FEDERAL ELECTION COMMISSION

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

THIS IS THE END OF MUR # 1812

Date Filmed 1/17/85 Camera No. --- 2

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FEDERAL ELECTION COMMISSION MUR 1812

Docket Communication - Copies of letters -

Instructions - Commissioner's objection memo

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):

___	(1) Classified Information	___	(6) Personal privacy
✓	(2) Internal rules and practices	___	(7) Investigatory files
___	(3) Exempted by other statute	___	(8) Banking Information
___	(4) Trade secrets and commercial or financial information	___	(9) Well Information (geographic or geophysical)
✓	(5) Internal Documents		

Signed [signature]

date 1/3/84

FEC 9-21-77

TGW 1/15/85

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 20, 1984

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

RE: MUR 1812
Natural Resources Defense
Council, Inc.

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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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 20, 1984

Walter Slocombe, Esquire
Caplin and Drysdale
One Thomas Circle, N.W.
Washington, D.C. 20005

RE: MUR 1812
Natural Resources Defense
Council, Inc.

Dear Mr. Slocombe:

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 18 , 1984, determined that on the basis of the information in the complaint, and informatin 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. 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

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 1812
Natural Resources Defense Council, Inc.	)	
	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on December 18, 1984, the Commission decided by a vote of 6-0 to take the following actions in MUR 1812:

1. Find no reason to believe that the Natural Resources Defense Council, Inc. violated 2 U.S.C. § 441b and 2 U.S.C. § 441d, provisions of the Federal Election Campaign Act, as amended.

2. Close the file.

3. Approve the letters attached to the First General Counsel's Report signed December 13, 1984.

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

Attest:

12-19-84
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

Received in Office of Commission Secretary: 12-13-84, 3:17
Circulated on 48 hour tally basis: 12-14-84, 2:00

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel Cot

DATE: December 13, 1984

SUBJECT: MUR 1812 - First General Counsel's Report

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

Open Session _____

Closed Session _____

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

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

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84 DEC 13 P 3:17

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL BY OGC TO THE COMMISSION: 12/13/84 3:15

MUR: 1812
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: Natural Resources Defense Council, Inc.

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

SENSITIVE

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

I. BACKGROUND

On October 9, 1984, the Federal Election Commission received from the National Conservative Political Action Committee (hereinafter "NCPAC") a complaint alleging that the Natural Resources Defense Council, Inc. (hereinafter "NRDC") 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 of whether

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

NRDC responded through counsel on October 26, 1984.

II. FACTUAL AND LEGAL ANALYSIS

The Natural Resources Defense Council, Inc. is a 26 U.S.C. 501(c)(3) tax exempt organization that, "conducts a variety of research, educational, and public interest litigation programs with the objective of protecting the environment... NRDC is supported to a substantial degree by small individual contributions and conducts an active effort to solicit (contributions) from the general public. A part of that effort is direct mail solicitation of potential givers." See Attachment 1.

NCPAC alleges that NRDC'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

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regulations promulgated pursuant to 2 U.S.C. § 441d(a) specify that a sponsor's identification 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).

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 NRDC used in its direct mailing.

According to NRDC's records, the challenged letter has not been used since February 27, 1984. The letter criticizes the President and administration officials for its environmental policies and includes examples of specific acts and positions that NRDC considers unsatisfactory.

One paragraph states:

> We have both the legal skill and technical expertise needed to successfully defend our environment from the sheer destructive power of the Reagan Administration and its friends among the polluters.

In soliciting members, NRDC states:

> The more names we have on our membership rolls, the more congressmen and senators listen to what we have to say.

The membership form includes the sentence:

> I agree! The Reagan Administration and its friends among the nation's polluters <u>must be stopped</u>! (emphasis in original).

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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 solicitation's timing, lack of reference to Reagan's candidacy and its lack of a message expressly advocating Reagan's defeat places the solicitation outside the strictures of 2 U.S.C. § 441d in that regard.

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. The purpose was to generate funds to sustain NRDC's effort at environmental protection. As NRDC's counsel asserts, all the factors noted in AO 1984-17 indicating a "non-influencing purpose" are also present here:

- the NRDC 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.

