February 12, 2019

Scott de la Vega
U.S. Department of Interior
Designated Agency Ethics Official
1849 C Street, NW
Mail Stop 7352
Washington, D.C. 20240

Dear Mr. de la Vega:

On March 20, 2018, Public Citizen wrote to your office expressing concern that David Bernhardt’s conduct as Deputy Secretary of the Interior appears to be in violation of Paragraph 7 of President Donald Trump’s ethics Executive Order No. 13770.

Bernhardt had served as a registered lobbyist at Brownstein Hyatt Farber Schreck LLP from 2011 through 2016. Bernhardt lobbied on a wide range of issues involving development projects and environmental issues, including the Bureau of Reclamation, the Endangered Species Act, and energy and water appropriations. (LD-2 disclosure form is attached.)

Bernhardt’s oversight of matters involving issues on which he lobbied appears to run afoul of Paragraph 7 ethics restrictions that prohibit a former lobbyist appointed to a position in the Trump administration from participating, for two years after his appointment, in the same specific issue areas lobbied on within the two years preceding his appointment. We received no response from your office.

Our concern that Bernhardt’s oversight of specific issues on which he lobbied violates the President Trump’s ethics order has become even more pressing because of a recent news report that Bernhardt not only may have been actively influencing public policies concerning issues on which he previously lobbied, but also may have taken official actions favoring the same clients who hired him.

Bernhardt has reportedly opened a broad, national effort to overhaul the Endangered Species Act. In an interview, Bernhardt acknowledged that, four months after joining the Interior Department, he directed David Murillo, Interior’s senior water-resources official, to weaken protections for smelt fish and the Chinook salmon, to free up river water for agriculture – the same issues on which he had previously lobbied.

Furthermore, Bernhardt’s official actions appear to directly and substantially benefit the Westlands Water District, a California state-chartered organization, as well as its members, who were Bernhardt’s clients. As noted in the news article: “At the same time, [Bernhardt] has taken a hands-on approach in the narrow policy change of removing protections for the delta smelt, which could deliver an economic win in the
Westlands Water District…. Westlands would likely be the main beneficiary, according to Jeffrey Mount, a water management expert with the Public Policy Institute of California."\(^1\)

This action involving the interests of Bernhardt’s former client would mean that Bernhardt may also be in violation of Paragraph 6 of Trump’s ethics Executive Order No. 13770, which prohibits appointees to the Trump administration from taking official actions in the first two years after their appointment involving any particular matter that that directly and substantially relates to their former clients.

Once again, Public Citizen requests that your office investigate whether David Bernhardt’s actions as Deputy Secretary of the Interior violate Paragraph 7 of Trump’s ethics Executive Order prohibiting former lobbyists from taking actions in an official capacity overseeing the same specific issue areas they lobbied, and now also requests that you investigate whether Bernhardt’s official actions benefiting the Westlands Water District violate Paragraph 6 of Trump’s ethics Executive Order prohibiting an appointee from taking official actions that directly and substantially relate to particular matters on which they lobbied.

Respectfully Submitted,

Craig Holman, Ph.D.
Government affairs lobbyist
Public Citizen’s Congress Watch division
215 Pennsylvania Avenue SE
Washington, D.C. 20003

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LOBBYING REPORT

Lobbying Disclosure Act of 1995 (Section 5) - All Filers Are Required to Complete This Page

1. **Registrant Name**  
   - Organization/Lobbying Firm [ ]  
   - Self Employed Individual [ ]  
   **BROWNSTEIN HYATT FARBER SCHRECK, LLP**

2. **Address**  
   - Address1: 1155 F ST. NW  
   - Address2: 1200  
   - City: WASHINGTON  
   - State: DC  
   - Zip Code: 20004  
   - Country: USA

3. **Principal place of business (if different than line 2)**  
   - City: Denver  
   - State: CO  
   - Zip Code: 80202  
   - Country: USA

4a. **Contact Name**  
   - Ms. **EMILY SULLIVAN**  
   - Telephone Number: 2022967353  
   - E-mail: esullivan@bhfs.com

5. **Senate ID#**  
   7257-1006397

6. **House ID#**  
   318420332

7. **Client Name**  
   - Self [ ]  
   - Check if client is a state or local government or instrumentality [ ]
   - **Westlands Water District**

8. **Year**  
   2016  
   - Q1 (1/1 - 3/31) [ ]  
   - Q2 (4/1 - 6/30) [ ]  
   - Q3 (7/1 - 9/30) [ ]  
   - Q4 (10/1 - 12/31) [x]

9. Check if this filing amends a previously filed version of this report [ ]

10. Check if this is a Termination Report [ ]  
    Termination Date

11. No Lobbying Issue Activity [ ]

### INCOME OR EXPENSES - YOU MUST complete either Line 12 or Line 13

#### 12. Lobbying

**INCOME** relating to lobbying activities for this reporting period was:

- Less than $5,000 [ ]
- $5,000 or more [x] $70,000.00

Provide a good faith estimate, rounded to the nearest $10,000, of all lobbying related income from the client (including all payments to the registrant by any other entity for lobbying activities on behalf of the client).

