# DAVID BERNHARDT

On July 24, 2017, David Bernhardt was confirmed as the Deputy Secretary of the Department of Interior in a 53-43 vote. Previously, he was co-chair of the natural resources department at Brownstein Hyatt Farber Schreck, and has lobbied for and provided legal services to several fossil fuel companies. Bernhardt also worked in the Department of Interior under George W. Bush in several positions including solicitor, deputy chief of staff and director of the office of congressional and legislative affairs. In 1994, Bernhardt received a law degree from George Washington University Law School.

As a political appointee in the Department of Interior during two separate Republican administrations, Bernhardt has undermined protections for public lands and wildlife. During the Bush Administration, Bernhard issued legal opinions that reduced the range over which species could be considered endangered and questioned whether impacts from greenhouse gas emissions needed to be considered under ESA. In the Trump Administration, Bernhardt has continued his attempts to reform the Endangered Species Act while also working to promote fossil fuels and loosen protections on important biological, geologic, and cultural areas like Grand Staircase-Escalante National Monument. Bernhardt’s time at Interior has also been marked by significant ethical lapses. While Solicitor, the Department of Interior suffered from a series of corruption scandals to the point that the Inspector General suggested that “anything goes at the highest levels of the Department of Interior.” During his time as deputy secretary, Bernhardt’s clients have received meetings and favorable decisions from his department. At Brownstein Hyatt Farber and Schreck, Bernhardt gave legal and lobbying services to several oil and gas companies implicated in pollution or corruption scandals including Targa Resources, Noble Energy, NRG Energy, Cobalt Energy, and Independent Petroleum Association of America. During this time, he served on the board of the Center for Environmental Science Accuracy and Reliability (CESAR), which has fought ESA listings for species like the Killer Whale and the Sage Grouse.

Key findings are detailed below.

## Public Service Employment

**2018: Interior Department Forced to Apologize Over Error in Bernhardt Op-Ed About Coal Mining.** In January 2018, David Bernhardt penned an op-ed for his hometown paper, the Grand Junction Daily Sentinel, in which he suggested that two Colorado mines were only able to open after the Trump Administration lifted the Obama moratorium on new leases. However, as multiple letters to the editor pointed out, the two mines had actually been excluded from the moratorium due to their progress when it was implemented. Interior was forced to apologize for the error.

**2018: Bernhardt Took Fault for Proposal to Sell Public Land Outside Redrawn Grand Staircase Boundaries.** In an August 2018 land management proposal, the Bureau of Land Management included an option to sell 1,600 acres of land within the former boundaries of Grand Staircase-Escalante National Monument despite Interior Secretary Ryan Zinke’s continued promises not to sell public land. It was further noted that some of the proposed land for sale would be near the property of former Utah state representative Mike Noel who has vigorously fought Utah national monument designations. After conservation groups created an uproar, Interior scrapped the proposed option with Bernhardt taking the fault, stating, “The failure to capture this inconsistency stops with me.”

**2017-2018: Bernhardt’s Former Clients Received Attention and Favorable Decision from Interior.** On August 15, 2017, Bernhardt signed a recusal letter detailing the various companies whose matters he would not be involving himself in for a period of time including Cadiz, Eni Petroleum, and Garrison Diversion Conservancy District. In October 2017, BLM removed a significant hurdle that Cadiz had faced in a controversial groundwater pumping project in the Mojave Desert. The BLM allowed the project to move forward without undergoing federal environmental reviews like NEPA. In November 2017, an Eni Petroleum subsidiary received permission to drill the first exploration wells in the Beaufort Sea in two years. The Garrison Conservancy District has been trying to move a controversial project forward for years that would use a pipeline to move water from the Missouri River to the Red River Valley. In October 2017, Ryan Zinke met with U.S. Rep. Kevin Cramer (R-ND) and representatives of GDCD in order to achieve federal approval. A GDCD project leader stated that it was a “very good meeting” and was “very confident it will happen.”

**2017: Bernhardt Continued to Meet with MGM Lobbyists Despite Ethics Agreement.** On May 1, 2017, David Bernhardt signed an ethics agreement prohibiting him from involvement in matters related to his former employer, Brownstein Hyatt Farber Shreck. This included BHFS’ client MGM Resorts. However, in October 2017, he met with former Interior Secretary Gale Norton who is registered to lobby Interior on behalf of MGM. Two months later, he met with lobbyists from Ballard Partners who are also registered to lobby for MGM.

**2017: Bernhardt Believed Human Contribution to Climate Change Was Significant, But Believed Jobs Were More Important; Rescinded Interior Climate Change Policies.** In Bernhardt’s confirmation hearing, he was asked about his views on climate change by former U.S. Senator Al Franken (D-MN). Bernhardt responded that he thought “the science is pretty decided on this” and that he believed the “[human] contribution [to climate change] is significant, very significant.” However, he further stated that “[his] task will be to take the science, put it in the paradigm of the Administration’s policy perspective which is [that] we’re not going to sacrifice jobs for this…” In a December 2017 Secretarial Order, Bernhardt rescinded four climate change policies instituted during the Obama Administration.

**2008: Bernhardt Questioned Impact of Greenhouse Gas Emissions on Endangered Species.** During his tenure as Interior solicitor, Bernhardt wrote a memo which suggested federal agencies need not confer with government biologists about the effects greenhouse gas emissions may have on endangered plants and animals. Bernhard concluded “that where the effect at issue is climate change in the form of increased temperatures, a proposed action that will involve the emission of GHG [greenhouse gas] cannot pass the ‘may affect’ test and is not subject to consultation under ESA and its implementing regulations.” He also suggested that “cumulative effects… are of no relevance in determining whether a proposed action ‘may affect listed species or critical habitat.”

**2007-2008: Bernhardt’s Legal Opinions About ESA Were Rejected Under Bush Administration; Led ESA Reform Effort Under Trump Administration.** As Department of Interior solicitor, Bernhardt wrote a 2007 memo suggested that Endangered Species Act protections did not need to apply to an entire species’ range. He believed that the use of present-tense in the act meant that a species could only be endangered in its current, rather than historical, range. This view was rejected by federal judges in Montana and Arizona in case involving the Rocky Mountain gray wolf and Gunnison’s prairie dog, respectively. Furthermore, a study published by Ohio State University in 2009 argued that this view was “plainly inconsistent with the statutory history,” would lead to few species being protected, and would open the department up to litigation. As deputy secretary, Bernhardt has led efforts to reform the ESA based on a “modern vision of conservation…that uses federalism, public-private partnerships and market-based solutions to achieve sound stewardship.” Among Bernhardt’s goals were to “ensure that listing factors and the de-listing factors are the same legal standard” and rescinding the “blanket rule” that gave threatened and endangered species the same protections if not specified otherwise.

**2006-2008: Bernhardt Oversaw Legal and Ethical Offices of DOI During Series of Significant Ethical Breaches.** As Department of Interior solicitor between 2006 and 2009, Bernhardt oversaw the agencies’ legal and ethics offices. During this time period, the agency was hit with multiple embarrassing scandals to the point that the Interior Inspector General stated in 2006 that “Simply stated, short of a crime, anything goes at the highest levels of the Department of the Interior.” Chief among these scandals was the revelation that former deputy secretary J. Steven Griles had advocated for decisions that benefited his former oil and gas industry clients. In 2008, the IG found that former deputy assistant secretary for fish and wildlife and parks Julie MacDonald had inappropriately interfered with endangered species act decisions. The IG also found a “culture of ethical failure” at the Minerals Management Service over allegations of “financial self-dealing, accepting gifts from energy companies, cocaine use and sexual misconduct.” Current Interior Secretary Ryan Zinke has faced at least 15 open and closed investigations in his first two years on the job.

**2002-2004: Abramoff Lobbied for The Saginaw Chippewa; Shared Concern About Competition Against His Client In 2002 Email With Italia Federici.** Jack Abramoff was a lobbyist for the Saginaw Chippewa from 2002 until 2004. In 2002, he expressed concern about the Sault Ste Marie and Bay Mills Tribes. Abramoff wrote “I hate to keep bugging you but there is now ANOTHER Michigan casino problem making its way to Steve [Griles]. Perhaps you could get this to him and nip it in the bud before it becomes a bigger problem. Thanks Italia!!” At the time, Michigan’s tribal casinos faced stiff competition amid a rapid expansion in offerings. The Sault Ste. Marie spent $32 million to construct and replace its Casino in St. Ignace, and the Saginaw Chippewa’s Soaring Eagle Casino was the largest in Michigan. The Saginaw Chippewa opposed the Bay Mills Tribe’s casino at Port Huron.

* **Bernhardt Defended DOI Opinion Anchored In 2004 Decision That Benefitted Saginaw Chippewa In Competition Against Sault Ste Marie Chippewa Tribe Of Michigan.** In July of 2004, the National Indian Gaming Commission advised the Sault Ste Marie Tribe that there were “serious questions” whether the Sault Ste. Marie Tribe was able to conduct gaming on its parcels in St. Ignace. In February 2006, Acting Associate Director for the Division of Indian Affairs Edith Blackwell concluded that the parcel was not part of a reservation. Later that year, David Bernhardt wrote a letter to former Congressman Bart Stupak that defended Blackwell’s conclusion. The Sault Ste. Marie Tribe sued for an injunction against enforcement so they would be able to operate a casino constructed on the parcels near St. Ignace, Michigan. The Western District Court of Michigan issued an order that allowed the Sault Ste Marie Tribe of Chippewa Indians to begin operating the Kewadin Casino in St. Ignace, Michigan. According to the Court, “With regard to … whether the plaintiff has shown irreparable injury, the Court notes that defendants recently submitted for the Court’s…consideration a copy of a letter written by David L. Bernhardt, Deputy Solicitor… which is addressed to … [Congressman] Hon. Bart Stupak… In the first sentence of the fourth paragraph in the letter, Deputy Solicitor Bernhardt states the following in his capacity as an official representative of the United States Department of the Interior: ‘We recognize the significant potential economic impact our opinion may have on the Band.’”

**2001: Jack Abramoff and David Bernhardt Were Scheduled To Sit Together At Fundraising Dinner For The Council Of Republicans for Environmental Advocacy.** In September of 2001, Abramoff emailed his colleagues Shawn Vasell and Kevin Ring about a fundraising dinner CREA was holding with its trustees on September 24. Representatives from the Choctaw, Chitimacha, and Coushatta tribes would be in attendance. Abramoff told his colleages that he would be sitting with Chief Poncho, Secretary Norton, David Bernhardt, and CREA President Italia Federici, and asked them to “confirm that you can be at this very important dinner.” Federici stated that the purpose of the dinner was to “introduce Interior folks to our favorite friends and supporters. The main topic of discussion will be ways CREA, working with our friends, can help Interior reach the American public with a positive and unfiltered conservative message.”

* **Abramoff Secretly Routed $500,000 Through CREA, Asked Federici To Lobby the Interior Department On His Behalf**. According to the Washington Post, “Newly released documents in the Jack Abramoff investigation shed light on how the lobbyist secretly routed his clients’ funds through tax-exempt organizations with the acquiescence of those in charge, including prominent conservative activist Grover Norquist... A second group Norquist was involved with, the Council of Republicans for Environmental Advocacy, received about $500,000 in Abramoff client funds; the council’s president has told Senate investigators that Abramoff often asked her to lobby a senior Interior Department official on his behalf. The committee report said the Justice Department should further investigate the organization’s dealings with the department and its former deputy secretary, J. Steven Griles.”

## Private Sector Employment

**Bernhardt Served on Board of Anti-ESA Group Connected to Oil and Gas Industry.** Prior to his confirmation as deputy secretary, Bernhardt was a board member of the Center for Environmental Science Accuracy and Reliability (CESAR). The group has fought ESA listings for species like the Killer Whale, Sage Grouse, and Hookless Cactus using lawsuits and studies funded by the Western Energy Alliance. Julie MacDonald, a CESAR consultant, left the Bush Administration after an investigation found she was improperly interfering with ESA listings. CESAR received $10,000 from Koch-linked Donors Trust in 2014. Bernhardt represented CESAR in a 2012 lawsuit against Interior Secretary Ken Salazar. The suit alleged that the Department of Interior and Fish and Wildlife Service did not properly respond to a petition to list the American eel as a threatened species under the Endangered Species Act. The case was settled, and the terms required the Fish and Wildlife Service to pay $8,000 to CESAR as well as “review the status of the American eel and submit to the federal register” a finding as to whether listing the American eel was warranted under the ESA. Bernhardt resigned from CESAR in 2017 and agreed to recuse himself from all matters involving the organization until August 2019.

