



December 18, 2014

The Honorable Darrel Issa  
Chairman  
U.S. House of Representatives  
Committee on Oversight and Reform  
2157 Rayburn House Office Building  
Washington, D.C., 20515

The Honorable David Vitter  
Ranking Member  
U.S. Senate Committee on Environment &  
Public Works  
456 Dirksen Senate Office Building  
Washington, D.C., 20510

Dear Rep. Issa and Sen. Vitter:

The undersigned advocacy organizations are writing to express concerns about a portion of your investigation into the interactions between the Natural Resources Defense Council (NRDC) and the Environmental Protection Agency (EPA).

The undersigned groups may strongly differ or have no views on the merits of the investigation into the actions of the EPA cited in your September 2, 2014 letter to NRDC. Certainly if any agency has violated provisions in the Administrative Procedures Act or other requirements to ensure public input prior to proposing regulations or taking actions, that is worthy of an investigation.

While our organizations have different views about the EPA's policies and actions, we strongly support the First Amendment right to petition government. Sending a letter on official congressional letterhead demanding internal records of the NRDC or any advocacy group has a chilling impact on speech, assembly and petition rights of all advocacy organizations. While this letter only seeks "documents and communications between [NRDC] and the EPA," the same principle holds true. The tone and intent appear to be directed at intimidating a non-profit advocacy organization with the heavy hand of Congress. Instead, you should direct your inquiry to the agency in question, which would by definition have the same documents. Such a request would be more in keeping with the appropriate and valuable public oversight functions of the Committee.

Federal agencies should seek input from all sectors of society in their policy making, and all citizens and groups have the right to express their views. For government agencies, it is essential to hear a wide range of views and benefit from expertise from those outside the government on the effects of a proposed regulation or other agency action. This kind of civic engagement produces better policy and is a cornerstone of our system of government.

The undersigned groups agree that if such an investigation is to continue, then the focus should first be on any possible improper actions of government officials and employees, not on citizens and groups who have exercised their constitutional rights to advocate for government policies.

Before requesting documents from an advocacy group, you should exhaust other means of investigating the actions of the agency, including, but not limited to, holding congressional hearings and issuing subpoenas to obtain testimony by agency officials, agency records and documents. You should also consider asking the agency's Inspector General to investigate your concerns about the agency's actions or requesting a Government Accountability Office investigation.

Additionally, we note that your letter says that NRDC "is heavily financed by a select group of billionaires and millionaires" and that "NRDC's strong ties to the Administration provide NRDC and its funders with enhanced access to key decision-makers." The identities of a nonprofit advocacy organization's donors are irrelevant and not a proper subject of public disclosure, even if the organization's advocacy is partly political. It is for that reason that their identities are protected by the First Amendment and federal law.

We urge you to show more sensitivity to the First Amendment right to petition government and withdraw the request for documents and records of the NRDC. We urge you to avoid making similar requests of other organizations in the future unless there is clear evidence of wrongdoing by an organization.

Sincerely,



Nan Aron  
President  
Alliance for Justice



David Keating  
President  
Center for Competitive  
Politics



Laura W. Murphy  
Director  
Washington Legislative  
Office  
American Civil Liberties  
Union

Cc: Honorable Barbara Boxer, Chair, U.S. Senate Committee on Environment & Public Works  
Honorable Elijah Cummings, Ranking Member, U.S. house of Representatives  
Committee on Oversight & Government Reform  
Honorable James Inhofe, member, U.S. Senate Committee on Environment & Public Works