#### 13. Organizations

**EXPENSE** relating to lobbying activities for this reporting period were:

- Less than $5,000 [ ]
- $5,000 or more [ ] $*

14. **REPORTING** Check box to indicate expense accounting method. See instructions for description of options.

- [ ] **Method A.** Reporting amounts using LDA definitions only
- [ ] **Method B.** Reporting amounts under section 6033(b)(8) of the Internal Revenue Code
- [ ] **Method C.** Reporting amounts under section 162(e) of the Internal Revenue Code

**Signature**  
Digitally Signed By: Marc S. Lampkin, Attorney at Law

**Date**  
1/23/2017  
3:15:50 PM
**LOBBYING ACTIVITY.** Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Add additional page(s) as needed.

15. General issue area code NAT

16. Specific lobbying issues

| Potential legislation regarding the Bureau of Reclamation and the Endangered Species Act |
| Potential legislation related to energy and water appropriations |
| Potential legislation regarding settlement of litigation |

17. House(s) of Congress and Federal agencies [ ] Check if None

| U.S. SENATE, U.S. HOUSE OF REPRESENTATIVES, Interior - Dept of (DOI), Justice - Dept of (DOJ) |

18. Name of each individual who acted as a lobbyist in this issue area

<table>
<thead>
<tr>
<th>First Name</th>
<th>Last Name</th>
<th>Suffix</th>
<th>Covered Official Position (if applicable)</th>
<th>New</th>
</tr>
</thead>
<tbody>
<tr>
<td>David</td>
<td>Bernhardt</td>
<td></td>
<td>Lobbying termination effective as of filing on 11-18-16</td>
<td></td>
</tr>
<tr>
<td>Ryan</td>
<td>Smith</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Luke</td>
<td>Johnson</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

19. Interest of each foreign entity in the specific issues listed on line 16 above [ ] Check if None

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**Information Update Page - Complete ONLY where registration information has changed.**

20. Client new address

<table>
<thead>
<tr>
<th>Address</th>
<th>City</th>
<th>State</th>
<th>Zip Code</th>
<th>Country</th>
</tr>
</thead>
</table>

21. Client new principal place of business (if different than line 20)

<table>
<thead>
<tr>
<th>City</th>
<th>State</th>
<th>Zip Code</th>
<th>Country</th>
</tr>
</thead>
</table>

22. New General description of client’s business or activities

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**LOBBYIST UPDATE**

23. Name of each previously reported individual who is no longer expected to act as a lobbyist for the client

<table>
<thead>
<tr>
<th>First Name</th>
<th>Last Name</th>
<th>Suffix</th>
<th>First Name</th>
<th>Last Name</th>
<th>Suffix</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td>David</td>
<td>Bernhardt</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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**ISSUE UPDATE**

24. General lobbying issue that no longer pertains

[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]
**AFFILIATED ORGANIZATIONS**

25. Add the following affiliated organization(s)

Internet Address:

<table>
<thead>
<tr>
<th>Name</th>
<th>Internet Address</th>
<th>Address</th>
<th>Principal Place of Business</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Street Address</td>
<td>(city and state or country)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>City</td>
<td>City</td>
</tr>
<tr>
<td></td>
<td></td>
<td>State/Province</td>
<td>State</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Zip</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Country</td>
<td>Country</td>
</tr>
</tbody>
</table>

26. Name of each previously reported organization that is no longer affiliated with the registrant or client

1  2  3

**FOREIGN ENTITIES**

27. Add the following foreign entities:

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Principal place of business</th>
<th>Amount of contribution for lobbying activities</th>
<th>Ownership percentage in client</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Street Address</td>
<td>(city and state or country)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>City</td>
<td>State/Province</td>
<td>City</td>
<td>State</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Country</td>
<td></td>
<td>%</td>
</tr>
</tbody>
</table>

28. Name of each previously reported foreign entity that no longer owns, or controls, or is affiliated with the registrant, client or affiliated organization

1  3  5
2  4  6