**Each Of Bernhardt’s Clients Was Implicated In At Least One Major Pollution Episode Or Corruption Scandal**. Between 2009 and 2017, David Bernhardt was co-chair of the Natural Resources Department at Brownstein Hyatt Farber and Schreck. On his March 2017 Personal Finance Disclosure form, Bernhardt listed his employment at BHFS as well as compensation for legal services from several energy companies, including Statoil Gulf Services, a subsidiary of Statoil ASA; Targa Resources; Noble Energy; NRG Energy; Sempra Energy; Cobalt International Energy; Taylor Energy; and the Independent Petroleum Association of America. Bernhardt’s disclosure does not disclose how much he was compensated for legal services. Except for the Independent Petroleum Association of America, which is a trade association, the six energy companies that compensated Bernhardt were midstream and exploration and production companies that were implicated in at least one major pollution episode or corruption scandal.

* **Targa Resources**. Targa Resources, Devon Energy, and Mississippi, Texas, Indiana, Delaware and Connecticut challenged the EPA’s 2008 attainment and nonattainment findings for ozone air standards. Targa Resources and Devon Energy argued that the EPA used the wrong test, and improperly included wind in its analysis of ozone pollution in Wise County, Texas. The US Court of Appeals for the District of Columbia rejected these challenges and affirmed the EPA’s findings in 2012.
* **Noble Energy**. Noble Energy paid $73 million to settle a federal pollution claim in 2015. According to the Denver Post, “The company’s tank batteries were emitting thousands of tons of volatile organic chemicals a year, contributing to the region’s ozone pollution problem, according to an analysis by regulators.” The pollution occurred in the Julesburg basin of Colorado.
* **NRG Energy**. In 2016, NRG paid $12 million to settle a suit for dumping pollutants into the Potomac and Patuxent rivers. The suit alleged that the Chalk Point and Dickerson plants dumped illegal amount of nitrogen in to the rivers.
* **Cobalt Energy**. Cobalt Energy was investigated for violations of the Foreign Corrupt Practices Act in its dealings with Nazaki Oil, and Gaz, S.A., two Angolan state owned companies. The DOJ ended the investigation in February 2017 without comment.
* **Taylor Energy**. In 2016, Taylor Energy’s CEO blamed a 2004 oil leak in the Gulf of Mexico on an “act of God.” On February 25, 2016, Taylor Energy Company sued the Department of Interior under the Freedom of Information Act, 5 to order the production of agency records from Defendants the United States Department of the Interior related to statements made on Interior’s website about Taylor Energy’s response to an incident at an oil platform in the Gulf of Mexico. The complaint alleges that material posted on the US BOEM website contained “misleading, incomplete, and speculative information regarding the events at MC20, as well as the efficacy of Taylor’s response efforts.” Litigation is ongoing and the most recent filing was a reply to opposition motion filed on March 23, 2017.
* **Independent Petroleum Association of America.** In 2012, the Independent Petroleum Association of America released the movie “Truthland” to rebut the claims made in “Gasland.” According to Truthland, “The truth is, there isn’t a single ‘hazardous’ additive used in the fracturing process that’s hidden from public view.” One critic said, “The film- essentially an extended infomercial – runs a mercifully short 35 minutes.” The Nation stated that Truthland was “the fracking industry’s dishonest response to ‘Gasland.’”
* **Sempra Energy.** Sempra Energy owned the Aliso Canyon in California, and a facility in Eight Mile, Alabama. The Aliso Canyon facility leaked so much methane in 2015 that 8,000 residents in the area were forced to evacuate their homes. In Alabama, the Eight Mile facility leaked 500 gallons of a chemical odorant mercaptan in 2008 that made the town smell like rotten eggs for eight years.

**Bernhardt Worked For Statoil Gulf Services Which Was Owned By The Government Of Norway And A Business Partner Of Russian-Owned Rosneft**. Bernhardt disclosed that he was compensated by Statoil Gulf Services, a subsidiary of Statoil ASA, on his OGE 278. Statoil ASA, a Norwegian state-owned company with world-wide operations and subsidiaries in Algeria, Angola, Azerbaijan, China, Egypt, Iran, Iraq, Kazakhstan, Libya, and Russia. Statoil and Rosneft, which is majority owned by the Russian Government, entered into a cooperative agreement in 2012. The agreement covers development projects in two regions in Russia. Statoil's operations in the United States seem limited compared to its operations in other parts of the world.

* *Note: Rosneft could end up owning the American refinery Citgo.* According to CNN Money, “Venezuela’s state-run oil company, Petroleos de Venezuela (PDVSA), has owned Citgo since the 1980s. In exchange for a loan from Rosneft in December, Venezuela’s oil company put up a large stake (49.9%) in Citgo as collateral.” There is a chance that PDSVA and Venezuela will run out of money, and default on the loan before the end of 2017. If that happens, Rosneft will keep the collateral PDVSA used to secure the loan and become a majority owner in the company. In a letter to Treasury Secretary Steve Mnuchin, Congressmen Jeff Duncan and Albio Sires said, “The Russians have a lot to gain through the PDVSA-Rosneft-Citgo asset transfer to the detriment of U.S. interests, and we remain deeply concerned over the implications for U.S. National Security.”

**Bernhardt’s Firm Lobbied For Saudi Arabia Against Justice Against Sponsors Of Terrorism Act**. In September 2016, Brownstein Hyatt Farber and Schreck registered as an agent of the Kingdom of Saudi Arabia. According to FARA Registration documents, Saudi Arabia paid BHFS $400,000 for representation related to the Justice Against Sponsors of Terrorism Act (JASTA). Families of victims of the September 11 terrorist attacks wanted to sue Saudi Arabia for damages over suspected ties to the hijackers, but could not because of the doctrine of sovereign immunity. JASTA was passed to allow victims of the families of victims to sue Saudi Arabia in US Courts. It was criticized for opening US Soldiers to legal liability abroad. Saudi Arabia opposed the legislation. The three BHFS employees who worked in this account were Zach Pfister, Marc S. Lampkin, and Elizabeth Gore.

## Campaign Finance

**Bernhardt Has Donated Over $105,000 to Federal Campaigns; Nearly All of It Has Gone to Republican Politicians and Committees.** Between 1999 and 2017, Bernhardt donated $105,545 to 68 campaigns and political action committees including $13,770 to the Brownstein Hyatt Farber Schreck PAC and $10,000 to the National Republican Senate Committee. He has also donated money to Republican presidential candidates like Donald Trump, Mitt Romney, and George W. Bush, U.S. Senators like Cory Gardner (R-CO), Mike Lee (R-UT), and Dan Sullivan (R-AK), and U.S. Representatives like Scott Tipton (R-CO), Rob Bishop (R-UT), and Chris Stewart (R-UT). Bernhardt donated $500 to Zinke for Congress and $250 to Safari Club International PAC.

# BACKGROUND

## Timeline

**August 2017 to Present: Bernhardt Was Department of Interior Deputy Secretary.**

* **July 24, 2017: Bernhardt Was Confirmed 53-43 to be Deputy Secretary of the Interior.** [CNN, [7/25/17](https://www.cnn.com/2017/07/24/politics/david-bernhardt-confirmed-deputy-secretary-interior-department/index.html)]
* **2018: David Bernhardt Expected to Step into Secretary Position if Zinke Resigned.** [Politico, [10/31/18](https://www.politico.com/story/2018/10/31/ryan-zinke-interior-department-possible-successor-bernhardt-952984)]

**2009-2017: Bernhardt Was a Shareholder at Brownstein Hyatt Farber Schreck.** [LinkedIn, accessed [11/5/18](https://www.linkedin.com/in/david-bernhardt-b9400711/)]

**2007-2009: Bernhardt Was a Commission for the Internal Boundary Commission.** [LinkedIn, accessed [11/5/18](https://www.linkedin.com/in/david-bernhardt-b9400711/)]

**2006-2009: Bernhardt Was Department of Interior Solicitor.** [LinkedIn, accessed [11/5/18](https://www.linkedin.com/in/david-bernhardt-b9400711/)]

**2005-2006: Bernhardt Was Department of Interior Deputy Solicitor.** [LinkedIn, accessed [11/5/18](https://www.linkedin.com/in/david-bernhardt-b9400711/)]

**2004-2005: Bernhardt Was Department of Interior Counselor and Deputy Chief of Staff.** [LinkedIn, accessed [11/5/18](https://www.linkedin.com/in/david-bernhardt-b9400711/)]

**2001-2004: Bernhardt Was Department of Interior Counselor and Director of the Office of Congressional and Legislative Affairs.** [LinkedIn, accessed [11/5/18](https://www.linkedin.com/in/david-bernhardt-b9400711/)]

**1998-2001: Bernhardt Was a Partner at Brownstein Hyatt.** [Open Secrets, accessed [11/13/18](https://www.opensecrets.org/revolving/rev_summary.php?id=19180)]

**1994-1998: Bernhardt Was Legal Counsel for Former U.S. Rep. Scott McInnis (R-CO).** [Open Secrets, accessed [11/13/18](https://www.opensecrets.org/revolving/rev_summary.php?id=19180)]

**1991-1994: Bernhardt Received Law Degree from George Washington University Law School.** [LinkedIn, accessed [11/5/18](https://www.linkedin.com/in/david-bernhardt-b9400711/)]

## Department of Interior

**2018: David Bernhardt Expected to Step into Secretary Position if Zinke Resigned.** [Politico, [10/31/18](https://www.politico.com/story/2018/10/31/ryan-zinke-interior-department-possible-successor-bernhardt-952984) (=)]

**August 2017 to Present: Bernhardt Was Department of Interior Deputy Secretary.**

* **July 2017: Bernhardt Was Confirmed 53-43 to be Deputy Secretary of the Interior.** [CNN, [7/25/17](https://www.cnn.com/2017/07/24/politics/david-bernhardt-confirmed-deputy-secretary-interior-department/index.html)]

**2006-2009: Bernhardt Was Department of Interior Solicitor.** [LinkedIn, accessed [11/5/18](https://www.linkedin.com/in/david-bernhardt-b9400711/)]

**2005-2006: Bernhardt Was Department of Interior Deputy Solicitor.** [LinkedIn, accessed [11/5/18](https://www.linkedin.com/in/david-bernhardt-b9400711/)]

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### Ethics

**Bernhardt Managed Ethics Office While Serving as Interior Solicitor.** “One example is David Bernhardt, who worked for ex-U.S. Rep. Scott McInnis, R-Colo., in the 1990s before joining the firm in 1998. After a few years there, he moved to the U.S. Department of the Interior, where he would rise to became the agency’s [solicitor](https://solicitor.doi.gov/), which handles legal work and manages its ethics office.” [Denver Post, [**4/9/18**](https://www.denverpost.com/2016/04/09/colorado-lobbying-firm-brings-clout-to-dc/)]

**2008: Inspector General Found “Culture of Ethical Failure” at Minerals Management Service.** “As Congress prepares to debate expansion of drilling in taxpayer-owned coastal waters, the [Interior Department](http://topics.nytimes.com/top/reference/timestopics/organizations/i/interior_department/index.html?inline=nyt-org) agency that collects oil and gas royalties has been caught up in a wide-ranging ethics scandal — including allegations of financial self-dealing, accepting gifts from energy companies, cocaine use and sexual misconduct. In three reports delivered to Congress on Wednesday, the department’s inspector general, Earl E. Devaney, found wrongdoing by a dozen current and former employees of the Minerals Management Service, which collects about $10 billion in royalties annually and is one of the government’s largest sources of revenue other than taxes. “A culture of ethical failure” pervades the agency, Mr. Devaney wrote in a cover memo.” [New York Times, [9/10/08](https://www.nytimes.com/2008/09/11/washington/11royalty.html?mtrref=www.google.com)]

