses upon various policies of the Administration in an effort to harm the candidacy of Ronald Reagan." The Wilderness Society has long limited its activities primarily to public lands owned

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Page 5

For all these reasons, this complaint should be dismissed. 5/

Respectfully submitted,



Mitchell Rogovin
Vicki C. Jackson
Susan L. Carney

Counsel for The Wilderness Society

by the Federal Government. Accordingly, the only level of government with which it would commonly deal is the Federal Government. It discusses only the policies of the Reagan Administration since those are the policies which have been controlling use of public lands for the past several years. An analysis of current policies, even when phrased in strong tones, is protected by the First Amendment, and in no way can be said to "expressly advocate" the election or defeat of any candidate.

5/ In addition, The Wilderness Society suggests that the Commission consider whether it has authority, inherent or otherwise, to assess attorneys' fees against the complaining party. Bregstone v. United States, 4 Cl. Ct. 507 (1984); Alaska Pipeline Service Co. v. The Wilderness Society, 421 U.S. 240, 258-59 (1975) (discussing courts' inherent authority to award fees where opponent acts in bad faith, vexatiously, wantonly or for oppressive reasons). Four years ago, the Court of Appeals for the Second Circuit unanimously described the position NCPAC attempts to assert here as "totally meritless." 616 F.2d at 53. The passage of time has only made that position more, rather than less, meritless. Yet, even frivolous complaints can have a chilling effect on protected First Amendment activities. And the limited funds of organizations like The Wilderness Society should not be depleted by having to respond to such complaints. In the event the Commission determines it has such authority, The Wilderness Society would request attorneys' fees in an amount to be determined upon dismissal of the Complaint.

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STATEMENT OF DESIGNATION OF COUNSEL

84 OCT 19 11:07

MUR 1814
NAME OF COUNSEL: Mitchell Rogovin, Vicki Jackson,
Susan Carney
ADDRESS: ROGOVIN, HUGE & LENZNER
1730 Rhode Island Avenue, N.W., Suite 1108
Washington, D.C. 20036
TELEPHONE: (202) 466-6464

14 OCT 19 11:07

RECEIVED
GENERAL COUNSEL

The above-named individual is hereby designated as my
counsel and is authorized to receive any notifications and other
communications from the Commission and to act on my behalf before
the Commission.

15 October 1984
Date


Signature

RESPONDENT'S NAME: THE WILDERNESS SOCIETY
ADDRESS: 1901 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
HOME PHONE: _____
BUSINESS PHONE: (202) 828-6600

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THE WILDERNESS SOCIETY

1901 PENNSYLVANIA AVENUE, N.W., WASHINGTON, D.C. 20006



Kenneth Gross, Esq.
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

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A8:53



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary
FROM: Office of General Counsel *Cx*
DATE: October 19, 1984
SUBJECT: MUR 1814 - Memorandum to The Commission

The attached is submitted as an Agenda document
for the Commission Meeting of _____
Open Session _____
Closed Session _____

CIRCULATIONS		DISTRIBUTION	
48 Hour Tally Vote	[]	Compliance	[x]
Sensitive	[]	Audit Matters	[]
Non-Sensitive	[]	Litigation	[]
24 Hour No Objection	[]	Closed MUR Letters	[]
Sensitive	[]	Status Sheets	[]
Non-Sensitive	[]	Advisory Opinions	[]
Information	[]	Other (see distribution below)	[]
Sensitive	[]		
Non-Sensitive	[]		
Other	[x]		

SENSITIVE - EXPEDITE

CIRCULATE ON PINK PAPER

INFORMATIONAL

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
OFFICE OF THE FEDERAL
COMMISSION SECRETARY

84 OCT 19 P2:35

October 19, 1984

SENSITIVE

MEMORANDUM TO: The Commission

FROM: Charles N. Steele

By: Kenneth A. Gross
Associate General Counsel *KAG*

SUBJECT: MUR 1814 - The Wilderness Society

The National Conservative Political Action Committee alleges that The Wilderness Society violated 2 U.S.C. § 441d. That statute requires that:

Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate or solicits any contribution... through general public political advertising...

the Communication must indicate who paid for it, and where required, who authorized such communication.

