

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

October 30, 2023

Mr. Gene Karpinski
President
League of Conservation Voters
740 15th Street NW, 7th Floor
Washington, DC 20005

Dear Mr. Karpinski:

On June 20, 2023, the House Committee on Natural Resources (Committee) wrote to you regarding the Committee's oversight of foreign individuals and/or entities manipulating U.S. tax-exempt organizations to influence America's environmental, natural resource, and energy policies (Committee's Initial Letter).¹ The Committee is particularly concerned with purported evidence of a foreign national potentially influencing the League of Conservation Voters (LCV) and related LCV entities. As such, the Committee requested documents and communications to assist with its oversight efforts.

LCV's July 31, 2023 letter to the Committee,² subsequent meetings between LCV's attorneys and Committee staff, and the September 29, 2023 letter from LCV's lawyers to the Committee³ have not quelled the Committee's deep concern that LCV is unduly influenced by foreign interests. Moreover, over three months have passed since the Committee's initial request and, to date, LCV has not provided a single document responding to the Committee's request. This is unacceptable and LCV's objections to the Committee's requests are unpersuasive and invalid.

The Committee Has a Compelling and Legitimate Governmental Interest in Determining How Foreign Interests are Improperly Influencing American Policy Decisions

As a preliminary matter, we remind you that Under House Rule X, the Committee has "general oversight" of any matter relating to its jurisdiction—this includes domestic energy production, public lands, national parks, and wildlife conservation. Moreover, the Committee has

¹ Letter from Rep. Bruce Westerman, Chairman of H. Comm. on Natural Resources, and Rep. Paul A. Gosar, Chairman of Subcomm. on Oversight and Investigations, H. Comm. on Natural Resources, to Gene Karpinski, President of the League of Conservation Voters (June 20, 2023), https://naturalresources.house.gov/uploadedfiles/2023.06.20_hnr_letter_to_lcv.pdf.

² Letter from Gene Karpinski, President of the League of Conservation Voters, to Rep. Bruce Westerman, Chairman of H. Comm. on Natural Resources, and Rep. Paul A. Gosar, Chairman of Subcomm. on Oversight and Investigations, H. Comm. on Natural Resources (July 31, 2023) (on file with the Committee).

³ Letter from Counsel for the League of Conservation Voters to Rep. Bruce Westerman, Chairman of H. Comm. on Natural Resources, and Rep. Paul A. Gosar, Chairman of Subcomm. on Oversight and Investigations, H. Comm. on Natural Resources (Sep. 29, 2023) (on file with the Committee).

a strong interest in ensuring that foreign interests are not improperly influencing American policy decisions, particularly in areas under the Committee’s jurisdiction. This is justified given the well-documented efforts of foreign interests to utilize American nonprofits and, ultimately, shape American public opinion.⁴

There is Evidence that a Foreign National Finances and Influences LCV’s Policy, Advocacy, and Political Activity

Publicly available information on the fundraising, lobbying, advocacy, and political activities of LCV and its related entities—including, but not limited to, League of Conservation Voters Education Fund (LCVEF), League of Conservation Voters Action Fund (LCVAF), and League of Conservation Voters Victory Fund (LCVVF) (collectively, LCV, LCVEF, LCVAF, and LCVVF are the LCV Entities)—suggest the LCV may be influenced by foreign interests. Most notably, LCV has a longstanding, intimate relationship with Swiss billionaire Hansjörg Wyss and his constellation of nonprofits and political vehicles.

Mr. Wyss began his foray into financing environmental activism in the 1990s.⁵ His bankrolling efforts intensified after he sold his medical device maker to Johnson & Johnson for roughly \$20 billion in 2012.⁶ In a 2014 biography of Mr. Wyss by Heidi Wyss, Mr. Wyss’s sister, she stated that “what was important for him was to find out that he could exert an influence” over American policymaking through a nonprofit, particularly as it relates to energy production and conservation of public land.⁷ With Mr. Wyss’s initial efforts to donate directly to candidates⁸ illegal because of his foreign national status, Heidi Wyss said Mr. Wyss sought a way to stay “behind the scenes” while still playing “an important part in American politics.”⁹ Then, in 2015, a leftwing consulting firm purportedly developed a plan for Mr. Wyss to shape American policy by financing progressive and environmental activism by routing money through a constellation of 501(c)(3) and 501(c)(4) entities.¹⁰

