

RAÚL M. GRIJALVA  
3RD DISTRICT, ARIZONA

COMMITTEE ON NATURAL RESOURCES

PUBLIC LANDS AND ENVIRONMENTAL  
REGULATION—*RANKING MEMBER*

INDIAN AND ALASKA NATIVE AFFAIRS

ENERGY AND MINERAL RESOURCES

COMMITTEE ON EDUCATION AND THE WORKFORCE

EARLY CHILDHOOD, ELEMENTARY,  
AND SECONDARY EDUCATION

HEALTH, EMPLOYMENT, LABOR, AND PENSIONS

CONGRESSIONAL PROGRESSIVE CAUCUS  
Co-CHAIR

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-0307**

WEBSITE: <http://grijalva.house.gov/>

1511 LONGWORTH HOB  
WASHINGTON, DC 20515  
PHONE (202) 225-2435 | FAX (202) 225-1541

738 N. 5TH AVENUE, SUITE 110  
TUCSON, AZ 85705  
PHONE (520) 622-6788 | FAX (520) 622-0198

130 NORTH STATE AVENUE  
P.O. BOX 4105  
SOMERTON, AZ 85350  
PHONE (928) 343-7933 | FAX (928) 343-7949

13065 WEST McDOWELL ROAD, SUITE C-123  
AVONDALE, AZ 85392  
PHONE (520) 536-3388 | FAX (623) 748-0451

FACEBOOK: [Facebook.com/Rep.Grijalva](https://www.facebook.com/Rep.Grijalva)  
TWITTER: [Twitter.com/RepRaulGrijalva](https://twitter.com/RepRaulGrijalva)

April 16, 2014

Mary Kendall  
Acting Inspector General  
U.S. Department of the Interior  
1849 C Street, NW  
Mail Stop 4428  
Washington, DC 20240

Dear Acting Inspector General Kendall,

As Ranking Member of the House Natural Resources Subcommittee on Public Lands and Environmental Regulation, I have a duty under the Constitution to provide effective oversight of our federally managed public lands. This includes ensuring that federal public lands agencies are able to carry out their legally established duties without undue interference, and that outside groups cannot undermine legitimate federal management efforts in the guise of tax-exempt educational activity.

In that spirit, I write today to request that your office investigate the role of the American Legislative Exchange Council (ALEC) in efforts to pass bills at the state level that directly contradict federal land management policies and directives, and to assess the extent to which these efforts have affected Department of the Interior personnel.

ALEC is a 501(c)(3) organization that has claimed in public IRS filings not to engage in lobbying activity. In fact, according to multiple news accounts, it has mounted an aggressive effort to change state laws in ways that undermine decades of precedent on the use and management of public lands without scrutiny or serious federal oversight. A recent analysis by the Brookings Institution found that “ALEC model bills are, word-for-word, introduced in our state legislatures at a non-trivial rate.”<sup>1</sup> ALEC’s pattern of activity raises serious questions about how changes to land management laws and regulations, especially in the Western United States, are being pushed by ALEC without public disclosure of its role or that of the corporations that fund its legislative agenda.

---

<sup>1</sup> <http://www.brookings.edu/research/articles/2013/12/06-american-legislative-exchange-council-jackman>

Despite actively pressing state lawmakers on a range of issues, ALEC has failed for decades to register as a lobbying organization in states where it has promoted changes to state laws. It recently created a 501(c)(4) group called The Jeffersonian Project to avoid potential scrutiny from the Internal Revenue Service (IRS).<sup>2</sup> According to ALEC's lawyer, "It is possible that at some point the Internal Revenue Service will audit ALEC. Though we do not believe that any activity carried on by ALEC is lobbying, the IRS could disagree."<sup>3</sup> Four separate watchdog groups have submitted evidence to the IRS documenting ALEC's undisclosed lobbying activity.

As *The American Prospect* explained in a feature earlier this year titled "This Land Was Your Land"<sup>4</sup>:

ALEC, though registered as a 501(c)(3) nonprofit, churns out more than a thousand pieces of model legislation annually, 20 percent of which on average gets passed in state legislatures. ALEC's model laws have circumscribed voting rights, established "stand your ground" laws, defunded public schools, reduced taxes on corporate wealth, and protected manufacturers from litigation if their product kills a child.

As the story related, ALEC does not limit itself to a single bill each year per issue or per state:

The Utah Legislature proposed or passed a dozen bills during its 2012-2013 session that accord with ALEC's vision for the expansion of state and local jurisdiction over federal lands. Utah has declared that Forest Service claims on streams and riparian zones violate state sovereignty, an issue that was considered settled with the creation of the service in 1905. It has sought to expand grazing in the restricted 1.7 million-acre Grand Staircase-Escalante National Monument. It has demanded state jurisdiction over "mismanaged" national forest – mismanaged because it's not opened freely to ranching and logging. It has called for state oversight of the federally listed Utah prairie dog, which became endangered only after local control resulted in the near extirpation of the species.