The issues presented are whether the communication expressly advocated Ronald Reagan's defeat and whether the communication solicited contributions for the purpose of influencing a federal election. 2 U.S.C. § 431(8)(A)(i). While the respondent's communication criticized the Reagan administration, it did not expressly advocate Reagan's defeat. However, while The Wilderness Society definitely solicited contributions in order to advocate positions contrary to those of the Administration, it is uncertain whether the language utilized fell within the statute's purview. It will, therefore, be necessary for the Commission to review the communication's pertinent language before rendering a reason to believe determination.

In addition, we are unable to discern the respondent organization's corporate structure at this time. Because § 441b violations may be involved, we will wait until the fifteen day response period expires before providing the Commission with a complete analysis of this allegation.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 12, 1984

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

William A. Turnage
Executive Director
The Wilderness Society
1901 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

RE: MUR 1814

Dear Mr. Turnage:

This letter is to notify you that on October 9, 1984, the Federal Election Commission received a complaint which alleges that you and The Wilderness Society violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1814. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing, that no action should be taken against you and The Wilderness Society in connection with this matter. You may respond to the allegations made against you within 15 days of receipt of this letter. The complaint may be dismissed by the Commission prior to receipt of the response if the alleged violations are not under the jurisdiction of the Commission or if the evidence submitted does not indicate that a violation of the Act has been committed. Should the Commission dismiss the complaint, you and The Wilderness will be notified by mailgram. If no response is filed within the 15 day statutory requirement, the Commission may take further action based on available information.

You are encouraged to respond to this notification promptly. In order to facilitate an expeditious response to this notification, we have enclosed a pre-addressed, postage paid, special delivery envelope.

Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

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This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission, in writing, that you wish the matter to be made public.

If you intend to be represented by counsel in this matter, please advise the Commission by sending a letter of representation stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

If you have any questions, please contact Matthew Gerson, the staff person assigned to this matter at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Kenneth A. Gross (LJZ)
By: Kenneth A. Gross
Associate General Counsel

Enclosures
Complaint
Procedures
Envelope

84040493705



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 12, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John T. Dolan
National Chairman
National Conservative
Political Action Committee
1001 Prince Street
Alexandria, Virginia 22314

Dear Mr. Dolan:

This letter is to acknowledge receipt of your complaint which we received on October 9, 1984, against William A. Turnage and The Wilderness Society which alleges violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondent(s) will be notified of this complaint within 24 hours. You will be notified as soon as the Commission takes final action on your complaint. Should you have or receive any additional information in this matter, please forward it to this Office. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Please be advised that this matter shall remain confidential in accordance with 2 U.S.C. § 437g(a)(B) and § 437g(a)(12)(A) unless the respondent notifies the Commission in writing that they wish the matter to be made public.

Sincerely,

Charles N. Steele
General Counsel

By: *Kenneth A. Gross (H/7)*
Kenneth A. Gross
Associate General Counsel

Enclosure

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*National Conservative
Political Action Committee*

*1001 Prince Street
Alexandria, Virginia 22314*

RECEIVED AT THE FEC
GCC #5016
84 OCT 9 8 48

*John T. Dolan
National Chairman*

September 28, 1984

(703) 684-1800

*mur
1814*

General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Dear Sir:

This letter constitutes a complaint filed pursuant to 2 U.S.C. 437g by the National Conservative Political Action Committee ("NCPAC"), a registered independent political action committee, against The Wilderness Society ("TWS"), which has apparently violated the provisions of 2 U.S.C. 441d in making expenditures for the purpose of financing communications which expressly advocate the defeat of Ronald Reagan.

Attached hereto and made a part of this complaint is a copy of a direct mailing produced by TWS which violates 2 U.S.C. 441d. The name and address of the recipient of the mailing have been excised; no other alterations to the mailing have been made.

NCPAC has reason to believe that this communication was mailed to the general public.