* **Investigation Was Started After Whistleblower Complains in 2006.** “The director of the Minerals Management Service, Randall Luthi, said in a conference call with reporters that the officials implicated in the reports had violated the public’s trust. “When you come to work for the federal government, the American people expect the best of you,” he said, adding, “I am not going to leave this post in January without addressing this problem.” Mr. Luthi, who became the service director in July 2007, said that the agency had requested the investigation after receiving whistle-blower complaints in the spring of 2006, and that it had already made several changes. A spokesman for Mr. Devaney declined to comment.” [New York Times, [9/10/08](https://www.nytimes.com/2008/09/11/washington/11royalty.html?mtrref=www.google.com)]

**September 2006: Interior Inspector General: “Simply Stated, Short Of A Crime, Anything Goes At The Highest Levels Of The Department Of The Interior.”** “The Interior Department’s chief official responsible for investigating abuses and overseeing operations accused the top officials at the agency on Wednesday of tolerating widespread ethical failures, from cronyism to cover-ups of incompetence. ‘Simply stated, short of a crime, anything goes at the highest levels of the Department of the Interior,’ charged Earl E. Devaney, the Interior Department’s inspector general, at a hearing of the House Government Reform subcommittee on energy. ‘I have observed one instance after another when the good work of my office has been disregarded by the department,’ he continued. ‘Ethics failures on the part of senior department officials — taking the form of appearances of impropriety, favoritism and bias — have been routinely dismissed with a promise ‘not to do it again.’ ‘The blistering attack was part of Mr. Devaney’s report on what he called the Interior Department’s ‘bureaucratic bungling’ of oil and gas leases signed in the late 1990’s, mistakes that are now expected to cost the government billions of dollars but were covered up for six years.” [New York Times, [9/13/06](https://www.nytimes.com/2006/09/14/business/14oil.html?mtrref=www.google.com)]

* **Inspector General Was Particularly Insulted by Ethical Lapses of Lobbyist Turned Deputy Secretary J. Steven Griles.** “He expressed particular fury at the willingness to dismiss two dozen potential ethical lapses by J. Steven Griles, a former industry lobbyist who served as deputy secretary of the interior during President Bush’s first term. Mr. Griles resigned after allegations surfaced that he pushed policy decisions that favored some of his former oil and gas industry clients and that he tried to steer a $2 million contract to a technology firm that had also been one of his clients. In a 145-page report in 2004, the inspector general described Mr. Griles as a ‘train wreck waiting to happen.’ But on Wednesday, Mr. Devaney said he was appalled that the Interior Department’s office of ethics dismissed 23 out of 25 potential ethical breaches against Mr. Griles and that Gale A. Norton, then secretary of the interior, decided not to act on the two remaining allegations. Mr. Griles is once again a lobbyist in Washington. Efforts to reach Mr. Griles on Wednesday evening at his lobbying firm, Lundquist, Nethercutt & Griles, were unsuccessful.” [New York Times, [9/13/06](https://www.nytimes.com/2006/09/14/business/14oil.html?mtrref=www.google.com)]

**Bernhardt Believed His Role as Solicitor Was Chief Legal Office of DOI.** “I view the role of the Solicitor as being the chief legal officer of the Department. In that capacity, the Solicitor serves as the principal legal advisor to the Secretary and is responsible for all legal work in the Department, except that delegated to the Office of Hearings and Appeals, the Inspector General, the Legislative Counsel, and the Justices of the American Samoa.” [Senate Nomination Hearing, Committee on Energy and Natural Resources, [3/9/06](https://www.congress.gov/109/chrg/shrg28197/CHRG-109shrg28197.htm)]

**2008: Interior Report Found Interior Political Appointee Inappropriately Interfered With ESA Decisions.** “Political meddling in endangered species decisions at the Interior Department was more widespread than previously thought, according to a new federal investigation that says policy changes to the Endangered Species Act may be needed to fully fix the problem. Inspector General Earl Devaney revisited the political interference of Julie MacDonald, the former deputy assistant secretary for fish and wildlife and parks, in a report delivered to Congress yesterday. Lawmakers requested a review of 20 different species decisions, and Devaney found that MacDonald may have exerted undue influence in at least 13 of them. "In the end, the cloud of MacDonald's overreaching, and the actions of those who enabled and assisted her, have caused the unnecessary expenditure of hundreds of thousands of dollars to reissue decisions and litigation costs to defend decisions that, in at least two instances, the courts found to be arbitrary and capricious," Devaney wrote.” [E&E News, [12/16/18](https://www.eenews.net/stories/72374)]

**Zinke Faced At Least 15 Open and Closed Investigations as Interior Secretary.** “Ryan Zinke, the interior secretary, faces at least a half-dozen ongoing ethics inquiries related to his leadership at the Interior Department. The inquiries include investigations into Mr. Zinke’s personal financial dealings and his handling of policy matters like the redrawing of the boundaries of a national monument in Utah. According to a person familiar with the matter, one of those inquiries — into whether Mr. Zinke stood to benefit from a Montana development deal linked to the energy giant Halliburton — has very likely been [referred to the Department of Justice](https://www.nytimes.com/2018/10/30/climate/interior-zinke-justice.html?module=inline) for further review. Government investigators have also closed nine inquiries related to Mr. Zinke, in some cases because he was cleared, and in others because of a lack of cooperation.” [New York Time, [10/31/18](https://www.nytimes.com/2018/10/31/climate/ryan-zinke-investigations.html)]

**U.S. Senator Elizabeth Warren (D-MA): “Ryan Zinke Isn't The Only Corrupt Official In The Department Of The @Interior. Take A Look At His Second In Command: @DOIDepSec & Former Oil Lobbyist David Bernhardt, Who Interior Watchdogs Are Calling 'The Ultimate DC Swamp Creature.”** [The Hill, [10/12/18](https://thehill.com/homenews/senate/411112-warren-calls-zinke-deputy-corrupt-over-lobbying-ties)]

#### Westlands Water

**Bernhardt Pulled Out of Colorado River Water Conservation District Seminar Over Ethics Concerns.** “A canceled Colorado speech is casting new light on the ethics recusals designed to limit Deputy Interior Secretary David Bernhardt’s actions. Citing the advice given by Interior’s Ethics Office, Bernhardt pulled out of the Colorado River Water Conservation District’s annual water seminar program, being held today in Grand Junction. The Colorado native had been scheduled several weeks ago to deliver the program’s keynote speech. Interior spokeswoman Faith Vander Voort said Bernhardt’s apparent last-minute withdrawal stemmed from his practice of sending all speaking engagement requests to the Ethics Office for review.” [E&E News, [9/14/18](https://www.eenews.net/greenwire/2018/09/14/stories/1060097093)]

**Bernhardt Once Represented Westlands Water District; Group Which Made Improper Payments to Bureau of Reclamation.** “Deputy Interior Secretary David Bernhardt, a former lawyer and lobbyist at Brownstein Hyatt Farber Schreck, once represented California’s Westlands Water District, the largest water district in the country that was involved in improper payments from the Bureau of Reclamation, according to an inspector general report. The bureau, which disputed those findings, allegedly failed to properly disclose an $84 million project or produce documents explaining why federal contractors did not have to pay back millions in funding. Bernhardt has pledged for one year to step away from issues involving his former firm or clients. He has also promised to abide by federal ethics laws that prohibit him from holding ‘a financial interest in any surface or underground coal mining operation,’ among other pledges in his ethics agreement.” [The Hill, [3/2/18](https://thehill.com/business-a-lobbying/business-a-lobbying/376348-trump-administration-hired-more-than-75-lawyers-with)]

#### Cadiz

**October 2017: BLM Removed Hurdle for Controversial Cadiz Groundwater Project in Mojave Desert.** “The Trump administration on Friday removed a major obstacle that had long stalled a project designed to pump groundwater from the Mojave Desert to communities in Southern California. The planned 43-mile pipeline would follow an already existing railroad through public land; the Bureau of Land Management sent a [letter](http://www.cadizinc.com/downloads/BLM%20to%20Cadiz%2010-13-17.pdf) last week to Cadiz Inc., the company behind the pipeline, stating that the company did not need federal permission to begin construction. The announcement reflects the Trump administration’s determination to prioritize large infrastructure projects over environmental protections. The Cadiz project has drawn a lot of attention in Washington, D.C., both because of what’s at stake for the desert ecosystem and because it reflects a major shift in priorities from the Obama administration.” [High Country News, [10/17/17](https://www.hcn.org/articles/water-trumps-blm-bureau-of-land-management-clears-a-hurdle-for-controversial-cadiz-project)]

**Bernhardt Previously Did Legal Work for Cadiz.** “The issue was prominent in the confirmation hearings for Deputy Interior Secretary David Bernhardt, a former industry lawyer whose clients’ businesses relied on decisions made by Interior. Bernhardt did legal work for Cadiz Inc., and a former law partner of Bernhardt’s is the president and CEO of the company. Bernhardt’s former law firm was [paid in stock](https://www.hcn.org/issues/49.9/conflicts-of-interest-dog-trumps-deputy-interior-secretary-nominee) and stands to profit from the project’s success. Bernhardt [told senators](http://www.latimes.com/local/lanow/la-me-bernhardt-hearing-20170518-story.html) in his confirmation hearing that he would avoid conflicts of interest. Bureau of Land Management spokesman Jeff Krauss wrote in an email: ‘Deputy Secretary Bernhardt has played absolutely no role in anything related to the Cadiz project.’” [High Country News, [10/17/17](https://www.hcn.org/articles/water-trumps-blm-bureau-of-land-management-clears-a-hurdle-for-controversial-cadiz-project)]

**Trump Administration Allowed Cadiz Project to Avoid Federal Environmental Review.** “By constructing its project in the right of way of the California & Arizona Railroad, Cadiz avoids federal environmental reviews. The [National Environmental Policy Act](https://ceq.doe.gov/) usually requires agencies to study major projects on federal land to determine potential impacts to endangered species, waterways and other important ecological features. 'Knowing a federal environmental review would expose the dangers of its project, Cadiz has waited years for an administration willing to greenlight its plans without any real oversight. That gamble has clearly paid off,’ said Sen. Dianne Feinstein, D-Calif., in a statement Monday. 'Cadiz is now set to drain more than three times the aquifer’s natural recharge rate, putting life in the Mojave desert at risk.’ According to the Obama administration, the Cadiz pipeline was not essential to the operations of the railroad and hence was not exempted from federal environmental reviews. As a result, the BLM in 2015 advised Cadiz the project would require federal permitting.” [High Country News, [10/17/17](https://www.hcn.org/articles/water-trumps-blm-bureau-of-land-management-clears-a-hurdle-for-controversial-cadiz-project)]

**David Bernhardt Recused Himself from Matters Involving Cadiz Until August 2019 Absent a Waiver.** [Bernhardt Ethics Recusal, [**8/15/17**](https://assets.bwbx.io/documents/users/iqjWHBFdfxIU/rL2bONoceiOY/v0)]

#### Garrison Diversion Conservancy District

**Garrison Diversion Conservancy District Hoped to Use Pipeline to Move Water from Missouri River to Red River Valley.** “The longstanding goal of diverting Missouri River water to supplement water supplies in the Red River Valley is gaining momentum as a state and local initiative. Backers of the Red River Water Supply Project will brief legislators in Fargo next week on route possibilities for a pipeline that could be built without significant federal involvement. ‘We think we can do this as a state and local partnership,’ Dave Koland, manager of the Garrison Diversion Conservancy District, which is spearheading the project, said Wednesday. The idea of a state and local water project with a price tag of $781 million was first proposed in September 2012, when it became clear federal funding, stalled for four years, was unlikely.” [Pioneer Press, [1/29/14](https://www.twincities.com/2014/01/29/plan-to-pipe-missouri-river-water-to-red-river-valley-gains-momentum/)]

**Project Faced Budget Concerns and Opposition from Environmental Groups.** “The quest to bring Missouri River water to the Red River Valley has faced many obstacles over the decades, including environmental opposition and the federal budget crunch. Now a new hurdle looms for the proposed Red River Valley Water Supply Project: low oil prices. North Dakota’s Resource Trust Fund, which is used to pay for water projects, is funded by oil revenue. The fund has dwindled with the sharp drop in the price of oil, and now is expected to have about $200 million when the Legislature meets next January.” [Bismarck Tribune, [3/28/16](https://bismarcktribune.com/news/state-and-regional/red-river-water-supply-project-funding-faces-new-hurdle/article_9dc4ce8a-0dae-5272-93c1-b9accc0b6ec0.html)]