The consequences of ALEC's positions are severe and deserving of careful scrutiny. They are entirely consistent with the position taken by anti-government rancher Cliven Bundy and his armed supporters, as described by *The Atlantic Monthly* in an April 14 article<sup>5</sup>:

Twenty-one years ago, rancher Cliven Bundy stopped paying his grazing fees.

---

<sup>2</sup> <http://www.theguardian.com/world/2013/dec/03/alec-funding-crisis-big-donors-trayvon-martin>

<sup>3</sup> <http://www.documentcloud.org/documents/841593-alec-docs.html#document/p15>

<sup>4</sup> <http://grijalva.house.gov/uploads/This%20Land%20Was%20Your%20Land.pdf>

<sup>5</sup> <http://www.theatlantic.com/politics/archive/2014/04/the-irony-of-cliven-bundys-unconstitutional-stand/360587/>

Bundy does not recognize federal authority over land where his ancestors first settled in the 1880s, which he claims belongs to the state of Nevada. The Bureau of Land Management disagreed and took him to federal court, which first ruled in favor of the BLM in 1998. After years of attempts at a negotiated settlement over the \$1.2 million Bundy owes in fees failed, federal land agents began seizing hundreds of his cattle illegally grazing on public land last week.

But after footage of a BLM agent using a stun gun on Bundy's adult son went viral in far-right circles, hundreds of armed militia supporters from neighboring states flocked to Bundy's ranch to defend him from the BLM agents enforcing the court order. The states'-rights groups, in echoes of Ruby Ridge and Waco, came armed and prepared for violence. "I'm ready to pull the trigger if fired upon," one of the anti-government activists told Reuters.

Just last year, on March 21, 2013, Mr. Bundy spoke before the Nevada Assembly Committee on Legislative Operations and Elections on AB 227, an ALEC-backed<sup>6</sup> bill that paved the way for transfers of federal land to state control. As Bundy said on that occasion, "I must say that I am glad to see you people stand for state sovereignty today. [. . .] Nevada Revised Statutes (NRS) 321.596 states, 'The State of Nevada has a strong moral claim upon the public land retained by the Federal Government within Nevada's borders.' Let us strengthen that bill and go on and claim this land and our sovereignty."

The ALEC vision of state sovereignty trumping long-standing federal government efforts to manage public lands has already had tangible effects on Bureau of Land Management and other agency employees' efforts to do their jobs. Examining how severe that impact has been, and whether ALEC is exerting undue influence on federal land management efforts, is well within the scope of your office. I believe a timely examination of these issues would serve the public interest. I describe my concerns in greater detail in the attached Appendix A.

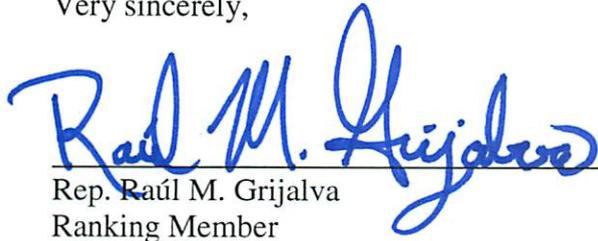
In directing my request to you, I wish to underscore that ALEC will continue to push its agenda regardless of the consequences to Department of the Interior employees around the country. I therefore request that you investigate and, to the extent possible, quantify the impact of ALEC legislative activities on federal land management efforts, including but not limited to DOI staff time spent testifying on ALEC-sponsored bills before state legislatures and "sovereignty"-inspired bills before Congress. I also request that you liaise with the IRS to determine whether ALEC activities violate federal, state or local lobbying and disclosure regulations.

I respectfully request a response no later than 14 days from receipt of this letter. If you have any questions, please contact Adam Sarvana on my staff at (202) 225-2435 or [adam.sarvana@mail.house.gov](mailto:adam.sarvana@mail.house.gov).

---

<sup>6</sup> [http://www.sourcewatch.org/index.php/ALEC\\_2013\\_Bills](http://www.sourcewatch.org/index.php/ALEC_2013_Bills)

Very sincerely,

A handwritten signature in blue ink that reads "Raúl M. Grijalva". The signature is written in a cursive style and is positioned above a horizontal line.

Rep. Raúl M. Grijalva  
Ranking Member

House Subcommittee on Public Lands and Environmental Regulation

## APPENDIX A

### ALEC Lobbying

ALEC's activity is already the subject of three documented complaints to the Internal Revenue Service and at least two state ethics complaints.<sup>7</sup> ALEC is registered as a 501(c)(3) and has not reported any lobbying on its IRS form 990s, nor has the organization registered any lobbyists in the past several years.

Despite its public claim that it does no lobbying, public records requests have revealed numerous lobbying communications with legislators, asking for particular bills to be introduced, sponsored, or passed. These activities meet even the most basic definition of political lobbying.