Subsequently, Mr. Wyss increased his financial support for favored environmental, policy, and political causes, often routing money through the Wyss Foundation, his 501(c)(3) nonprofit,

⁴ See Catherine A. Theohary, CONG. RESEARCH SERV., R45142, *Information Warfare: Issues for Congress*, Congressional Research Service (Mar. 5, 2018), <https://sgp.fas.org/crs/natsec/R45142.pdf>; Andrew Higgins, *Russian Money Suspected Behind Fracking Protests*, N.Y. TIMES (Nov. 30, 2014), <https://www.nytimes.com/2014/12/01/world/russian-money-suspected-behind-fracking-protests.html>; Yi-Zheng Lian, *China Has a Vast Influence Machine, and You Don’t Even Know It*, N.Y. TIMES (May 21, 2018), <https://www.nytimes.com/2018/05/21/opinion/china-overseas-intelligence-yang.html>.

⁵ Jim Stiles, *SUWA, can you spare a dime?*, HIGH COUNTRY NEWS (Mar. 13, 2006), <https://www.hcn.org/wotr/16196>.

⁶ Phil Taylor, *‘Quietly philanthropic’ tycoon makes his mark in the West*, E&E NEWS (Mar. 24, 2015), <https://www.eenews.net/articles/quietly-philanthropic-tycoon-makes-his-mark-in-the-west/>.

⁷ Brian Slodysko, *Group steers Swiss billionaire’s money to liberal causes*, ASSOCIATED PRESS (Apr. 4, 2023), <https://apnews.com/article/dark-money-democrats-wyss-politics-elections-601d40cd01569190559d545418afe396>.

⁸ Kenneth P. Vogel, *Swiss Billionaire Quietly Becomes Influential Force Among Democrats*, N.Y. TIMES (May 3, 2021), <https://www.nytimes.com/2021/05/03/us/politics/hansjorg-wyss-money-democrats.html>.

⁹ Slodysko, *supra* note 7.

¹⁰ Hayden Ludwig, *Inside the Foreign-Funded “Hub Project” to Transform America*, CAPITAL RESEARCH CENTER (May 3, 2021), <https://capitalresearch.org/article/inside-the-foreign-funded-hub-project-to-transform-america/>.

and the Berger Action Fund, his 501(c)(4) political action fund. Most notably, according to public filings from the Internal Revenue Service and Federal Election Commission reviewed by the New York Times, since 2016, Mr. Wyss has contributed \$245 million to the Sixteen Thirty Fund and the New Venture Fund.¹¹ The New York Times describes the Sixteen Thirty Fund as a “cryptically named...dark-money” 501(c)(4) entity that serves as a “clearinghouse of undisclosed cash” for far-left causes.¹² The Sixteen Thirty Fund and the New Venture Fund, a 501(c)(3), are two of the four core nonprofits managed by Arabella Advisors.¹³ Arabella Advisors and the Sixteen Thirty Fund were both established by Eric Kessler, the former national field director for LCV.¹⁴ Mr. Wyss has been described as the “progenitor of the Arabella network.”¹⁵

As you know, Mr. Wyss and the constellation of nonprofits and political vehicles funded by Mr. Wyss have been a significant source of funding for LCV Entities for at least 15 years. This includes, but certainly is not limited to:

- A 2021 contribution from the Sixteen Thirty Fund to LCV for \$18,915,000¹⁶
- A 2020 contribution from the Sixteen Thirty Fund to LCV for \$3,515,500¹⁷
- A 2019 contribution from the Sixteen Thirty Fund to LCV for \$3,500,000¹⁸
- A 2018 contribution from the Sixteen Thirty Fund to LCV for \$8,000,000¹⁹
- A 2017 contribution from the Berger Action Fund to LCV for \$300,000²⁰
- A 2016 contribution from the Berger Action Fund to LCV for \$2,240,000²¹
- A 2021 contribution from the Wyss Foundation to LCVEF for \$60,000²²
- A 2020 contribution from the Wyss Foundation to LCVEF for \$210,000²³
- A 2008 contribution from the Wyss Foundation to LCVEF for \$200,000²⁴

¹¹ Slodysko, *supra* note 7.

