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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

¹ Coral Davenport, “Top leader at Interior Dept. pushes a policy favoring former client,” New York Times (Feb. 12, 2019), available at: <https://www.nytimes.com/2019/02/12/climate/david-bernhardt-endangered-species.html>

Clerk of the House of Representatives
Legislative Resource Center
B-106 Cannon Building
Washington, DC 20515
<http://lobbyingdisclosure.house.gov>

Secretary of the Senate
Office of Public Records
232 Hart Building
Washington, DC 20510
<http://www.senate.gov/lobby>

LOBBYING REPORT

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

1. Registrant Name <input checked="" type="checkbox"/> Organization/Lobbying Firm <input type="checkbox"/> 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	b. Telephone Number 2022967353
c. E-mail esullivan@bhfs.com	
5. Senate ID# 7257-1006397	
7. Client Name Westlands Water District	<input type="checkbox"/> Self <input type="checkbox"/> Check if client is a state or local government or instrumentality
6. House ID# 318420332	

TYPE OF REPORT

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

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	13. Organizations
INCOME relating to lobbying activities for this reporting period was:	EXPENSE relating to lobbying activities for this reporting period were:
Less than \$5,000 <input type="checkbox"/>	Less than \$5,000 <input type="checkbox"/>
\$5,000 or more <input checked="" type="checkbox"/> \$ 70,000.00	\$5,000 or more <input type="checkbox"/> \$ _____
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).	14. REPORTING Check box to indicate expense accounting method. See instructions for description of options.
	<input type="checkbox"/> Method A. Reporting amounts using LDA definitions only
	<input type="checkbox"/> Method B. Reporting amounts under section 6033(b)(8) of the Internal Revenue Code
	<input type="checkbox"/> 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

First Name	Last Name	Suffix	Covered Official Position (if applicable)	New
David	Bernhardt		Lobbying termination effective as of filing on 11-18-16	<input type="checkbox"/>
Ryan	Smith			<input type="checkbox"/>
Luke	Johnson			<input type="checkbox"/>

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

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

20. Client new address

Address _____
City _____ State _____ Zip Code _____ Country _____

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

City _____ State _____ Zip Code _____ Country _____

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

LOBBYIST UPDATE

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

	First Name	Last Name	Suffix	First Name	Last Name	Suffix
1	David	Bernhardt		3		
2				4		

ISSUE UPDATE

24. General lobbying issue that no longer pertains

AFFILIATED ORGANIZATIONS

25. Add the following affiliated organization(s)

Internet Address:

Name	Address				Principal Place of Business (city and state or country)	
	Street Address City	State/Province	Zip	Country	City State	Country

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:

Name	Address			Principal place of business (city and state or country)	Amount of contribution for lobbying activities	Ownership percentage in client
	Street Address City	State/Province	Country			
				City State Country		%

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
- 2
- 3
- 4
- 5
- 6