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NCPAC has raised the possibility of a 2 U.S.C. 441b violation through its reference to AO 1984-14.1/ NRDC 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. It is the General Counsel's view that the NRDC's 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). NRDC makes no reference to a federal campaign in its February 1984 mailing. 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 NRDC's perception of the administration's record. See United States v. United Automobile Workers, 352 U.S. 567 (1957). Finally, because the mailer contains only legislative and issue advocacy, it is not partisan material and it may be distributed beyond the statutorily restricted class.

1/ In AO 1984-14, the Commission ruled that a Not-for-Profit membership organization could 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. 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 than after he's safely in office.

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III. RECOMMENDATIONS

1. Find no reason to believe that the Natural Resources Defense Council, Inc. violated 2 U.S.C. § 441b and 2 U.S.C. §441d, provisions of the Federal Election Campaign Act, as amended.

2. Close the file.

3. Approve the attached letters.

Charles N. Steele
General Counsel

Dec 13, 1984
Date

BY: Kenneth A. Gross
Associate General Counsel

Attachments
1. Natural Resources Defense Council's response
2. Letter to respondent
3. Letter to complainant

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GCC#5338

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WRITER'S DIRECT DIAL NUMBER
202/862-5071

October 26, 1984

84 OCT 26 P 9:04
GENERAL COUNSEL

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Office of the General Counsel
Federal Election Commission
Washington, D.C. 20463

Attn: Stephen Levine

Re: MUR 1812

To the General Counsel:

This statement is in response to Associate General Counsel Gross' letter of October 12, 1984, to the Natural Resources Defense Council ("NRDC") (received by NRDC on October 15) informing NRDC that the National Conservative Political Action Committee ("NCPAC") had sent the FEC a complaint about an NRDC fund-raising letter.

The complaint is utterly without merit and should be promptly dismissed.

Facts

The facts are as follows:

NRDC is a nonpartisan environmental organization, determined to be exempt from federal income taxes under section 501(c)(3) of the Internal Revenue Code of 1954, as amended. Founded in 1970, it conducts a variety of research, educational, and public interest litigation programs with the objective of protecting the environment. The focus of its litigation program is insuring

that legal protections of the environment are effectively enforced and implemented. Consistent with its tax status, NRDC does not support or oppose candidates for election to any public office and it does not operate a political action committee.

NRDC is supported to a substantial degree by small individual contributions and conducts an active effort to solicit such gifts from the general public. A part of that effort is direct mail solicitation of potential givers. Both to enhance the effectiveness of its solicitations from the fund-raising point of view and to use its solicitations as a means of educating the general public about its work, NRDC's direct mail materials include specific examples of its activities.

The letter in question was one of a number used in that direct mail effort. The letter explains NRDC's activities in the coal leasing field and explains why, in NRDC's judgment, the Interior Department's coal leasing program was not in accordance with the laws regarding its stewardship of federal lands and why the Environmental Protection Agency's enforcement efforts could not be relied on, so that NRDC's efforts were needed to ensure effective enforcement of the laws.

According to records of NRDC's direct mail operations, the letter was written in May 1983 and approved in July 1983, under NRDC's careful internal procedure to review direct mail materials for factual accuracy and consistency with applicable legal restrictions. After a successful initial mailing in September 1983, the letter was revised slightly to reflect the departure of Secretary Watt in October 1983. It was approved for mailing during January 1984, regarded as the best month in the year for fund-raising. The bulk of the mailings of the letter -- some 434,000 copies -- occured in that month, and about 145,000 copies were mailed in February 1984. The letter has not been used since February 27, 1984.

The letter makes no reference to the 1984 presidential election nor to the candidacy of Mr. Reagan or anyone else. It was written and approved for use, and most of its use in fact occured, before January 29, 1984 when President Reagan announced his candidacy for the Republican nomination for President. Prior to that date there was considerable question whether the President would seek reelection.