**U.S. Representative Kevin Cramer (R-ND) Met with Secretary Ryan Zinke and Member of the Garrison Conservancy District.** “Congressman Kevin Cramer orchestrated a meeting between Department of the Interior Secretary Ryan Zinke, officials with Garrison Diversion Conservancy District, Lake Agassiz Water Authority, and City of Fargo. Cramer, who served alongside Secretary Zinke during his time in the House, attended the meeting held at the Department of Interior. ‘I appreciate the Secretary taking the time to meet with us today,’ said Cramer. ‘I thought the meeting went well, and I’m optimistic about getting the water supply project done; it’s been promised for over 65 years. The project stands to benefit eastern North Dakota, but the whole state will save money; and it’s going to deliver a fresh supply of water for municipal and industrial use. If we’re going to have economic development take off in the eastern part of the state, we need a reliable supply of water from the Garrison Diversion. It’s refreshing to have an Administration that’s willing to work with us and take a fresh look at this project.’ The meeting was held to update Zinke on the water project and to garner his support for federal approval of supplying water out of the McClusky Canal for municipal, rural, and industrial uses, which has been halted on numerous occasions by various administrations. Secretary Zinke told officials attending the meeting to expect a response from the Department of the Interior in the near future.” [Kevin Cramer Press Release, [10/25/17](https://cramer.house.gov/media-center/press-releases/cramer-assembles-garrison-diversion-meeting-with-interior-secretary)]

**Project Board Member: “This Was A Very Good Meeting.”** Following a recent meeting in Washington with Interior Secretary Ryan Zinke, officials are optimistic an agreement will be reached to use the old Garrison features to deliver Missouri River water to the pipeline. ‘This was a very good meeting,’ Ken Vein of Grand Forks, a member of the water project’s board, said, echoing Zinke’s concluding remarks as the meeting ended. A letter from the federal government approving the arrangement is expected within a month, Fargo Mayor Tim Mahoney said. If the federal approval comes, as expected, a major hurdle will be completed toward completion of the project, which also could serve communities including the Jamestown area. ‘I’m very confident it will happen,’ Vein said.” [Kevin Cramer Press Release, [10/25/17](https://cramer.house.gov/media-center/press-releases/cramer-assembles-garrison-diversion-meeting-with-interior-secretary)]

**David Bernhardt Recused Himself from Matters Involving Garrison Diversion Irrigation District Until August 2018 Absent a Waiver.** [Bernhardt Ethics Recusal, [**8/15/17**](https://assets.bwbx.io/documents/users/iqjWHBFdfxIU/rL2bONoceiOY/v0)]

#### Eni Petroleum

**Eni U.S. Operating Company Received Federal Permit to Drill in Beaufort Sea.** “A subsidiary of an Italian energy company has received a federal permit to drill the first oil exploration wells in U.S. Arctic waters in two years. The federal Bureau of Safety and Environmental Enforcement announced Tuesday it has approved an application from Eni U.S. Operating Co. Inc. to drill exploratory wells in the Beaufort Sea. Drilling could begin next month from Spy Island, a gravel artificial island in state waters about 3 miles off the coast near Prudhoe Bay. Eni will use extended-reach drilling techniques to reach federal submerged lands.” [Associated Press, [11/28/17](http://www.spokesman.com/stories/2017/nov/28/eni-receives-federal-permit-for-us-arctic-offshore/)]

**David Bernhardt Recused Himself from Matters Involving Eni Petroleum Until August 2019 Absent a Waiver.** [Bernhardt Ethics Recusal, [**8/15/17**](https://assets.bwbx.io/documents/users/iqjWHBFdfxIU/rL2bONoceiOY/v0)]

#### MGM International

**Bernhardt Met with Ballard Partners Lobbyists Whose Clients Included MGM.** “David Bernhardt, the deputy secretary of the Interior Department, met late last year with a trio of lobbyists for MGM Resorts International, the casino-resort giant that his longtime former employer also represents. The meeting with lobbyists from Ballard Partners, which came two months after Bernhardt met with another lobbyist for MGM Resorts, raises still more ethical concerns involving the former energy lobbyist at a time when Secretary Ryan Zinke and his team are facing mounting criticism over their spending, travel and apparent conflicts of interest.” [HuffPost, [5/2/18](https://www.huffingtonpost.com/entry/david-bernhardt-mgm-lobbyists-ballard-partners_us_5aea362ae4b022f71a04ca40)]

**Bernhardt Met with Former Interior Secretary Turned MGM Lobbyist Gale Norton.** “Deputy Secretary of the Interior David Bernhardt met last fall with a lobbyist for MGM Resorts, the casino giant that his former employer also represents, according to calendar records. The case raises a potential red flag for the federal agency that has already been dogged by several controversies during the Trump administration. According to the ethics agreement Bernhardt signed on May 1, 2017, he is prohibited from participating in matters involving his previous employer, the lobbying firm Brownstein Hyatt Farber & Schreck. But according to Bernhardt’s calendar, Bernhardt met last October with Gale Norton, the former Interior Secretary under George W. Bush who now runs her own lobbying shop, Norton Regulatory Strategies. At the time of the meeting, Norton registered to lobby the Interior Department on behalf of a single client: MGM.” [HuffPost, [4/20/18](https://www.huffingtonpost.com/entry/deputy-interior-secretary-lobbyist-casino_us_5ada2588e4b01c279db425d9)]

### Native Americans And Gaming

In 2006, the Western District Court of Michigan issued an order that allowed the Sault Ste Marie Tribe of Chippewa Indians to begin operating the Kewadin Casino in St. Ignace, Michigan. Operations were opposed by Department of Interior which issued an opinion on February 14, 2006 that temporarily stopped the Sault Ste Marie tribe from running their casino. In its decision to block the government from interfering with the Sault Ste Marie Tribe, the Court cited a letter from David Bernhardt to Former Congressmen Bart Stupak. According to the Court, “With regard to … whether the plaintiff has shown irreparable injury, the Court notes that defendants recently submitted for the Court’s…consideration a copy of a letter written by David L. Bernhardt, Deputy Solicitor… which is addressed to … [Congressman] Hon. Bart Stupak… In the first sentence of the fourth paragraph in the letter, Deputy Solicitor Bernhardt states the following in his capacity as an official representative of the United States Department of the Interior: ‘We recognize the significant potential economic impact our opinion may have on the Band.’”

Jack Abramoff was a lobbyist for the Saginaw Chippewa from 2002 until 2004. In 2002, he expressed concern about the Sault Ste Marie and Bay Mills Tribes in connection with “another Michigan casino problem.” At the time, Michigan’s tribal casinos faced stiff competition amid a rapid expansion in offerings. The Sault Ste. Marie spent $32 million to construct and replace its Casino in St. Ignace, and the Saginaw Chippewa’s Soaring Eagle Casino was the largest in Michigan. The Saginaw Chippewa opposed the Bay Mills Tribe’s casino at Port Huron.

**Forest County Potawatomi Community v. United States of America et al (15-cv-00105).** On January 21, 2015, Forest County Potawatomi sued the United States of America, US Department of Interior, Interior Secretary Sally Jewell, and Kevin Washburn, Assistant Secretary-Indian Affairs in the District Court for the District of Columbia. “The Community brings this action against the United States Department of the Interior … and appropriate public officials … seeking redress for the DOI’s disapproval of the 2014 Amendment … to the Forest County Potawatomi Community of Wisconsin and State of Wisconsin Gaming Compact of 1992..” Litigation is ongoing and the most recent filing, a reply to opposition motion, was filed on April 7, 2017. Bernhardt represented the Forest County Potawatomi Community.

**2009: Bernhardt Issued Withdrawal Memorandum And Draft Legal Opinion Concluding That The Ione Band Of Miwok Indians Was Not A Restored Tribe Under The Indian Gaming Regulatory Act.** “In January, 2009, Solicitor David Bernhardt circulated a withdrawal memorandum and draft legal opinion to various members of the DOI, including the NIGC. The memorandum stated in relevant part: "We are now in the process of reviewing the preliminary draft Final Environmental Impact Statement … for the Plymouth Parcel. As a result, I determined to review the Associate Solicitor's 2006 Indian lands opinion and have concluded that it was wrong. I have withdrawn and am reversing that opinion. It no longer represents the legal position of the Office of the Solicitor. The opinion of the Solicitor's Office is that the Band is not a restored tribe within the meaning of the IGRA.” [No Casino in Plymouth v. State Department of the Interior and Ione Band of Miwok Indians, No. 2:12-cv-01748]

* **2011: DOI Solicitor Hilary Tompkins Rescinded Withdrawal Memorandum, Declined To Issue Draft Legal Opinion, Reinstated Restored Tribe Opinion Allowing Ione Band To Conduct Gaming On Land.** “However, in a memorandum issued in July, 2011, Solicitor Hilary Tompkins stated, with regard to the Bernhardt position: ‘The Draft Opinion was never issued and the Withdrawal Memorandum was not acted upon on behalf of the Department by any individual with delegated authority to make decisions under the IGRA.’ … The Tompkins memorandum further stated: ‘For these reasons, I hereby rescind the Withdrawal Memorandum and decline to issue the Draft Opinion. I also hereby reinstate the Restored Tribe Opinion regarding the Ione Band's eligibility to conduct gaming on the land in question.’” [No Casino in Plymouth v. State Department of the Interior and Ione Band of Miwok Indians, No. 2:12-cv-01748]

### Connections To Jack Abramoff Scandal

Bernhardt has been linked closely with former Interior Secretary Gale Norton, who several praised President George W. Bush’s appointments of Bernhardt to various positions, including as her chief of staff. In 2005, after Bush announced his intention to nominate Bernhardt as Interior's top lawyer, Norton said called him “one of my most trusted advisors handling some of the more complex legal issues facing the Department,” and a “sound manager who has been a tremendous asset to this administration.”

Bernhardt was allegedly present at a controversial 2004 meeting when then-Republican Congressman Frank Wolf threatened to have Norton fired if she did not reverse the federal status of the Schaghticoke Tribal Nation. The tribe took testimony from Bernhardt in 2007 as it alleged in a federal suit that the decision to reverse its federal acknowledgement was politically influenced. During his April 2007 testimony, Bernhardt said “I don’t recall” or variations of the statement on 34 occasions. He also recalled the aforementioned 2004 differently than his former boss, saying that “To the best of my recollection [Wolf] didn't issue a threat ... My recollection was he said that he, you know, he thought it was awful and he thought that - he thought that he might tell the president it was awful.” The tribe lost this lawsuit.

Abramoff and Bernhardt may have met at a fundraising dinner hosted by the Council of Republicans for Environmental Advocacy fundraiser in 2001. Email records submitted as part of a Senate Hearing show that CREA Executive Director Italia Federici told Abramoff that David Bernhardt would be at the fundraiser, and Abramoff seated himself at the table with Bernhardt and Secretary Norton. Abramoff also forwarded event details to Chris Petras of the Saginaw Chippewa.

**September: David Bernhardt Was Expected To Attend Council Of Republicans For Environmental Advocacy Fundraiser.** According to a September 19, 2001 email from Italia Federici that was forwarded to Jack Abramoff to Chris Petras of Saginaw Chippewa. “This email is to confirm details for the dinner party being held on September 24 at 6:30 at the home of Julie Finley. [Redacted]. Directions follow. Thris dinner is with the, Interior Department - Secretary Norton., Deputy Secretary Griles, Solicitor Bill Myers, Assist. Sec. Lynn Scarlett (OPMV), Assist. Sec. Bennett Raley (OWS), Assist. Sec. Neil McCaleb (OTA), Nominee Kathleen Clarke ( L), and Director of Congressional Affairs Dave Bernhardt will be in attendance. The purpose of this dinner is to introduce Interior folks to our favorite friends and supporters. The main topic of discussion will be the ways CREA, working with our friends, help Interior reach the American public with a positive and unfiltered conservation message.” [Hearing Before the Committee on Indian Affairs United States Senate November 17, 2005.]