¹² Kenneth P. Vogel & Shane Goldmacher, *Democrats Decried Dark Money. Then They Won With It in 2020*, N.Y. TIMES (Jan. 29, 2022, updated Aug. 21, 2022), <https://www.nytimes.com/2022/01/29/us/politics/democrats-dark-money-donors.html>.

¹³ *Id.*

¹⁴ Slodysko, *supra* note 7.

¹⁵ Ludwig, *supra* note 10.

¹⁶ Form 990, Schedule I, SIXTEEN THIRTY FUND, (Fiscal Year 2021), <https://www.politico.com/f/?id=00000184-67a7-d7f7-a79c-ffaf24850000>.

¹⁷ Form 990, Schedule I, SIXTEEN THIRTY FUND, (Fiscal Year 2020), <https://www.documentcloud.org/documents/21112116-sixteen-thirty-fund-2020-990>.

¹⁸ Form 990, Schedule I, SIXTEEN THIRTY FUND, (Fiscal Year 2019), <https://www.documentcloud.org/documents/21085690-sixteen-thirty-fund-2019-990>.

¹⁹ Form 990, SIXTEEN THIRTY FUND, (Fiscal Year 2018), https://apps.irs.gov/pub/epostcard/cor/264486735_201812_990O_2020020317100380.pdf.

²⁰ Form 990, Schedule I, BERGER ACTION FUND, (Fiscal Year 2017), <https://www.documentcloud.org/documents/20695507-the-berger-action-funds-2017-tax-filing-shows-48m-donated-to-the-sixteen-thirty-fund>.

²¹ Form 990, Schedule I, BERGER ACTION FUND, (Fiscal Year 2016), https://apps.irs.gov/pub/epostcard/cor/208948868_201703_990O_2018040415243891.pdf.

²² Grants, Wyss Foundation, <https://www.wyssfoundation.org/grants> (last visited Oct. 23, 2023).

²³ *Id.*

²⁴ Will Evans, *Profile: League of Conservation Voters*, NPR (Sep. 9, 2008), <https://www.npr.org/templates/story/story.php?storyId=94411562>.

Mr. Wyss's connections with and influence over LCV are not limited to direct and indirect financial contributions. LCV board member Molly McUSIC²⁵ also serves as the President and Director of the Wyss Foundation,²⁶ and, according to recent tax filings, receives nearly \$750,000 per year in compensation for doing so.²⁷ Ms. McUSIC also serves as President of the Berger Action Fund.²⁸ The Wyss Foundation's 2021 tax filings indicate that the Wyss Foundation also shares other common directors and officers with Mr. Wyss's Berger Action Fund: Joseph Fisher and Robert Bland.²⁹

The Committee is Concerned that a Foreign National Unduly Influences LCV's Policy, Advocacy, and Political Activity and the Requested Information Has a Legislative Purpose to Combat Foreign Manipulation of U.S. Nonprofits

The Committee believes that LCV's longstanding and intimate relationship with Mr. Wyss suggests foreign nationals are manipulating U.S. nonprofits, like the LCV Entities, to influence America's environmental, public land, natural resource, and energy policies. The Committee's Initial Letter sought documents and communications critical to understanding how foreign interests may use and manipulate U.S. nonprofits to influence domestic policymaking and political activity. The requested information will inform legislative efforts to combat foreign manipulation of U.S. nonprofits, particularly as it relates to America's environmental, public land, natural resource, and energy policies.

LCV's First Amendment Objections to the Committee's Investigation and Request for Information are Unpersuasive and Invalid

LCV's First Amendment objections to the Committee's investigation and requests for information are unpersuasive and invalid. LCV generally objects to the Committee's request for documents and communications on grounds that the requests impermissibly burden LCV's First Amendment rights, most notably the freedom of association.³⁰ To support its claim, LCV relies on cases that either challenge state or federal statutes instituting disclosure requirements or assess discovery disputes in litigation.³¹

²⁵ *Board of Directors and Executive Team*, LEAGUE OF CONSERVATION VOTERS, <https://www.lcv.org/about/board-of-directors-and-senior-staff/> (last visited Oct. 30, 2023).