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Law

The facts make clear that this letter was not sent "for the purpose of influencing any election for federal office," which is the key requirement for classification as an "expenditure" under the Federal Election Campaign Act. 2 U.S.C. § 431(9)(A)(i). The letter had an entirely different and unrelated purpose -- to raise funds for NRDC. This clear independent, nonelectoral purpose is itself sufficient grounds to reject the NCPAC complaint.

In any event, the complaint should be dismissed because the letter is at most a criticism of Reagan administration policies, not a comment on the candidacy of President Reagan. The Commission's regulations dealing with corporation distribution of voting records make clear that statements about the activities of federal officials, even if they criticize the activities, are not within the scope of the FECA unless explicitly linked to elections. 11 C.F.R. § 114.4(b)(4). In Advisory Opinion 1984-17, 1 C.C.H. Fed. Elec. Camp. Fin. Guide ¶ 5769, the Commission approved as "not for the purpose of influencing a Federal election" an anti-abortion group's distribution in January 1984, i.e., during the period at issue here, of a list of congressional votes on issues selected by the group. Some of the votes were characterized as "prolife" or "pro-abortion" -- clearly voicing the approval or disapproval by the group of the votes reported. But, with no express connection with any election, this evaluation of the votes was not treated as made for the purpose of influencing an election.

All the factors noted in AO 1984-17 as indicating a "non-influencing" purpose are also present here:

-- The NRDC material is issue-oriented and not election- or candidate-oriented;

-- No one is referred to as a candidate;

-- 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, nor is there any suggestion of a relationship between the issues and the election.

The factors present in AO 1984-14, id. ¶ 5761, that, in the FEC's view, rendered the material at issue there impermissible under the FECA all expressly focused on elections, not issues. No such factors are present here.

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NCPAC argues that any critical comment on the policies of the current administration, even if they make no reference at all to an election, constitute "advocating the defeat of President Reagan." Of course, the necessary implication of that position is that any expression of approval of any administration action would be an expenditure "advocating the reelection of President Reagan."

It follows that if the FEC were to take the position that this letter is an "expenditure" it would be assuming jurisdiction over every statement on public policy made by every corporation in America during an even-numbered year. For if criticism of the incumbent administration's environmental policies and actions is an "expenditure," so is a statement, favorable or unfavorable, by an automobile manufacturer or union on the administration's policies or actions on import quotas or airbags. Constitutional considerations aside -- and they are obviously substantial, see FEC v. Massachusetts Citizens for Life, ___ F. Supp. ___, 2 C.C.H. Fed. Elec. Camp. Fin. Guide ¶ 9211 (D. Mass., June 29, 1984) -- nothing in the statute or the Commission's regulations or advisory opinions suggests that its jurisdiction extends so broadly.

For these reasons, NCPAC's complaint is entirely without foundation and should be rejected without further proceedings.

NCPAC's complaint should also be dismissed as grossly untimely. The last mailing of the letter was in February -- eight months ago. For the conciliation and compliance procedures of the FEC to work, issues have to be raised with reasonable promptness, which NCPAC has failed to do here.

A letter authorizing us to represent NRDC in connection with this matter is attached.

Sincerely yours,

Walter Slocombe

Walter Slocombe

Enclosure

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GCC#5338

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October 26, 1984

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Washington, D.C. 20463

Attn: Stephen Levine

Re: MUR 1812

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that legal protections of the environment are effectively enforced and implemented. Consistent with its tax status, NRDC does not support or oppose candidates for election to any public office and it does not operate a political action committee.

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According to records of NRDC's direct mail operations, the letter was written in May 1983 and approved in July 1983, under NRDC's careful internal procedure to review direct mail materials for factual accuracy and consistency with applicable legal restrictions. After a successful initial mailing in September 1983, the letter was revised slightly to reflect the departure of Secretary Watt in October 1983. It was approved for mailing during January 1984, regarded as the best month in the year for fund-raising. The bulk of the mailings of the letter -- some 434,000 copies -- occured in that month, and about 145,000 copies were mailed in February 1984. The letter has not been used since February 27, 1984.

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For these reasons, NCPAC's complaint is entirely without foundation and should be rejected without further proceedings.