**Jack Abramoff Seated Himself At Table With David Bernhardt At CREA’s “Very Important Dinner.”** According to an email Jack Abramoff sent to Shawn Vaself (Greenburg Traurig) and Kevin Ring (Greenburg Traurig), “CREA (Italia Federicci) is having a small dinner Monday night (24th) at the home of Julie Finley for its trustees. Choctaw, Chitimaca, and Coushatta are trustees and Terry Martin, Chief Poncho, and Kathy Van Hoof will be attending. I have secured each of you a place at a table for the dinner. Shawn you will be sitting with Neil McCaley, his wife Lynn Scarlett, Terry Martin, and Interior Solicitor Bill Myers. Kevin, you will be sitting with Griles, Kathy Van Hoof (Coushatta), Bennet Railey (sp?), Asst Sec Water and Science. I will be with Chief Poncho, Sec. Norton, David Bernhardt Cong Affairs and Italia. There will be others at each of these tables which will hold a total of nine. Please confirm that you can be at this very important dinner. Thanks.” [Hearing Before the Committee on Indian Affairs United States Senate November 17, 2005.]

### Abramoff Individual Connections

**2001: Secretary of Interior Gale Norton Praised President Bush’s Appointment of Bernhardt as Director of Interior’s Office of Congressional and Legislative Affairs and Counselor to the Secretary.** “Secretary of the Interior Gale Norton…praised President Bush's appointment of David Longly Bernhardt, a Colorado attorney, to be Director of the Department of the Interior's Office of Congressional and Legislative Affairs and Counselor to the Secretary. The appointment is not subject to Senate confirmation and becomes effective immediately. ‘David Bernhardt's legal background and broad based legislative experience will be an important asset to this Department,’ said Norton. ‘David's wealth of experience and knowledge of the legislative process will be key to our working closely with Congress and also in keeping with the President's mandate of changing the tone in Washington.’ Before taking the position at the Interior Department, Bernhardt was an attorney with Brownstein, Hyatt and Farber, P.C., a well-known law firm headquartered in Denver, Colo. He worked in the firm's Legislative and Public Policy Group since 1998.” [US Newswire, 5/24/01]

**July 2004: Norton Praised Bernhardt’s Appointment to Be Deputy Chief of Staff and Counselor to the Secretary.** “The U.S. Department of the Interior issued the following press release: Secretary of the Interior Gale Norton today praised President Bush's appointment of David Longly Bernhardt to be deputy chief of staff and counselor to the Secretary and named Matthew Eames to succeed Bernhardt as acting director of congressional and legislative affairs. ‘David Bernhardt has been a highly effective member of Interior's team, and he earned this promotion,’ said Norton. ‘Matt Eames' performance in the Office of Congressional Affairs has been outstanding, and we are pleased that he is stepping up to the plate to lead the Congressional team.’ Bernhardt has served as the director of congressional and legislative affairs and counselor to the Secretary since 2001. Before joining Interior, Bernhardt was in private law practice and worked for Rep. Scott McInnis and the House Rules Committee. He is a native of Rifle, Colorado. He earned his B.A. degree in Political Science from the University of Northern Colorado in 1990, and a J.D. degree with honors from The George Washington University National Law Center in 1994.” [US Fed News, 7/12/04]

**Norton Pleased after Bernhardt Appointed by Bush as Interior’s Top Lawyer.** “Dan Berman, Greenwire reporter President Bush…announced his intention to nominate a close aide to Interior Secretary Gale Norton as Interior's top lawyer. David Bernhardt has held a series of influential positions in the department, including deputy chief of staff to Norton and director of the Congressional and Legislative Affairs Office. Bernhardt currently serves as deputy solicitor. ‘David Bernhardt has served at Interior as one of my most trusted advisors handling some of the more complex legal issues facing the Department,’ Norton said in a statement. ‘David is a sound manager who has been a tremendous asset to this administration.’ Like Norton, Bernhardt is an attorney from Colorado.” [Greenwire, 11/18/05]

### Tribal Connections

**2006: In Ruling, US District Court Senior Judge Peter Dorsey Ruled Former Interior Department Secretary Gale Norton Submit to Questioning under Oath by Attorneys for Schaghticoke Tribal Nation About Allegations of Due Process Violations and Improper Political Influence in Reversing Tribe’s Federal Acknowledgement.** “Former Interior Department Secretary Gale Norton and current Interior Associate Deputy Secretary lames Cason will be questioned under oath by attorneys for the Schaghticoke Tribal Nation in connection with allegations of due process violations and improper political influence in reversing the tribe's federal acknowledgement. In a 15-page ruling issued Nov. 3, U.S. District Court Senior Judge Peter Dorsey said the tribe's allegations concerning Norton and Cason ‘are sufficient to warrant further discovery into the question of whether there was bad faith or improper behavior on their parts. At the very least, STN has presented evidence sufficient to find that they may have 'unique personal knowledge' with regard to activity and pressure concerning STN's petition.’” [Indian Country Today, 11/22/06]

* **Norton Resigned Post during Federal Investigation into Abramoff Involving Indian Gaming Licenses She Approved.** “Norton resigned her post suddenly last March during a federal investigation of indicted former Republican lobbyist Jack Abramoff in a scandal involving Indian gaming licenses she approved. The investigation is ongoing. Norton has not been implicated in any wrongdoing.” [Indian Country Today, 11/22/06]
* **Judge Denied Tribe’s Request to Question Bernhardt Under Oath.** “The contacts alone will not be grounds to overturn the agency decision unless STN can show that the alleged pressure actually affected the agency decision - a difficult job to accomplish, Dorsey said. Dorsey denied the tribe's request to question under oath Steven Griles, former Interior…deputy secretary; David Bernhardt, director of Interior's Office of Congressional and Legislative Affairs, and counselor to the secretary; Lee Fleming, director of the Office of Federal Acknowledgement; and Loren Monroe, of BGR.” [Indian Country Today, 11/22/06]

**In Appeal Brief, Tribe Noted that Norton Attended Meeting at which Republican Congressman Frank Wolf Allegedly Threatened to Have Her Fired If She Didn’t Reverse Tribe’s Federal Status.** “Two months after the Schaghticoke Tribal Nation received federal, recognition in 2004, then-Interior Department Secretary Gale Norton attended a meeting at which a powerful congressman threatened to use his influence at the White House to get her fired if she did not reverse the tribe’s federal status, court documents have revealed. The congressman was Republican Frank Wolf of Virginia, who is known in Indian country as no friend of the nations.” [Indian Country Today, 1/31/07]

* **Brief Alleged Several Individuals, Including Bernhardt, Were Present at the Meeting.** “There were plenty of witnesses to the politically-charged threat, which took place at a meeting in late March 2004 at Connecticut Republican Rep. Christopher Shays office. Attending were other Connecticut congressmen, who themselves had vociferously lobbied Interior and the White House against the Schaghticokes' federal recognition and, in what may reflect a case of collective projection, had accused the BIA of political influence and corruption in recognizing the tribe. ‘During that meeting, Representative Frank Wolf, a member of the powerful House Appropriations Committee and one of the principal opponents of Indian gaming in Congress, threatened to go the President to have Secretary Norton removed from her job if she did not reverse the Tribe's Positive Final Determination,’ attorneys for the tribe wrote in a Jan. 12 brief for the tribe's appeal of the BIA's unprecedented reversal of its own previous decision…The appeal is filed in Connecticut federal court and names the Secretary of Interior (now Dirk Kempthorne), Interior, Associate Deputy Secretary lames Cason, the BIA, the Office of Federal Acknowledgement and the Interior Board of Indian Appeals as defendants. It asks the court to restore the tribe's federal acknowledgement, citing violations of due process and improper political influence by Connecticut politicians and their surrogates, including an anti-Indian group called Town Action to Save Kent, and its White House-connected lobbyist, Barbour Griffith & Rogers…David Bernhardt, Norton's then-deputy chief of staff; Barbara Coen, an attorney in Interior's Solicitor's Office; and others attended the meeting. Everyone participated in the deliberative process, Cason said, but he ‘could not recall the names of any of the other Interior employees who reported to him and advised him during that meeting,’ the attorneys wrote.” [Indian Country Today, 1/31/07]

**March 2007: Federal Court Judge Allowed Schaghticoke Tribal Nation to Take Testimony from Bernhardt.** “A federal court judge will allow the Schaghticoke Tribal Nation to take testimony from additional Interior Department officials, and has ordered the department and a high-powered Washington lobbyist to release documents that may shed light on the tribe's claim that the decision to reverse its federal acknowledgement was politically influenced. In a ruling on March 20, U.S. District Court Senior Judge Peter Dorsey granted the tribe's request to take testimony, or depositions, from David Bernhardt, Interior's current solicitor who was deputy chief of staff to former Interior Secretary Gale Norton during Connecticut's appeal of the tribe's federal recognition, and from Lee Fleming, director of the Office of Federal Acknowledgement. Both men were involved in the decision-making process that ended in the repeal of the tribe's acknowledgement, court records say. Dorsey denied a request to take testimony from Interior Solicitor Barbara Coen. Earlier this year, the tribe was allowed to take testimony from Norton and Associate Deputy Secretary James Cason.” [Indian Country Today, 3/28/07]

**April 2007: In Testimony, Bernhardt Gave 34 “I Don’t Recall” Variations.** “When U.S. Attorney General Alberto Gonzales testified to Congress about his role in the firing of eight U.S. attorneys, National Public Radio reported 71 "I don't recall" variations in his testimony. Interior Department Solicitor David Bernhardt could challenge Gonzales on memory lapses. In 46 pages from a lengthy deposition taken by the Schaghticoke Tribal Nation April 10, Bernhardt gave 34 ‘I don't recall’ variations.” [Indian Country Today, 6/6/07]

* **Tribe Took Testimony to Support Allegations that Reversal of Federal Recognition Resulted from Due Process Violations, Illegal Political Influence, and Unlawful Interference by Politicians and Lobbyists.** “The deposition was in a recent court filing in STN's appeal of the BIA's October 2005 decision to overturn its January 2004 final determination to recognize the tribe. The tribe is taking testimony from Interior officials to support its allegation that the reversal resulted from due process violations, illegal political influence and unlawful interference by politicians and lobbyists.” [Indian Country Today, 6/6/07]
* **When Asked about March 2004 Meeting, Bernhardt’s Memory Different from Norton’s: “To the Best of My Recollection [Wolf] Didn’t Issue a Threat…He Said…He Thought It Was Awful…”** “When asked about a March 2004 meeting with members of Connecticut's congressional delegation, Virginia Rep. Frank Wolf and then-Interior Secretary Gale Norton, Bernhardt's memory differed from Norton's. During that meeting, Wolf threatened to go to the White House and have Norton fired if she didn't reverse STN's federal recognition, according to Norton's own testimony earlier this year. ‘To the best of my recollection [Wolf] didn't issue a threat ... My recollection was he said that he, you know, he thought it was awful and he thought that - he thought that he might tell the president it was awful,’ Bernhardt said.” [Indian Country Today, 6/6/07]
* **Indian Country Today: “He Could Not Recall Who Attended an Important Meeting to Discuss the Tribe’s Marriage Rates.”** “Sometimes Bernhardt could not recall if he had attended a meeting or who attended meetings. In one instance he could not recall who attended an important meeting to discuss the tribe's marriage rates - a controversial issue used in part to overturn the tribe's recognition - but he was certain James Cason was not there. Cason, now assistant secretary, was then the associate deputy secretary, who signed off on the tribe's reversal decision.” [Indian Country Today, 6/6/07]

**2007: 20 Months after Filing Appeal, Tribe Filed Motion for Summary Judgment—a Massive Document in Support of Its Claim that Loss of Federal Status Resulted from Unlawful Political Influence.** “Twenty months after filing an appeal of the BIA's unprecedented decision to strip the Schaghticoke Tribal Nation of its federal acknowledgement, the tribe has filed a motion for summary judgment - a massive document in support of its claim that the loss of its federal status resulted from unlawful political influence by powerful politicians and a White House-connected lobbyist, who violated federal laws, agency regulations, congressional ethics rules and court orders in trampling the tribes' due process rights. The motion, filed Sept. 24, asks Senior Judge Peter Dorsey of the U.S. District Court in New Haven to vacate the BIA's Reconsidered Final Determination of Oct. 12, 2005, and restore the tribe's federal acknowledgement, which the agency issued in a Final Determination on Jan. 29, 2004.” [Indian Country Today, 10/10/07]

