

C A M P A I G N F O R

ACCOUNTABILITY



November 12, 2019

By Email: nancy_dipaolo@doioig.gov

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Emory A. Rounds, III
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Scott de la Vega
Designated Agency Ethics Official
U.S. Department of the Interior
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Re: Supplemental Information Regarding Request for Investigation of Acting Secretary David Bernhardt's Relationship with Westlands Water District

Dear Mr. Greenblatt, Mr. Rounds, and Mr. de la Vega:

Campaign for Accountability ("CfA") and Western Values Project ("WVP") write to provide you with additional information regarding the Secretary of the Department of the Interior ("Interior"), David Bernhardt, and his relationship with Westlands Water District ("Westlands"), an agricultural conglomerate in California. On February 19, 2019, CfA requested that you open an investigation into Sec. Bernhardt's conduct to determine whether he violated any ethics rules in order to benefit Westlands, his former lobbying client.¹ On April 15, 2019, the Inspector

¹ Letter from Daniel Stevens, Executive Director of Campaign for Accountability, to Mary Kendall, Emory Rounds, and Scott de la Vega, Feb. 19, 2019, available at <https://campaignforaccountability.org/wp-content/uploads/2019/02/CfA-Request-IG-Investigation-Bernhardt-Westlands-2-19-19.pdf>.

General confirmed that it had opened an investigation into the matter.² In recent months, WVP has obtained additional records that may be relevant to any ongoing investigations.

Background

Mr. Bernhardt worked as a lobbyist for Westlands for five years before joining the Trump administration as the deputy secretary of the Interior on July 24, 2017. Notably, while working for Westlands, Mr. Bernhardt lobbied the federal government to reduce protections for two endangered species of fish in California. As deputy secretary, Mr. Bernhardt directed an Interior official to initiate the process to eliminate environmental protections for the fish, which would have provided additional water for Westlands. Mr. Bernhardt was later promoted to Secretary following Sec. Ryan Zinke's resignation at the end of 2018. Mr. Bernhardt's actions to benefit Westlands, as a lobbyist and as a public official, may have violated ethics rules.

As CfA explained in the February 19, 2019 letter, after the 2016 election Mr. Bernhardt continued to lobby for Westlands despite delisting as a lobbyist and working for the Trump transition team.³ Specifically, emails obtained by California environmental activists showed that Mr. Bernhardt continued to work with Westlands between December 2016 and February 2017.⁴

New Information

New emails obtained by WVP reveal that Sec. Bernhardt continued to work with Westlands for several additional months, at least until July 2017. In recent months, WVP submitted several California Public Records Act requests seeking records from Westlands concerning its relationship with Sec. Bernhardt. Documents produced as a result of ensuing litigation show an ongoing relationship between Sec. Bernhardt, his former lobbying firm, Brownstein Hyatt Farber Schreck, and Westlands.⁵

For instance, Sec. Bernhardt appears to have held regular conference calls with Westlands officials until May 2017. On May 1, 2017, Johnny Amaral, the deputy general manager for external affairs at Westlands, sent an email to several Westlands officials and Mr. Bernhardt asking if there was a need for a call that day.⁶ Mr. Bernhardt replied in the negative.

² Coral Davenport, *Interior Dept. Opens Ethics Investigation of Its New Chief, David Bernhardt*, *The New York Times*, April 15, 2019, available at <https://www.nytimes.com/2019/04/15/climate/bernhardt-interior-department-ethics-investigation.html>.

³ Letter from Daniel Stevens, Executive Director of Campaign for Accountability, to Mary Kendall, Emory Rounds, and Scott de la Vega, Feb. 19, 2019, available at <https://campaignforaccountability.org/wp-content/uploads/2019/02/CfA-Request-IG-Investigation-Bernhardt-Westlands-2-19-19.pdf>.

⁴ Letter from Daniel Stevens, Executive Director of Campaign for Accountability, to Channing D. Phillips, U.S. Attorney for the District of Columbia, July 20, 2017, available at <https://campaignforaccountability.org/work/letter-requesting-doj-investigation-of-interior-department-nominee-david-bernhardt-for-lobbying-disclosure-violations/>.

⁵ Western Values Project, *Watchdog Releases Trove of Documents Relevant to Ongoing Ethics Investigation into Interior Sec. Bernhardt*, available at <https://westernvaluesproject.org/watchdog-releases-trove-of-documents-relevant-to-ongoing-ethics-investigation-into-interior-sec-bernhardt/>.