NCPAC has reviewed the records of the Commission and ascertained that TWS is not a registered political action committee.

The lack of an outright admonition to vote against President Reagan in the upcoming Presidential election does not defeat the clear intent and purpose of TWS in advocating the defeat of President Reagan as set forth in the enclosed direct mailing. The mailing focuses upon the perceived need to battle (i.e. defeat) President Reagan. The survey exclusively focuses upon various policies of the Administration in an effort to harm the candidacy of Ronald Reagan.

NCPAC notes that by AO 1984-14, the Commission ruled that a membership organization which compiled voter guides may not distribute such material to the general public if they imply

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FEDERAL
ELECTION
COMMISSION

Federal Election Commission
September 28, 1984
Page Two

a right or wrong answer or a weak record. In that same advisory opinion it was noted that favoring one candidate over the other in the context of an election indicates an election-influencing purpose.

Very truly yours,

NATIONAL CONSERVATIVE POLITICAL
ACTION COMMITTEE

By: 

John T. Dolan, Chairman

COMMONWEALTH OF VIRGINIA)
CITY OF ALEXANDRIA) to-wit:

Sworn to before me this 1st day of ^{October}~~September~~, 1984,
by JOHN T. DOLAN, as Chairman of National Conservative Political
Action Committee, under the penalty of perjury and subject to the
provisions of section 1001 of Title 118 of the United States
Code.


Notary Public

My Commission Expires:

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THE WILDERNESS SOCIETY

1901 PENNSYLVANIA AVENUE, N.W., WASHINGTON, D.C. 20006

Dear Friend of Wilderness:

You're being robbed ... robbed of something that can never be replaced.

The Reagan Administration's assault on our natural resources is unprecedented. Interior Department political appointees have sold oil, gas, and coal rights at millions of dollars below their fair market value. They've authorized development which threatens recreation and watershed lands. They've tried to sell off vast portions of the public lands at bargain-basement prices.

But even this looting pales in comparison to the long-term damage of the Reagan Administration's attack on our last remaining wilderness areas.

In addition to huge budget deficits, this Administration has created an enormous environmental deficit which, in some cases, will be impossible to "repay."

Since Ronald Reagan took office, The Wilderness Society has fought to block some of his most destructive public land policies.

If you believe that wilderness areas should be preserved and protected from unnecessary development, then I urge you to join with us in the battle to save our country's last remaining wild lands.

You can help in two important ways.

1. Complete the enclosed NATIONWIDE CONSERVATION SURVEY. This will let the Reagan Administration know that citizens all across the country are concerned about the future of our public land system.
2. By enrolling as a member of The Wilderness Society, you'll be joining one of America's oldest and most respected conservation organizations. Membership is only \$15 and brings you our acclaimed WILDERNESS magazine, periodic Action Alerts on crucial issues of the day, as well as invitations to workshops and seminars. You'll also receive a special membership gift for joining now that I'll describe later in this letter.

Here's a brief run-down on the battle so far:

As you know, James Watt was Reagan's point man in the effort to

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transfer as much of this nation's natural wealth as possible into private hands.

In his haste, Watt ran rough-shod over the laws and policies which both Democratic and Republican administrations alike have used to protect our natural resources and vast wild lands since the time of Theodore Roosevelt.

Even the most sensitive environments were vulnerable to Watts reckless giveaway. He tried to issue oil and gas leases in designated wilderness areas. He tried to lease oil and gas rights within the sensitive Wildlife Refuge System. He eliminated 1.5 million acres of unprotected Bureau of Land Management wilderness from the wilderness review process which effectively prohibited these lands from being admitted into the permanent protection of the National Wilderness Preservation System.

Watt may be gone, but the policies were Reagan's in the first place, and loyalty to Ronald Reagan is the chief credential of the new Interior Secretary, William Clark.

Advocates for Conservation

The Wilderness Society has been remarkably effective in blocking the Administration's attempts to dispose of our nation's natural wealth.