* **New Information Contained in 132-Page Motion and 1,200 Pages of Exhibits.** “The new information contained in a 132-page motion and 1,200 pages of exhibits of e-mails, letters, agency notes, official records, depositions and other print materials secured largely through Freedom of Information Act requests and, in the case of the job performance evaluations of Interior Department Associate Deputy Secretary James Cason, through a federal judge's ruling that withholding the documents violated the FOI Act.” [Indian Country Today, 10/10/07]
* **Motion Stated that after White House Meeting, Bernhardt, Then a Counselor to Norton, Was Summoned to White House to Meet with Top-Level White House Staff to Discuss Final Determination.** “Soon after Shays' White House meeting, former Principal Deputy Secretary of Indian Affairs Aurene Martin, who had issued the tribe's positive Final Determination, and Interior Solicitor David Bernhardt, who was then a counselor to Norton, were summoned to the White House to meet with Spellings and other top-level White House staff to discuss the Final Determination.” [Indian Country Today, 10/10/07]
* **Motion Noted that Bernhardt “Began to Take a More Active Role in Department’s Recognition Decision,” and to Express Unhappiness with Final Determination.** “Bernhardt, who had not been involved in the Final 'Determination's decision-making process, soon ‘began to take a more active role in the Department's recognition decision,’ and to express his unhappiness with the Final Determination, the motion says.” [Indian Country Today, 10/10/07]
* **Indian Country Today: “He Attended Other White House Meetings…”** “He attended other White House meetings with senior Interior officials but not with Martin, who had been criticized by Connecticut officials, and was increasingly excluded from discussions about the tribe, the motion says.” [Indian Country Today, 10/10/07]
* **Bernhardt Was Advised by His Attorney Not to Answer Questions about the White House Meetings during a Deposition.** “Bernhardt was advised by his attorney not to answer any questions about the White House meetings during a deposition.” [Indian Country Today, 10/10/07]

### Sault Ste Marie Tribe Of Chippewa Indians

**2006: Western District Court of Michigan Issued Order Allowing Sault Ste Marie Tribe of Chippewa Indians To Operate Casino in St. Ignace, Michigan**. “Plaintiff shall be and is permitted to immediately open and operate the plaintiff's new gambling casino which has been constructed on and straddles the real property known as the ‘2000 Parcel’ and the ‘1983 Parcel’ located in St. Ignace, Michigan, pending the final disposition of this action and pending further order of this District Court. Defendants are enjoined from implementing and enforcing the final administrative decision and order issued by the National Indian Gaming Commission on or about September 1, 2006, under the Indian Gaming Regulatory Act… which would interfere with and prevent the plaintiff's operation of said new gambling casino. Pending the final disposition of this case and pending, prevent, stop, or otherwise interfere with the plaintiff's opening and operating said new gambling casino.” [Sault Ste. Marie Tribe of Chippewa Indians, Plaintiff, V. United States Of America, Et Al., Defendants, 2:06-cv-276]

**Court Cited Bernhardt’s Letter to Rep. Bart Stupak, and DOI Opinion In Order Allowing Ste Marie Tribe To Operate Casino.** “With regard to the second factor, i.e. whether the plaintiff has shown irreparable injury, the Court notes that defendants recently submitted for the Court’s…consideration a copy of a letter written by David L. Bernhardt, Deputy Solicitor, Office of the Solicitor, United States Department of the Interior, which is addressed to a member of the House of Representative of the United States Congress, Hon. Bart Stupak… In the first sentence of the fourth paragraph in the letter, Deputy Solicitor Bernhardt states the following in his capacity as an official representative of the United States Department of the Interior: ‘We recognize the significant potential economic impact our opinion may have on the Band.’ The term ‘Band’ as used in this quoted sentence refers to and means the Sault Ste. Marie Tribe of Chippewa Indians, the plain-tiff in the instant suit. The phrase ‘our opinion’ in the quoted sentence refers to and means the legal opinion issued by Edith R. Blackwell, Associate Solicitor for the Department of the Interior, Division of Indian Affairs, on February 14, 2006. This statement made by Deputy Solicitor Bernhardt in his letter tends to support the Court’s determination here that the plaintiff Indian tribe has met its burden of showing that the plaintiff will suffer substantial economic harm and irreparable injury unless the Court issues a preliminary injunction under [Federal Rules of Civil Procedure.]” [Sault Ste. Marie Tribe of Chippewa Indians, Plaintiff, v. United States Of America, Et Al., Defendants, 2:06-cv-276]

**September 2002: Abramoff Expressed Concern About New Michigan Casino Related to Sault Ste Marie And Bay Mills Tribes.** On September 27, 2002, Jack Abramoff emailed Italia Federici. Abramoff wrote: “I hate to keep bugging you about all of this, but there is now ANOTHER Michigan casino problem making its way to Steve [Griles]. Perhaps you could get him to nip it in the bud before it becomes a bigger problem? Thanks Italia!!” The email included an attachment titled “Land Settlement Claims for the Bay Mill and Sault Ste Marie Tribes.” [Sault Ste. Marie Tribe of Chippewa Indians, Plaintiff, v. United States Of America, Et Al., Defendants, 2:06-cv-276]

**Abramoff Represented Saginaw Chippewa From 2002 To 2004.** [Senate Lobbying Disclosure Act Database, accessed 5/15/17]

**Michigan’s Tribal Casinos Competed Amid Rapid Expansion.** “The Indian casinos were the first to open in Michigan in 1984. Unregulated by the state, the first few garage-sized operations and blackjack houses were followed by a burst of outstate tribal casinos when 1993 and 1998 agreements with the state brought slot machines to Indian casinos. Most are in northern Michigan and the Upper Peninsula. Some, like Soaring Eagle in Mount Pleasant, one of the largest Indian casinos in the United States, and the Kewadin Shores Casino in St. Ignace are flourishing. Owned by the Sault Ste. Marie Tribe of Chippewa Indians, the Kewadin Shores Casino is constructing a $32 million casino and hotel to replace its existing facility. A spokeswoman said it was necessary to modernize to stay competitive in the gaming market.

But others aren't doing so well. Some have been forced to cut hours, lay off workers and delay expansion plans.” [Detroit News, 8/15/04]

**Saginaw Chippewa’s Soaring Eagle Casino in Mt. Pleasant Was Largest Casino in Michigan.** “The Port Huron casino also is opposed by the Saginaw Chippewa, whose casino at Mount Pleasant is the state's largest gambling facility. The Saginaw tribe argues it - and not Bay Mills - has an ancestral claim to Port Huron. The tribe includes descendants of the Black River and Swan Creek bands, who had reservations in St. Clair County from 1807 to 1836.” [Times Herald, 8/2/07]

**Saginaw Opposed Bay Mill’s Casino at Port Huron.** “The Port Huron casino also is opposed by the Saginaw Chippewa, whose casino at Mount Pleasant is the state's largest gambling facility. The Saginaw tribe argues it - and not Bay Mills - has an ancestral claim to Port Huron. The tribe includes descendants of the Black River and Swan Creek bands, who had reservations in St. Clair County from 1807 to 1836.” [Times Herald, 8/2/07]

## Brownstein Hyatt Farber Schreck

**2009-2017: Bernhardt Was a Shareholder at Brownstein Hyatt Farber Schreck.** [LinkedIn, accessed [11/5/18](https://www.linkedin.com/in/david-bernhardt-b9400711/)]

### Lobbying and Litigation History

**Reports State That Bernhardt Has Not Lobbied For Corporations.** “Bernhardt, a partner at the law firm Brownstein Hyatt Farber Schreck, has represented a wide variety of clients on regulatory issues such as the Endangered Species Act but has not lobbied for corporations.” [Washington Post, [11/9/16](https://www.washingtonpost.com/news/energy-environment/wp/2016/11/09/trump-victory-reverses-u-s-energy-and-environmental-priorities/)]

* **However, Bernhardt Is Listed As a Lobbyist for Several Energy Companies of Note.** Bernhardt has lobbied for Coastal Point Energy, Cobalt International Energy, Delta Petroleum Corporation, First Wind Energy, the Rosemont Copper Company, and the Westland Water District.

**Bernhardt Provided “Strategic Counsel” On “Cases Related To The Environment, Energy, Natural Resources And Wildlife.”** According to his bio, “In addition, David provides comprehensive strategic counsel to several corporate, government and non-profit entities. His multi-disciplinary practice provides advocacy and advice to clients on issues originating from Federal administrative agencies, the White House, Congress and the courts, with special emphasis on issues, transactions and cases related to the environment, energy, natural resources and wildlife.” [Brownstein Hyatt Farber Schreck, David Longly Bernhardt bio, accessed [11/10/16](http://www.bhfs.com/people/attorneys/a-b/dbernhardt)]

Bernhard has litigated several cases of note, including:

* **Water Contractor In Endangered Species Act Litigation**. “The Nation’s largest federal water contractor in the Ninth Circuit Court of Appeals regarding Endangered Species Act litigation involving the Bay-Delta in California, a case widely considered one of the most complex Endangered Species litigation cases in the country.” [Brownstein Hyatt Farber Schreck, David Longly Bernhardt bio, accessed [11/10/16](http://www.bhfs.com/people/attorneys/a-b/dbernhardt)]
* **Defended Offshore Lease Sale**. “A national trade association in Federal District Court interested in defending the U.S. government’s decision to proceed with an offshore lease sale under the Outer-Continental Shelf Lands Act.” [Brownstein Hyatt Farber Schreck, David Longly Bernhardt bio, accessed [11/10/16](http://www.bhfs.com/people/attorneys/a-b/dbernhardt)]
* **Challenged Fish and Wildlife Service for Violating Endangered Species Act**. “An entity challenging the U.S. Fish and Wildlife Service for violating the Endangered Species Act in Federal District Court.” [Brownstein Hyatt Farber Schreck, David Longly Bernhardt bio, accessed [11/10/16](http://www.bhfs.com/people/attorneys/a-b/dbernhardt)]
* **National Environmental Policy Act And Federal Land Policy And Management Act**. “Alternative energy developers involved in projects seeking to comply with the National Environmental Policy Act (NEPA), the Federal Land Policy and Management, the Endangered Species Act, the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act.” [Brownstein Hyatt Farber Schreck, David Longly Bernhardt bio, accessed [11/10/16](http://www.bhfs.com/people/attorneys/a-b/dbernhardt)]
* **Electric Transmission Facilities Developer That Crosses Lands In Federal Jurisdiction**. “An electric transmission facilities developer that crosses lands in federal jurisdiction.” [Brownstein Hyatt Farber Schreck, David Longly Bernhardt bio, accessed [11/10/16](http://www.bhfs.com/people/attorneys/a-b/dbernhardt)]
* **Mining Companies That Mine On Federal Lands**. “Mining companies who intend to develop potash or copper resources on private, state and Federal lands.” [Brownstein Hyatt Farber Schreck, David Longly Bernhardt bio, accessed [11/10/16](http://www.bhfs.com/people/attorneys/a-b/dbernhardt)]
* **Mining Company Undergoing Royalty Payments Audit**. “A mining company undergoing an audit regarding royalty payments.” [Brownstein Hyatt Farber Schreck, David Longly Bernhardt bio, accessed [11/10/16](http://www.bhfs.com/people/attorneys/a-b/dbernhardt)]
* **Energy Development On Indian Land**. “An entity involved in energy development on Indian lands.” [Brownstein Hyatt Farber Schreck, David Longly Bernhardt bio, accessed [11/10/16](http://www.bhfs.com/people/attorneys/a-b/dbernhardt)]
* **Entities Accused Of Violating the Department Of The Interior's Regulations**. “Entities accused of violating the Department of the Interior's regulations.” [Brownstein Hyatt Farber Schreck, David Longly Bernhardt bio, accessed [11/10/16](http://www.bhfs.com/people/attorneys/a-b/dbernhardt)]