²⁶ *Molly McUSIC*, COUNCIL ON FOUNDATIONS, <https://cof.org/person/molly-mcusic> (last visited Oct. 23, 2023).

²⁷ *Form 990*, WYSS FOUNDATION (Fiscal Year 2021) <https://www.influencewatch.org/app/uploads/2023/01/wyss-foundation-2021-form-990.pdf>.

²⁸ Slodysko, *supra* note 7.

²⁹ *Wyss Foundation Form 990*, *supra* note 27 at Part VII; *BERGER ACTION FUND, Form 990*, Part VII (Fiscal Year 2021) <https://www.influencewatch.org/app/uploads/2023/04/2021-Berger-Form-990-Public-Inspection-Copy.pdf>.

³⁰ Counsel for the League of Conservation Voters, *supra* note 3.

³¹ *NAACP v. Alabama*, 357 U.S. 449 (1958) (state statute compelling an organization to disclose names and addresses of members); *Kusper v. Pontikes*, 414 U.S. 51 (1973) (state statute prohibiting a person from voting in a primary if the person voted in the primary of another political party within preceding 23 calendar months); *Buckley v. Valeo*, 424 U.S. 1 (1976) (FEC restrictions on individual contributions to political campaigns and candidates); *Black Panther Party v. Smith*, 661 F.2d 1243 (1981) (interrogatories over membership lists during civil litigation); *AFL-CIO v. FEC*, 333 F.3d 168 (2003) (FEC regulation requiring public release of internal planning documents); *Perry v. Schwarzenegger*, 591 F.3d 1147 (2010) (litigation over a state ballot measure); *Americans for Prosperity*

However, LCV does not address Congress’s “broad” and “indispensable” investigatory power.³² LCV’s refusal to directly address Congress’s investigatory power is disappointing but understandable.

While the U.S. Supreme Court has made the First Amendment applicable to congressional investigations and federal courts apply a similar balancing test when weighing First Amendment concerns in congressional inquiries and other government actions, the Supreme Court has never invalidated a congressional subpoena or reversed a criminal contempt of Congress conviction on First Amendment grounds.³³ Moreover, unlike the Fifth Amendment privilege against self-incrimination, it is clear that the First Amendment does not give a witness an absolute right to refuse to respond to congressional demands for information.³⁴ As a result, the U.S. Supreme Court³⁵ and other federal courts³⁶ have repeatedly ruled in favor of congressional committees when parties make First Amendment objections to document requests.

In *Republican National Committee v. Pelosi*, the court held that a committee’s request for all documents, communications, and internal reports relating to the subject of the investigation survived an organization’s First Amendment claim.³⁷ The court held that a committee’s need for information outweighed the organization’s First Amendment interests when the demanded records were “reasonably relevant” to the investigation and that a “substantial portion” of the requested information served to advance the committee’s investigative goals.³⁸ In doing so, the court recognized that even in the face of a First Amendment challenge, a court may not even “lightly” interfere with an investigative act and must accord a congressional investigation “every reasonable indulgence of legality.”³⁹

Found. v. Bonta, 141 S. Ct. 2373, 2384 (2021) (state statute requiring organizations to disclose the names and addresses of donors).

³² *Watkins v. United States*, 354 U. S. 178, 187 (1957).

³³ See Todd Garvey, CONG. RESEARCH SERV., RL30240, *Congressional Oversight Manual*, (Dec. 22, 2022), <https://www.crs.gov/reports/pdf/RL30240/RL30240.pdf>.

³⁴ *Id.*

³⁵ *Barenblatt v. United States*, 360 U.S. 109, 132 (1959) (holding a subcommittee had a legitimate legislative purpose for questioning the witness and so “long as Congress acts in pursuance of its constitutional power, the Judiciary lacks authority to intervene” based on the “motives which spurred the exercise of that power”); *Eastland v. U.S. Servicemen’s Fund*, 421 U.S. 491 (1975) (holding a subcommittee’s congressional investigatory power outweighed an organization’s First Amendment concerns over potential harassment and disclosure of unpopular opinions. Also held that a legislative inquiry may not have a “predictable end result”).