NCPAC's complaint should also be dismissed as grossly untimely. The last mailing of the letter was in February -- eight months ago. For the conciliation and compliance procedures of the FEC to work, issues have to be raised with reasonable promptness, which NCPAC has failed to do here.

A letter authorizing us to represent NRDC in connection with this matter is attached.

Sincerely yours,

Walter Slocombe

Walter Slocombe

Enclosure

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Natural Resources Defense Council, Inc.

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Jonathan Z. Larsen
Dr. Joshua Lederberg
Weyman I. Lundquist
Carol R. Noyes
John B. Oakes
Franklin E. Parker
Dr. Gifford B. Pinchot
Robert Redford
Nathaniel P. Reed
John R. Robinson
Laurance Rockefeller
Christine H. Russell
Leonard R. Sargent
Joan C. Schwartz
John Sheehan
David Sive
Thomas B. Stoel
Thomas A. Troyer
Beatrice Abbott Duggan
U.N. Representative
John H. Adams
Executive Director

October 25, 1984

The Federal Election Commission
Washington, D.C. 20463

Dear Sir:

Re: MUR 1812

This is to advise you that in the above captioned matter we will be represented by the office of Caplin & Drysdale, and its attorneys, Thomas Troyer, Walt Slocum and Frank Chapper.

Very truly yours,

Patricia F. Sullivan

Patricia F. Sullivan
Administrator

PFS:pm

New England Office: 16 PRESCOTT STREET • WELLESLEY HILLS, MA. 02181 • 617 237-0472
Public Lands Institute: 1720 RACE STREET • DENVER, CO. 80206 • 303 377-9740

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LAW OFFICES
CAPLIN & DRYSDALE
CHARTERED
ONE THOMAS CIRCLE N.W.
WASHINGTON, D.C. 20005

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

ATTN: Stephen Levine

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

84 OCT 18 P3:17

MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel

DATE: October 18, 1984

SUBJECT: MUR 1812 - Memo to COMM

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

COPY ON PINK PAPER

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RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY

84 OCT 18 P3:17

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 18, 1984

SENSITIVE

MEMORANDUM TO: The Commission

FROM: Charles N. Steele

By: Kenneth A. Gross
Associate General Counsel

SUBJECT: MUR 1812 - National Resources Defense Counsel

The National Conservative Political Action Committee alleges that the National Resources Defense Council 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 National Resources Defense Counsel 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 pertinent language from each communication before rendering a reason to believe determination. We will wait for the fifteen day response period to expire 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

Johanna Wald, Esquire
Natural Resources Defense Council
122 East 42nd Street
New York, New York 10168

RE: MUR 1812

Dear Ms. Wald:

This letter is to notify you that on October 9, 1984, the Federal Election Commission received a complaint which alleges that you and Natural Resources Defense Council 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 1812. 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 Natural Resources Defense Council 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 Natural Resources Defense Council 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 Stephen Levin, the staff person assigned to this matter at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Kenneth A. Gross (KAG)

By: Kenneth A. Gross
Associate General Counsel

Enclosures
Complaint
Procedures
Envelope

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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 Natural Resources Defense Council and Johanna Wald, Esquire 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

Kenneth A. Gross (ZGZ)

By: Kenneth A. Gross
Associate General Counsel

Enclosure

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National Conservative
Political Action Committee
1001 Prince Street
Alexandria, Virginia 22314

John T. Dolan
National Chairman

(703) 684-1800

RECEIVED AT THE FEC
GCC#5019
84 OCT 9 A8:48

September 28, 1984

MUR
1812

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 National Resources Defense Council ("NRDC"), 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 NRDC which violates 2 U.S.C. 441d. The name and address of the recipient of the mailings 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 NRDC 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 NRDC in advocating the defeat of President Reagan as set forth in the enclosed direct mailing.

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 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 ~~September~~ October, 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.

A. Mark Christopher
Notary Public

My Commission Expires: 11/21/86

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JOHANNA WALD
ATTORNEY AT LAW

Dear Fellow American,

Over the last several weeks, I have spent hundreds of hours working on your behalf -- working on litigation to prevent Interior Secretary Watt from virtually giving away development rights to invaluable public coal lands.