ALEC has had enormous success in getting model legislation passed at the state level. Among other efforts, ALEC sends issue alerts to state legislators advocating action on specific policies; according to Brookings, in the 2011-2012 legislative session, ALEC successfully introduced at least 132 bills in state legislatures.<sup>8</sup> The *New York Times* reported in 2011 on ALEC bragging that "nearly 1,000 state bills each year are based at least in part on ALEC model legislation,"<sup>9</sup> basing its story in part on documents obtained by the Center for Media and Democracy from a whistleblower.<sup>10</sup> According to CMD which examined just three of the major legislative areas ALEC pushes bills in, last year more than 400 bills based on ALEC legislation was introduced in states across the country.<sup>11</sup>

One of the bills attributed to the ALEC legislative playbook includes SB 1546, which passed the Arizona legislature in 2011 after being introduced by Sen. Al Melvin.<sup>12</sup> This bill sought to increase the state's ability to appropriate federal lands, such as wilderness areas and state parks. According to current Arizona state law, lobbying is defined in pertinent part as:

Means attempting to influence the passage or defeat of any legislation by directly communicating with any legislator or attempting to influence any formal rule making proceeding pursuant to chapter 6 of this title or rule making proceedings

---

<sup>7</sup> [http://www.alecexposed.org/wiki/ALEC\\_Lobbying\\_and\\_Ethics\\_Complaints](http://www.alecexposed.org/wiki/ALEC_Lobbying_and_Ethics_Complaints)

<sup>8</sup> <http://www.brookings.edu/research/articles/2013/12/06-american-legislative-exchange-council-jackman>

<sup>9</sup> <http://www.nytimes.com/cwire/2011/04/04/04climatewire-conservative-group-drafts-promotes-anti-epa-29249.html?pagewanted=all>

<sup>10</sup> [http://www.alecexposed.org/wiki/Decoding\\_ALEC\\_PR](http://www.alecexposed.org/wiki/Decoding_ALEC_PR)

<sup>11</sup> <http://www.prwatch.org/news/2013/08/12205/alec-40-turning-back-clock-prosperity-and-progress>

<sup>12</sup> <http://www.brookings.edu/research/articles/2013/12/06-american-legislative-exchange-council-jackman>

that are exempt from chapter 6 of this title by directly communicating with any state officer or employee.<sup>13</sup>

Despite being instrumental in this bill, ALEC never registered as a lobbying organization in Arizona. In addition to hampering federal land management efforts and wasting taxpayer dollars, this would seem to violate state law as I understand it.

A separate ALEC bill to transfer public lands to state control was introduced in Utah in 2012 by Ken Ivory and Wayne L. Niederhauser.<sup>14</sup> It was signed that same year by Gov. Gary Herbert despite a warning from the state's own Office of Legislative Research and General Counsel: "[T]hat requirement, and any attempt by Utah in the future to enforce the requirement, have a high probability of being declared unconstitutional."<sup>15</sup> In March of this year, the Center for American Progress reported that similar bills were introduced in seven Western states.<sup>16</sup> According to the *Associated Press*, ALEC expects to introduce similar bills elsewhere.<sup>17</sup> I fear that other states will follow Utah's lead despite the unconstitutionality of ALEC's agenda.

The cumulative as well as local impact of these bills bears further scrutiny, especially as it relates to the damage ALEC's so-called sovereignty agenda has done to public support for legal and reasonable federal land management efforts.

## **FRIVOLOUS LAWSUITS**

I am also concerned that the proliferation of these bills and the attendant rise in far-right anti-government activity will lead to frivolous lawsuits and waste taxpayer money on pointless litigation.

Joseph Feller, who teaches natural resources law at Arizona State University, has remarked that ALEC state laws to take over federal lands are unconstitutional.<sup>18</sup> John Leshy, a professor at the University of California Hastings College of Law, called the law being pushed in Arizona legally "ridiculous."<sup>19</sup> They are by no means alone in their analysis. In conducting a review of the manpower and money ALEC initiatives have already cost the federal government, I hope your office can prevent further wastes of taxpayer resources.

---

<sup>13</sup><http://www.azleg.state.az.us/FormatDocument.asp?inDoc=/ars/41/01231.htm&Title=41&DocType=ARS>

<sup>14</sup> <http://le.utah.gov/~2012/bills/hbillint/hb0148.htm>

<sup>15</sup> <http://www.washingtonpost.com/blogs/govbeat/wp/2013/10/15/almost-half-the-west-is-federally-owned-now-some-states-want-their-land-back/>

<sup>16</sup> <http://www.americanprogress.org/issues/green/report/2013/03/11/56103/state-efforts-to-reclaim-our-public-lands/>

<sup>17</sup> <http://news.yahoo.com/lawmakers-pick-fight-feds-over-public-lands-083347841.html>

<sup>18</sup> <http://news.yahoo.com/lawmakers-pick-fight-feds-over-public-lands-083347841.html>

<sup>19</sup> <http://news.yahoo.com/lawmakers-pick-fight-feds-over-public-lands-083347841.html>