³⁶ See *Ward v. Thompson*, 2022 WL 14955000 (D. Ariz Oct. 22, 2022) (upholding a congressional committee’s request for communication records); *Senate Permanent Subcomm. on Investigations v. Ferrer*, 199 F. Supp. 3d 125, 138-44 (D.D.C. 2016) (mandating disclosure of an array of documents, including the organization’s verification procedures, internal policies, and financial information related to the investigation. The court held that there is “nothing unusual, unreasonable, or overly broad” to require an “to search for all responsive documents on a specific subject or topic”).

³⁷ *Republican National Committee v. Pelosi*, 602 F.Supp.3d 1, 36 (D.D.C. 2022).

³⁸ *Id.* at 35.

³⁹ *Id.*; citing *Sanders v. McClellan*, 463 F.2d 894, 902-903 (D.C. Cir. 1972) (holding a court may not “lightly interfer[e]” with an investigative act by Congress); *Watkins*, 354 U.S. at 204 (“every reasonable indulgence of legality must be accorded” to a congressional committee’s investigation).

Here, the Committee seeks specific information relating to the potential use of nonprofits, the LCV Entities, by a foreign national, Mr. Wyss, to improperly influence American politics and environmental, natural resource, and energy policies. Hence, the Committee seeks limited information regarding LCV's fundraising procedures; LCV's compliance with the Foreign Agents Registration Act ("FARA"); and related information on LCV's lobbying, advocacy, and political activities. Undoubtedly, the requests are "reasonably relevant" to the Committee's investigation and serve to advance the Committee's investigative goals.

The Committee Seeks Documents to Assist its Oversight of Foreign Individuals and Entities that Utilize U.S. Nonprofits to Improperly Influence Domestic Policymaking and Political Activity

To assist the Committee in its oversight efforts, please provide the Committee with all records, documents, communications, and information requested in the Committee's Initial Letter as soon as possible, but no later than November 14, 2023. Additionally, to further assist the Committee in its oversight of foreign individuals and/or entities using LCV to influence America's environmental, public land, natural resource, and energy policies, the Committee requests that you provide additional documents, records, communications, and information to the Committee as soon as possible, but no later than November 14, 2023:

1. Documents and communication sufficient to show what kind of activity the LCV Entities determine to include or exclude from its political spending calculations.
2. Copies of any agreements, policies, covenants, or documents that any LCV Entities have with the Sixteen Thirty Fund, New Venture Fund, Berger Action Fund, and/or the Wyss Foundation.
3. All documents and communications regarding the process for confirming that any funds provided by the Sixteen Thirty Fund, New Venture Fund, Berger Action Fund, and the Wyss Foundation are not used for electoral activities.
4. All documents and communications regarding LCV Entities confirming that any funds provided by the Sixteen Thirty Fund, New Venture Fund, Berger Action Fund, and the Wyss Foundation are not used for electoral activities.
5. Documents and communications sufficient to show any mechanism on how LCV Entities would discover a violation of a restrictive grant or contribution agreement, policy, covenant.
6. Documents and communications sufficient to show how the LCV Entities classify political and nonpolitical activity.

Finally, the Committee looks forward to working with you, LCV, and LCV's attorneys to ensure the Committee receives a fully responsive production. In doing so, the Committee is willing to consider narrowing and/or prioritizing some of the requests to address any of LCV's outstanding concerns.

Mr. Gene Karpinski – League of Conservation Voters
October 30, 2023
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An attachment to this letter provides additional instructions for responding to the requests from the Committee on Natural Resources. Please contact the Majority staff for the Oversight and Investigations Subcommittee at (202) 225-2761 or HNRR.Oversight@mail.house.gov with any questions.

Sincerely,



Bruce Westerman
Chairman
Committee on Natural Resources



Paul A. Gosar, D.D.S.
Chairman
Subcommittee on Oversight and Investigations

Enclosure