And I'll be doing the same critical legal work again next week.

You see, President Reagan and various Administration officials have joined forces to hand over our country's wealth of natural resources to commercial interests.

You may have read recently where the General Accounting Office, the audit arm of Congress, discovered that former Interior Secretary James Watt sold coal development rights to industry last year for $100 million less than they were worth -- this despite a federal law requiring the government to get a fair price for our coal resources.

Economics aside, the Administration's new coal leasing initiative also eliminates the opportunity for effective public participation in coal leasing decisions ... makes a mockery of comprehensive land-use planning guidelines ... and ignores the extensive environmental problems that will result from coal development -- soil loss, destruction of wildlife habitats, broad scars on the landscape, and the loss of recreational resources.

Of course, even though I've spent 11 years practicing law and defending your lands -- your environment -- you won't find a bill for my services enclosed.

It's impossible really to put a reasonable price on my work. And besides, my salary is already paid for -- by the Natural Resources Defense Council.

> So while you won't find a bill enclosed, you will find a membership application for NRDC. For only $20 you can retain me and 45 other dedicated attorneys and scientists across the nation who make it their job to defend your environment and your health.

Naturally, you might ask, "Don't my taxes already pay for environmental protection, through the Department of the Interior and the Environmental Protection Agency?"

(over, please)

NATURAL RESOURCES DEFENSE COUNCIL
122 EAST 42ND STREET
NEW YORK, NEW YORK 10168

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Of course, these government agencies should protect our environment. But do they?

You and I need look no farther than our daily newspaper headlines to know the answer to that question.

At Interior, confidential data about the value of coal prices were leaked to the coal industry before the auction of about one billion tons of government coal in the Powder River Basin -- the largest auction of coal development rights in U.S. history.

The auction drew little competition, and the coal rights were sold to industry for $100 million less than they were worth.

But even with the recent departure of James Watt, our work will be cut out for us in 1984. Watt's influence will not simply vanish from the Interior Department now that William Clark has succeeded him. Clark is a long-time ally of President Reagan. Expect Clark to continue the Administration's anti-environment agenda.

At EPA, over the last three years the Reagan Administration has slashed budgets, drastically reduced professional staff, kowtowed to industry demands, and, in short, undermined our nation's most fundamental environmental laws -- the laws EPA is specifically mandated to enforce. For example --

-- EPA has for two years backed CLEAN AIR ACT legislation that retreats from the nation's commitment to protect public health and clean air resources, and that fails to address such major new air pollution problems as acid rain.

-- EPA has proposed legislation that would have delayed and gutted the CLEAN WATER ACT's provisions for controlling industry's toxic pollutant discharges.

-- Two years after the enactment of SUPERFUND, cleanup has been completed at only four of the nation's 418 high-priority hazardous waste dump sites.

Who's going to enforce these laws with the Reagan Administration devoted to subverting them? ... Who's going to keep the polluters in check?

NRDC. That's who.

You see, we are a very special organization -- an American success story that I'm proud to be a part of. I'm sure you'd be proud to be part of NRDC, too.

NRDC began in 1970 as a mere handful of young attorneys in a three-room office. Our aim: to join legal expertise with scientific

(next page, please)

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knowledge to defend our natural resources, and our environment.

Today, backed by our national membership of 43,000 concerned citizens from all walks of life, NRDC is -- more than ever before -- an exciting, growing group of committed scientists, researchers, and lawyers fighting for our environment.

Along with me, 45 other highly trained lawyers and scientists located across the country are in the forefront of every major environmental issue. And believe me, we work hard and do all we can to represent you, and every American, in critical environmental battles.

With our scientific information and knowledge of the judicial system, and with our specialized scientists and researchers, we have both the legal skill and technical expertise needed to successfully defend our environment from the sheer destructive power of the Reagan Administration and its friends among the polluters.

And we put our knowledge to use almost daily.

For example, you might recall one of our more publicized cases -- NRDC successfully sued Interior Secretary Watt to prevent him from selling oil leases off the coast of California. (Off-shore drilling poses a threat of irreversible harm to Pacific marine mammals, California's valuable commercial fishery, and the state's rugged coastline.) But Interior is out to try to sell these leases again. We at NRDC intend to stop the sales again.