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| **Legal and Lobbying Services Provided by David Bernhardt** |
| **Company** | **Services Provided** |
| Brownstein Hyatt Farber and Shreck | Legal |
| Targa Resources Company | Legal |
| Noble Energy Company | Legal |
| NRG Energy | Legal |
| Sempra Energy | Legal |
| Lafarge North American – Western Region | Legal |
| Safari Club International | Legal |
| Active Network (Aspira) | Legal, Lobbying |
| Statoil Gulf Services | Legal |
| Cobalt International Energy | Legal, Lobbying |
| Rosemont Copper Company (Hudbay Minerals) | Legal, Lobbying |
| Independent Petroleum Association of America | Legal |
| Taylor Energy Company | Legal |
| Garrison Diversion Irrigation District | Legal |
| Westland Water District | Legal, Lobbying |
| Cadiz Inc | Legal |
| Forest County Potawatomi Community | Legal |
| Samson Resources Company | Lobbying |
| Diamond Ventures Inc | Lobbying |
| NL Industries | Lobbying |
| Delta Petroleum Corporation | Lobbying |
| Coastal Point Energy | Lobbying |
| Canadian National Railway | Lobbying |
| Precision Castparts Corporation | Lobbying |
| First Wind Energy LLC | Lobbying |
| Access Industries | Lobbying |
| Strata Production Company | Lobbying |
| Freeport LNG Expansion | Lobbying |

[Bernhardt Public Disclosure Report, 3/6/17; Senate Lobbying Disclosure Act Database, accessed 11/9/18]

#### Targa Resources

**Bernhardt Was Compensated By Targa Resources Company For Legal Services**. [David Bernhardt Executive Branch Personnel Public Financial Disclosure Report filed 3/6/17]

* **Targa Resources Was One Of The Largest Midstream Energy Companies In North America.** “Targa is a leading provider of midstream services and is one of the largest independent midstream energy companies in North America. We own, operate, acquire, and develop a diversified portfolio of complementary midstream energy assets. We are primarily engaged in the business of: gathering, compressing, treating, processing, and selling natural gas storing, fractionating, treating, transporting, and selling NGLs and NGL products, including services to LPG exporters gathering, storing, and terminaling crude oil storing, terminaling, and selling refined petroleum products.” [Targa Resources, accessed [5/9/17](http://www.targaresources.com/about-us/overview)]

**2012: Targa Resources Sued EPA’s Determination That Wise County, Texas Contributed Smog To Dallas/ Ft. Worth Region**. “… the Environmental Defense Fund (EDF) filed a motion to intervene in support of the Environmental Protection Agency's (EPA) determination that pollution from Wise County, Texas contributes to unhealthy ozone ‘smog’ in the Dallas/Fort Worth area and must be part of the clean air plan to restore healthy air for the region… The State of Texas and TCEQ, Wise County, the Texas Pipeline Association, the Gas Processors Association, Targa Resources Corporation, and Devon Energy Corporation have all challenged EPA's determination that Wise County contributes to unhealthy ozone in Dallas/Fort Worth. If successful, these challenges could undermine important health protections in the greater Dallas/Fort Worth area.” [States News Service, 8/22/12]

**Court Of Appeals Rejected Targa’s Argument, Deferred To EPA’s Scientific Expertise**. “EPA separated Wise County from the Greater Dallas-Fort Worth Metroplex and classified it as in attainment with the previous ozone standard in 1997. In assessing the newer limit, however, EPA found it failed to meet the 2008 standard. Various companies, including Devon Energy Corp. and Targa Resources Corp., contended that EPA misapplied a multi-factor test to label the county in nonattainment. Specifically, they criticized the agency for relying on meteorological factors, including wind. But the court deferred to EPA's expertise in the area.” [E&E News, 6/2/15]

#### Noble Energy

**Bernhardt Was Compensated By Noble Energy LLC For Legal Services**. [David Bernhardt Executive Branch Personnel Public Financial Disclosure Report filed 3/6/17]

* **Noble Energy Was An Independent Oil And Gas Exploration And Production Company.** “As an independent exploration and production company, Noble Energy energizes the world by safely and responsibly delivering oil and natural gas to the marketplace. Our people are driven by a spirit of innovation and a commitment to our partners and communities.” [Noble Energy, accessed [5/9/07](https://www.nblenergy.com/our-story)]

**2015: Noble Energy Settled Federal Pollution Claim Up To $73 Million**. “Noble Energy, Colorado’s second-largest oil and gas driller, has agreed to a settlement with state and federal regulators over Front Range air-pollution violations that could involve as much as $73.5 million in upgrades and new programs. The company’s tank batteries were emitting thousands of tons of volatile organic chemicals a year, contributing to the region’s ozone pollution problem, according to an analysis by regulators.” [Denver Post, 4/25/16]

#### NRG Energy

**Bernhardt Was Compensated By NRG Energy For Legal Services**. [David Bernhardt Executive Branch Personnel Public Financial Disclosure Report filed 3/6/17]

* **NRG Was An Integrated Power Company**. “NRG is the leading integrated power company in the U.S., built on the strength of the nation's largest and most diverse competitive electric generation portfolio and leading retail electricity platform.” [NRG, accessed [5/9/17](http://www.nrg.com/company/about/who-we-are/)]

**2016: NRG Energy Paid $12 Million To Settle Suit Brought My Maryland For Dumping Pollutants In To Potomac And Patuxent Rivers.** “NRG Energy has entered into a consent decree with the state of Maryland under which it will pay $1 million for pollution from two coal-fired plants in the state, according to press reports. NRG, which did not admit to wrongdoing or liability under the agreement, will also will pay an additional $1 million to support environmental restoration projects and invest $10 million to upgrade the wastewater filtration systems at the two plants to reduce future pollution. Maryland’s attorney general had claimed that the 710-MW Chalk Point plant on the Patuxent River and the 546-MW Dickerson plant on the Potomac River released illegal amounts of nitrogen and other pollutants in the rivers, which feed into the Chesapeake Bay.” [Utility Dive, [8/31/16](http://www.utilitydive.com/news/maryland-fines-nrg-energy-1m-for-nitrogen-pollution-from-coal-plants/425440/)]

#### Sempra Energy

**Bernhardt Was Compensated By Sempra Energy For Legal Services**. [David Bernhardt Executive Branch Personnel Public Financial Disclosure Report filed 3/6/17]

* **Sempra Energy Operated Gas-Fired Power Plants, Pipelines, And Storage Facilities.** “Sempra Energy operates two business segments – Sempra Utilities and Sempra Infrastructure – with six principal subsidiaries. Sempra Utilities owns and operates electric and gas utilities in the U.S. and South America, including San Diego Gas & Electric and SoCalGas in California, Luz del Sur in Peru, and Chilquinta Energía in Chile. Sempra Infrastructure invests in, develops and operates long-term contracted energy infrastructure in the U.S. and Mexico. Its subsidiaries include Sempra Renewables, Sempra LNG & Midstream and Sempra Mexico.” [Sempra Energy, accessed [5/9/17](http://www.sempra.com/about/)]

**Sempra Energy Owned Aliso Canyon, CA Natural Gas Facility That Leaked Noxious Fumes Forcing 8,000 To Evacuate Their Homes.** “When methane started leaking out of a well at the Aliso Canyon natural gas storage facility outside Los Angeles last October, noxious fumes blanketed the nearby Porter Ranch neighborhood for months. Residents complained of nausea, nosebleeds and vomiting; more than 8,000 families were forced out of their homes by the stench of the chemical odorant added to natural gas to help detect leaks.” [Los Angeles Times, [10/15/16](http://www.latimes.com/projects/la-fi-eight-mile-leak/)]

**Sempra Owned Eight Mile, AL Facility That Leaked 500 Gallons Of Chemical Odorant That Made Town Smell Like Rotten Eggs For Eight Years.** “Two thousand miles away, in a poor Alabama community, residents are complaining of similar symptoms after lightning struck equipment at an underground pipeline. An estimated 500 gallons of the same chemical spilled into the soil and groundwater, according to state environmental officials. But, unlike in affluent, predominantly white Porter Ranch, residents in Eight Mile have been largely ignored, stuck for eight years with the stifling rotten egg stench that still hovers over the low-income, mostly African American enclave just north of the Gulf of Mexico.” [Los Angeles Times, [10/15/16](http://www.latimes.com/projects/la-fi-eight-mile-leak/)]

#### Statoil Gulf Services LLC

**Bernhardt Was Compensated By Statoil Gulf Services LLC For Legal Services**. [David Bernhardt Executive Branch Personnel Public Financial Disclosure Report filed 3/6/17]

* **Statoil Was A Norwegian Energy Company With Global Operations**. “We are a Norwegian-based energy company with operations in more than 30 countries. Since 1972 we have explored, developed and produced oil and gas on the Norwegian continental shelf, where we are a leading operator. From the early nineties we have built a global business, with strongholds in Europe, Africa, North America and Brazil. We have developed a portfolio of new energy solutions, currently delivering wind power to 650,000 British households.” [Statoil, accessed [5/9/17](https://www.statoil.com/en/about-us.html#statoil-at-a-glance)]
* **Statoil Was Incorporated And Operated In The United States**. [Statoil ASA 2016 Annual Report, accessed [5/10/17](https://www.statoil.com/content/dam/statoil/documents/annual-reports/2016/statoil-2016-annual-report.pdf)]
* **Attorneys Performing Non-Political Work Are Not Required To Register Under FARA.** “The requirements of section 612(a) of this title shall not apply to the following agents of foreign principals:… Any person qualified to practice law, insofar as he engages or agrees to engage in the legal representation of a disclosed foreign principal before any court of law or any agency of the Government of the United States: Provided, That for the purposes of this subsection legal representation does not include attempts to influence or persuade agency personnel or officials other than in the course of judicial proceedings, criminal or civil law enforcement inquiries, investigations, or proceedings, or agency proceedings required by statute or regulation to be conducted on the record.” [FARA, accessed 5/10/17]

**Statoil Fracks In Bakken, Marcellus, And Eagle Ford Shale Gas Fields, And Six Producing Fields In The Gulf Of Mexico.** “Our shale gas and oil business began in the US through active partnerships in the Marcellus play spanning several states in the eastern US, the Eagle Ford play in south Texas, and our own operatorship of tight oil activities in North Dakota's Bakken play… We are a partner in six producing fields in the Gulf of Mexico—Julia, Tahiti, Caesar Tonga, Jack, St. Malo and Heidelberg—which contribute more than 40,000 boe/day to the company’s overall production.” [Statoil, accessed [5/10/17](https://www.statoil.com/en/where-we-are/united-states.html)]

**2012: Statoil Entered Into Cooperative Agreement With Rosneft**. “In 2012 Statoil entered into a strategic cooperation with Rosneft which is the basis for our operations in Russia going forward. This cooperation covers several joint projects, i.e. the North Komsomolskoye pilot project for viscous oil development in West Siberia, pilot project for development of Domanik limestone formation in the Samara region and offshore exploration.