- o When the Interior Department tried to issue oil and gas leases in wildlife refuges, The Wilderness Society went to work with court challenges and alerted Congress to the threat these leases posed for rare and endangered wildlife species and their habitat. As a result, Congress specifically prohibited the Interior Department from processing such leases.
- o When Interior officials used a loophole in the law to allow oil and gas development in wilderness, we again went to Congress and won a series of resolutions and budget restrictions that now prohibit oil and gas leasing in designated wilderness.
- o Watt bent the law to the breaking point when he summarily dropped 1.5 million acres of unprotected wilderness from the Bureau of Land Management's wilderness review process. The Wilderness Society hauled Watt into court and won an injunction protecting these vulnerable wild lands.

But, we need your help to continue this impressive record of success against the most anti-wilderness Administration in recent history.

Within the next couple of years, all the "big" decisions about wilderness in the lower forty-eight states will be made. The wild lands we don't save now will soon be lost forever!

I am confident that you share my outrage at the wholesale liquidation

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of our natural resources ... resources that belong to each and every one of us.

Defending our Wilderness Heritage

Wilderness is a living part of the American experience, one which cannot be replaced by any creation of human industry.

National Parks ... Wildlife Refuges ... National Forests ... Wilderness Areas ... all these are part of the rich and diverse natural wealth of America. So are our great waterways and lakes and bays and seashores ... part of the American experience. Part of our inheritance as Americans.

Today, we have a chance to start on the long road back to a sound policy of conservation in this country. We have strong support in Congress. We have broad public awareness that our country's natural resources are being recklessly squandered for the benefit of a few wealthy oil, gas, and coal interests.

The enclosed NATIONWIDE CONSERVATION SURVEY will play an important role in demonstrating public dissatisfaction with the Reagan policy of ~~exploitation and abuse~~. By completing the survey questionnaire, you can add your voice to the public outcry for change in the Administration's approach to conservation and conservation issues.

At the same time, I invite you to join The Wilderness Society. You'll be supporting our nationwide campaign to undo the damage that Reagan and Watt have done to our wilderness, our National Parks, our National Forests, our Wildlife Refuges, our Wilderness Areas, and our other irreplaceable public lands.

Membership is Strength

When you join The Wilderness Society, you take a stand behind one of America's leading conservation organizations -- with over 90,000 members all across the country.

Every new member means new strength. We need that strength now to seize the long-awaited opportunity presented by the departure of James Watt.

And today, you can join with a gift of only \$15 -- a savings of \$10 off the regular rate. If you choose to join with a gift of \$25, \$50, \$100, or more, you give extra strength to the fight on behalf of our wild lands and other precious natural resources.

To thank you for joining us in this effort, we'll send you a handsome portfolio of photographs by America's premiere nature photographer, Ansel Adams.

You'll also receive colorful and informative WILDERNESS magazine. The combination of stunning photography and in depth articles, along with

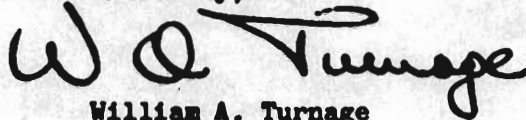
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periodic Action Alerts, will keep you abreast of those issues confronting our public lands. We'll let you know how you can help in the fight to save America's last remaining wild lands.

Won't you help? Complete the NATIONWIDE CONSERVATION SURVEY and return it in the enclosed postage-paid return envelope along with your first years membership dues of just \$15.

Together, we can save America's wild lands ...

Sincerely,



William A. Turnage
Executive Director

PS: I am asking you to join The Wilderness Society at a historic moment. The current session of Congress will consider some twenty-six bills that will designate wilderness areas for permanent protection. At the same time, millions of acres will be reviewed by the Bureau of Land Management for possible wilderness designation. Won't you join with us in this historic effort to preserve America's wilderness?

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**Nationwide
Survey**

**Nationwide
Survey**

**Nationwide
Survey**

**Nationwide
Survey**

**Nationwide
Survey**

Conducted by: The Wilderness Society
1901 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

To:

**PLEASE RESPOND
IN 10 DAYS!**

Nationwide Conservation Survey

Please indicate whether you agree or disagree with these statements:

1. The Reagan Administration must restore the acquisition program for National Parks, refuges and preservation areas that Congress has already authorized and which James Watt illegally blocked.