We've also won a case before the U.S. Court of Appeals that prevents EPA from carrying out its plan to deregulate water pollution controls, established to protect the quality of Americans' lakes, rivers, and drinking water.

And we've gone to court to keep the Administration from loosening controls over air pollution from factories.

Right now, several of my fellow attorneys here at NRDC are hard at work on a variety of important cases. For instance ...

... Jonathan Lash is representing NRDC in a suit challenging the Department of Interior's plan to sell millions of acres of public land without public or environmental review.

... And Trent Orr is in court testing Interior's accelerated offshore oil and gas leasing policy, because it is in effect running roughshod over state coastal zone management programs. The U.S. Supreme Court has just agreed to hear this potentially precedent-setting case.

... And Sarah Chasis is in court challenging Interior again -- this time on the plan to lease oil and gas fields off Alaska's coast

(over, please)

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in the Southeastern Bering Sea. The leases are planned for a region that includes the greatest concentration of birds, fish, and marine mammals found anywhere in North America.

... And Al Meyerhoff and Jackie Warren are in court to stop EPA officials from setting pesticide standards unlawfully in closed-door meetings with chemical industry executives.

... And Eric Goldstein (along with four other senior NRDC lawyers) is in court challenging EPA's failure to propose rules, as required by law, for the testing of chemical substances that may be toxic and extremely dangerous to human health or the environment.

> Wouldn't you agree that $20 a year is an extremely small amount to pay for defending America's most precious asset -- her environment?

That's why, on behalf of everyone here at NRDC, I would like to ask you to add your name to NRDC's membership roster.

Sure, your $20 means a lot -- court cases against the government and the major polluters aren't inexpensive. But more than your money, we need <u>you</u>.

Your name, combined with those other 43,000 members, gives NRDC clout. The more names we have on our membership rolls the more congressmen and senators listen to what we have to say -- be it in person in their office or behind a table at a committee hearing.

So please, take a moment now to complete the enclosed membership form and return it to NRDC today.

When you do ... for $20 you will have retained not just me, but more than three dozen professional lawyers, scientists, and researchers who are dedicated to defending the one environment we all share -- the one environment that sustains life itself.

Please act today.

Sincerely,

Johanna H Wald

Johanna Wald
Attorney-at-Law
NRDC

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122 EAST 42ND STREET
NEW YORK, NEW YORK 10168

Stagecoach 1890s
USA 4c

Environ Protection
Leasing

3504051110

JOHANNA WALD

NATURAL RESOURCES DEFENSE COUNCIL

Ms. Wald: I agree! The Reagan Administration and its friends among the nation's polluters *must be stopped!*

I'm joining the Natural Resources Defense Council to help NRDC continue its impressive history of legal work and effective action against those who callously ignore environmental values.

☐ Here is my tax-deductible check for $20 to cover my first year's membership in NRDC. Please begin my subscription to *The Amicus Journal*.

☐ Because NRDC's work—*our* work, now—to safeguard our environment and our health is so critically important, I want to make an *additional* contribution to NRDC of:

☐ $10 ☐ $15 ☐ $25 ☐ $50 ☐ $100 ☐ Other $_____

My check totals $_____.

Please make your check payable to NRDC and return this form to NRDC, 122 East 42nd Street, New York, New York 10168.

A copy of our 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, New York 12231; or to NRDC.

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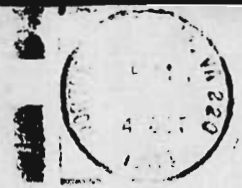

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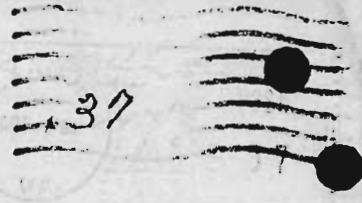

General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

84 OCT 9 A8:48

FEDERAL ELECTION COMMISSION

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

THIS IS THE BEGINNING OF MUR # 1812

Date Filmed 4/17/85 Camera No. --- 2

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