⁶ Western Values Project, *California Public Records Act Request, Batch 4*, available at <https://www.documentcloud.org/documents/6454512-Western-Value-Project-PRA-092719-Request-Response.html>.

On May 15, 2017, Mr. Amaral sent a similar message stating that there was no need for a call that day.⁷

Additionally, according to a calendar invite from Westlands General Manager Tom Birmingham, on June 27, 2017, he met for lunch with Sec. Bernhardt at a Washington D.C. restaurant.⁸

Beyond meetings, in the week before he was confirmed as deputy secretary, Mr. Bernhardt sent three emails regarding billing invoices to Westlands. On July 18, 2017, Mr. Bernhardt sent an invoice to Mr. Amaral for more than \$27,000 worth of services provided in January and February of 2017.⁹ The text of the email accompanying the invoice stated:

Johnny: This is my error. Once, I de-registered, the matter name on the invoice should have been modified to more accurately reflect the scope of the activities, and not simply say Federal Lobbying. I should have had the matter description changed.¹⁰

Mr. Bernhardt sent a follow up email that said, “Going forward the Matter two will be named DC Based Government Affairs.”¹¹ Additionally, Mr. Bernhardt sent a third email with a \$392.68 invoice for expenses related to a December 2016 Westlands board meeting.¹²

These emails reveal that Mr. Bernhardt retroactively sought to justify his potentially illegal conduct. The work at issue in the invoices was performed nearly six months previously, yet he only submitted the reclassified invoices in the week before he was confirmed. Notably, Mr. Bernhardt submitted these invoices the same day that *E&E News* published an article about his potentially illegal lobbying conduct.¹³ Simply renaming lobbying work “government affairs” does not magically make it legal. The emails indicate Mr. Bernhardt knew that he violated ethics rules. and was trying to cover his tracks.

Mr. Bernhardt had numerous other communications with Westlands officials. For instance, on June 27, 2017, Mr. Bernhardt forwarded an Interior press release to Mr. Amaral announcing that Brenda Burman had been nominated as Commissioner of the Bureau of Reclamation. Mr. Amaral replied, “Dream Team...with Bernhardt as the QB.”¹⁴ Mr. Bernhardt

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ Western Values Project, California Public Records Act Request, Batch 4, *available at* <https://www.documentcloud.org/documents/6454512-Western-Value-Project-PRA-092719-Request-Response.html>.

¹¹ *Id.*

¹² *Id.*

¹³ Michael Doyle, *Deputy Nominee Still Advising Calif. Water District*, *E&E News*, July 18, 2017, *available at* <https://www.eenews.net/stories/1060057527>.

¹⁴ Western Values Project, California Public Records Act Request, Batch 4, *available at* <https://www.documentcloud.org/documents/6454512-Western-Value-Project-PRA-092719-Request-Response.html>.

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later referred to himself as the quarterback in his nomination hearing to be Secretary of the Interior.¹⁵

The entire set of emails can be found at the following links:

<https://www.documentcloud.org/search/projectid:43783-Westlands-PRA-1-Bernhardt-Comms>;

<https://www.documentcloud.org/search/projectid:43784-Westlands-PRA-2-BHFS-comms>;

<https://www.documentcloud.org/search/projectid:43950-Westlands-PRA-3-Internal-Comms>;

<https://www.documentcloud.org/documents/6454512-Western-Value-Project-PRA-092719-Request-Response.html>.

Conclusion

The Secretary of the Interior is charged with overseeing America's public lands for the benefit of the entire nation. The public must have confidence that the Secretary is implementing policies for the benefit of the public, not his former lobbying clients. CfA and WVP respectfully request that you review these newly obtained documents to determine whether Sec. Bernhardt's relationship with Westlands violated government ethics rules.

Sincerely,

/s/

Daniel E. Stevens
Executive Director
Campaign for Accountability

/s/

Kyle Herrig
Senior Advisor
Western Values Project

¹⁵ Ellen Knickmeyer, *Senate Democrats Grill Interior Department Pick on Past Lobbying Work*, *Associated Press*, March 28, 2019, available at <https://www.denverpost.com/2019/03/28/david-bernhardt-interior-department-lobbying-work/>.