☐ AGREE ☐ DISAGREE ☐ NO OPINION

2. The Reagan Administration must restore to "wilderness study" status the more than 1.5 million acres of Bureau of Land Management lands that Watt removed from wilderness protection.

☐ AGREE ☐ DISAGREE ☐ NO OPINION

3. The Reagan Administration must establish a sound coal leasing policy to assure that taxpayers receive a fair price for publicly-owned coal and that the environment is not compromised.

☐ AGREE ☐ DISAGREE ☐ NO OPINION

4. The Reagan Administration must stop the giveaway of our natural resources by scaling back Interior Department plans to lease the entire Outer Continental Shelf for oil and gas in just five years.

☐ AGREE ☐ DISAGREE ☐ NO OPINION

(over, please)

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5. The Reagan Administration must replace the Watt political appointees who have been carrying out destructive land policies and will continue to do so until they're removed.

☐ AGREE ☐ DISAGREE ☐ NO OPINION

6. The Reagan Administration must stop the destruction of wildlife refuges by reversing Watt's policy of increased grazing, logging, mining, trapping, and even oil and gas exploration within the wildlife refuges.

☐ AGREE ☐ DISAGREE ☐ NO OPINION

7. The Reagan Administration must resume the listing of endangered species, a process that Watt brought to a virtual halt.

☐ AGREE ☐ DISAGREE ☐ NO OPINION

If you agree with most of these statements, then please accept our invitation to join The Wilderness Society.

Membership Acceptance Form

The Wilderness Society, 1901 Pennsylvania Avenue, N.W., Washington, D.C. 20006

YES, I want to help preserve and protect America's endangered wilderness areas and all our public lands as a member of The Wilderness Society.

Please enter my subscription to WILDERNESS magazine and send me—as my welcoming gift—a free portfolio of photographs by Ansel Adams and the official results of this Nationwide Survey.

☐ \$15 Individual Membership
(regular rate: \$25)

☐ \$20 Family Membership
(regular rate: \$30)

☐ I want to add an extra gift:
My check is for \$_____.

☐ I'm already a member of
The Wilderness Society but am
using this form to make an
additional contribution of \$_____.

☐ I do not wish to join The Wilderness Society at this time . . . but please send me results of your official Nationwide Survey.

This ballot is confidential. Results will be tabulated and made public at the discretion of The Wilderness Society.

Make your check payable to The Wilderness Society and return to The Wilderness Society, 1901 Pennsylvania Avenue, N.W., Washington, D.C. 20006. All but \$6.00 of your dues and contributions are tax-deductible.

A copy of the last financial report filed with the New York Department of State may be obtained by writing to New York State Department of State, Office of Charities Registration, Albany, N.Y. 12241, or The Wilderness Society.

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NO POSTAGE
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IF MAILED
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UNITED STATES

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FIRST CLASS PERMIT NO. 10191 WASHINGTON, D.C.

POSTAGE WILL BE PAID BY ADDRESSEE

Mr. William A. Turnage, *Executive Director*
The Wilderness Society
1901 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

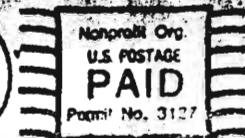


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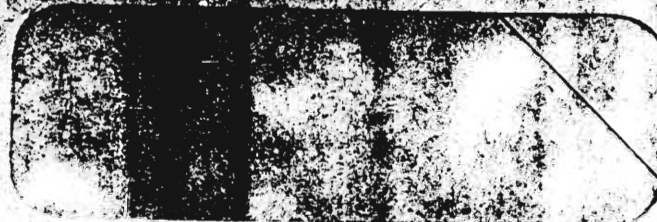
The Wilderness Society
1901 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

World - One



Nationwide Survey Nationwide Survey Nationwide Survey Nationwide Survey Nationwide Survey Nationwide Survey

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FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR #

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