In order to successfully advance our business interests in Russia we remain focused on ensuring compliance with applicable trade controls and continue to seek relevant government approvals where necessary.” [Statoil, accessed [5/9/17](https://www.statoil.com/en/where-we-are/russia.html)]

* **Unverified Dossier Alleged Rosneft CEO Offered Trump Ally Carter Page Brokerage Of 19% Stake In The Company For Lifting Sanctions**. According to an article in Business Insider, “A dossier with unverified claims about President Donald Trump's ties to Russia contained allegations that Igor Sechin, the CEO of Russia's state oil company, offered former Trump ally Carter Page and his associates the brokerage of a 19% stake in the company in exchange for the lifting of US sanctions on Russia. The dossier says the offer was made in July, when Page was in Moscow giving a speech at the Higher Economic School. The claim was sourced to ‘a trusted compatriot and close associate’ of Sechin, according to the dossier's author, former British spy Christopher Steele.” [Business Insider, [1/27/17](http://www.businessinsider.com/carter-page-trump-russia-igor-sechin-dossier-2017-1)]
* **Petroleos De Venezuela (PDVSA) Owns 49 Percent Of Citgo Which It Used As Collateral For Loan From Rosneft; Rosneft Could Own Citgo If PDVSA Defaults**. “In a crazy twist of international events, Russia's state-owned oil company Rosneft might end up owning Citgo, a US energy company based in Houston, Texas… This entire situation stems from the fact that Venezuela has been desperate for cash lately. Venezuela's state-run oil company, Petroleos de Venezuela (PDVSA), has owned Citgo since the 1980s. In exchange for a loan from Rosneft in December, Venezuela's oil company put up a large stake (49.9%) in Citgo as collateral. If PDVSA can't pay its bills on time, Rosneft will almost certainly get control of Citgo. All Rosneft would need to do is buy a few more of PDVSA's bonds to get over the 50% ownership threshold.” [CNN Money, [4/10/17](http://money.cnn.com/2017/04/10/news/economy/russia-us-oil-company-citgo/)]
* **Congressmen Jeff Duncan (R-SC-03) and Albio Sires (D-NJ-08):** “The Russians have a lot to gain through the PDVSA-Rosneft-Citgo asset transfer to the detriment of U.S. interests, and we remain deeply concerned over the implications for U.S. National Security.” [CNN Money, [4/10/17](http://money.cnn.com/2017/04/10/news/economy/russia-us-oil-company-citgo/)]

**2010: Statoil Was Engaged In Commercial Activity In Iran’s Energy Sector.** [GAO-16-247-R, accessed [5/9/17](http://www.gao.gov/assets/680/674636.pdf)]

**Statoil Had Subsidiaries In Algeria, Angola, Azerbaijan, China, Egypt, Iran, Iraq, Kazakhstan, And Libya Among Other Nations.** [Dow Jones Risk and Compliance Database, accessed 5/9/17]

* **Statoil Iran Was Wholly Owned Subsidiary Of Statoil ASA Which Was 69.71% Owned By Norway**. [Dow Jones Risk and Compliance Database, accessed 5/9/17]
* **Statoil Iraq Was Wholly Owned By Statoil ASA**. [Dow Jones Risk and Compliance Database, accessed 5/9/17]

#### Cobalt International Energy

**Bernhardt Was Compensated By Cobalt International Energy For Legal Services**. [David Bernhardt Executive Branch Personnel Public Financial Disclosure Report filed 3/6/17]

* **Cobalt Energy Was A Global Oil Exploration And Production Company**. “Cobalt International Energy is a global oil exploration company based in Houston, Texas… Cobalt’s vision is to become one of the world’s most admired exploration and production companies by keeping commitments, adhering to our values, achieving results as promised, and consistently delivering top quartile rates of return. Our business model allows us to move quickly and seamlessly through the exploration, appraisal, development and production processes.” [Cobalt International Inter, accessed [5/9/17](http://www.cobaltintl.com/about-us)]

**2017: Department Of Justice Dropped Investigation Into Cobalt’s Dealings With Angolan State Owned Company.** “Cobalt International Energy said the U.S. Justice Department dropped its foreign-bribery investigation of the oil-exploration firm. The Houston-based company said Thursday it received a letter from the Justice Department that said prosecutors closed their investigation of potential violations of the Foreign Corrupt Practices Act in Cobalt’s operations in Angola. The law bars the use of bribes to foreign officials to get or keep business. U.S. authorities began investigating Cobalt in 2011 over allegations of ‘a connection’ between senior Angolan government officials and Angolan company Nazaki Oil and Gaz SA, which was involved until 2014 with an offshore project alongside Cobalt.” [Anticorruption Digest, [2/10/17](http://anticorruptiondigest.com/anti-corruption-news/2017/02/10/cobalt-international-says-doj-drops-bribery-probe/#axzz4ghuRoU3v)]

#### Independent Petroleum Association of America

**Bernhardt Was Compensated By The Independent Petroleum Association Of America For Legal Services**. [David Bernhardt Executive Branch Personnel Public Financial Disclosure Report filed 3/6/17]

* **Independent Petroleum Association Of America Represents Oil And Natural Gas Producers.** “The Independent Petroleum Association of America (IPAA) has represented independent oil and natural gas producers for more than 85 year… PAA is a national trade association headquartered in Washington, D.C. It serves as an informed voice for the exploration and production segment of the industry, and advocates its members’ views before the United States Congress, the Administration and federal agencies. IPAA provides economic and statistical information about the domestic exploration and production industry. IPAA also develops investment symposia and other business development opportunities for its members.” [IPAA, accessed [5/9/17](http://www.ipaa.org/about/)]

**IPAA Funded Movie “Truthland” In Response To Gasland**. “In the HBO movie ‘Gasland,’ New York City filmmaker Josh Fox tried to scare people into thinking that natural gas development and hydraulic fracturing are new, unregulated and dangerous. It made one Pennsylvania mom living atop the Marcellus Shale wonder what she was getting into. She asked environmentalists, academics and everyday people what they think. Nobody got paid to talk — all they were asked was to tell the truth.” The film was copy written by Energy In Depth which is a project of the Independent Petroleum Association of America. [Truthlandmovie.com, accessed [5/10/17](http://www.truthlandmovie.com/)]

**Truthland: “The Truth Is, There Isn’t A Single ‘Hazardous’ Additive Used In The Fracturing Process That’s Hidden From Public View.”** [Truthlandmovie.com, accessed [5/10/17](http://www.truthlandmovie.com/the-facts/)]

**The Nation Headline: “The Fracking Industry’s Dishonest Response to ‘Gasland.’”** “The break-out success of GasLand and GasLand 2, documentaries by Josh Fox about the dangers of largely unregulated hydraulic fracturing, has prompted the natural gas and drilling industry to adopt an aggressive public relations strategy to combat critics. Last year, at the Warner Theater in Washington, DC, a group of high-profile lobbyists and communications staffers celebrated the development of a pro-fracking movie designed to rebut Fox's documentaries called TruthLand, which premiered in January.” [The Nation, 11/18/13]

#### Taylor Energy Company

**Bernhardt Was Compensated By Taylor Energy Company LLC For Legal Services**. [David Bernhardt Executive Branch Personnel Public Financial Disclosure Report filed 3/6/17]

**Taylor Energy CEO Blamed Oil Leak On “Act Of God.”** “A decade-old oil leak that could last for another century was caused by an ‘act of God’ during a hurricane in the Gulf of Mexico, the president of the company responsible said Wednesday. Taylor Energy President William Pecue told a gathering of industry experts and environmental advocates in Baton Rouge that the company cares ‘very deeply’ about the environment.” [Houston Chronicle, [1/20/16](http://fuelfix.com/blog/2016/01/20/taylor-energy-executive-blames-decade-old-oil-leak-on-act-of-god/)]

**Taylor Energy Company v. United States Department of Interior et al (16-cv-00388).** On February 25, 2016, Taylor Energy Company sued the Department of Interior, Bureau of Ocean Energy management, Bureau of Safety and Environmental Enforcement, United States Department of Homeland Security, and United States Coast Guard in the District Court for the District of Columbia. The complaint states, “This is an action under the Freedom of Information Act, 5 U.S.C. § 552, to order the production of agency records from Defendants the United States Department of the Interior (“DOI”), through the Bureau of Ocean Energy Management (“BOEM”) and Bureau of Safety and Environmental Enforcement (“BSEE”), and the Department of Homeland Security through the United States Coast Guard (“USCG”). These agency records relate to the underlying support for statements made by Defendants on a BSEE website concerning Plaintiff Taylor Energy Company LLC’s (“Taylor”) ongoing response to an incident at Taylor’s former oil platform in the Gulf of Mexico, which Defendants have improperly withheld from Taylor due to Defendants’ failure to timely respond to Taylor’s requests and failure to timely respond to Taylor’s appeals.” The complaint alleges that material posted on the US BOEM website contained “misleading, incomplete, and speculative information regarding the events at MC20, as well as the efficacy of Taylor’s response efforts.” Litigation is ongoing and the most recent filing was a reply to opposition motion filed on March 23, 2017.

#### Access Industries

**2011-2012: Bernhardt Was a Registered Lobbyist for Access Industries.** “Both men registered as lobbyists in 2011 and 2012 for Access Industries, a holding company controlled by billionaire Leonard Blavatnik, according to public filings reviewed by VICE News. And though they are far from the only D.C. lobbyists to get plum jobs in the Trump administration, the connection to Blavatnik, long in business with billionaire associates of Russian President Vladimir Putin, reveals yet another link between Russia and senior Trump officials. Blavatnik, 60, is a naturalized dual U.S.-U.K. citizen who owns Warner Music Group. He’s also a longtime donor to both political parties. He gave at least $314,800 in the 2014 midterms, with a slim majority going to the Democratic side. But Blavatnik dramatically ramped up his donations to Republican causes prior to the 2016 U.S. election, according to a review of public filings carried out by Ruth May, a professor at the University of Dallas.” [Vice News, [4/13/18](https://news.vice.com/en_ca/article/d35kgw/two-top-trump-officials-are-ex-lobbyists-for-a-billionaire-with-deep-ties-to-russian-oligarchs)]

* **Access Industries President Had Connections to Putin’s Inner Circle.** “Blavatnik built his fortune in Russia before branding himself as an American-British philanthropist. As an American owner of a U.S.-based company, Blavatnik can legally donate to U.S. political causes. Foreign contributions, however, are forbidden by law. Professor May, who’s been tracking Blavatnik’s political donations since last year, says the billionaire’s donations and business connections to Russia deserve more scrutiny. ‘Blavatnik’s ties to members of Putin’s closest inner circle should force us to examine Russia’s ability to influence our elections and our democratic institutions, well beyond Trump and Facebook,’ May said. ‘There are holes in our country’s firewall and they aren’t on the Internet.’” [Vice News, [4/13/18](https://news.vice.com/en_ca/article/d35kgw/two-top-trump-officials-are-ex-lobbyists-for-a-billionaire-with-deep-ties-to-russian-oligarchs)]

**DOI Press Secretary Heather Swift: “Mr. Bernhardt Never Lobbied For Access Industries And He Addressed This Issue In His Paperwork That Was Submitted To The Senate.”** [Vice News, [4/13/18](https://news.vice.com/en_ca/article/d35kgw/two-top-trump-officials-are-ex-lobbyists-for-a-billionaire-with-deep-ties-to-russian-oligarchs)]

#### Foreign Agent Registration Act

In September 2016, Brownstein Hyatt Farber and Schreck registered as an agent of the Kingdom of Saudi Arabia. According to FARA Registration documents, Saudi Arabia paid BHFS $400,000 for representation related to the Justice Against Sponsors of Terrorism Act (JASTA). Families of victims of the September 11 terrorist attacks wanted to sue Saudi Arabia for damages over suspected ties to the hijackers, but could not because of the doctrine of sovereign immunity. JASTA was passed to allow victims of the families of victims to sue Saudi Arabia in US Courts. It was criticized for opening US Soldiers to legal liability abroad. Saudi Arabia opposed the legislation. The three BHFS employees who worked in this account were Zach Pfister, Marc S. Lampkin, and Elizabeth Gore. Mexico paid BHFS in 2009 (roughly 180,000) and 2013 (less than $10,000) for representation related to the execution of a Mexican national in a Texas prison.

**Families Of Victims Of 9/11 Attacks Wanted To Sue Saudi Arabia For Damages**. “The bill itself is not new. For years, victims of the 9/11 attacks and their families have pushed for a change in the law that would exempt acts of terrorism on U.S. soil from the principle of sovereign immunity, which prevents lawsuits against foreign governments and officials in American court. The families want to sue the Saudi government for damages over its alleged ties to the 9/11 hijackers, 15 of whom were Saudi citizens. The Saudis have denied any involvement, and as CIA Director John Brennan made clear on Wednesday, the U.S. government has backed up their denial.” [The Atlantic, [9/30/16](https://www.theatlantic.com/politics/archive/2016/09/911-legislation-congress-obama-veto-override/502337/)]

**JASTA Allowed Families of Victims Of 9/11 Terrorist Attack To Sue Saudi Arabia In United States Courts; JASTA Opened US Soldiers To Legal Liability Abroad.** “‘It appears as if there may be some unintended ramifications,’ McConnell lamented at a press conference barely 24 hours after all but one senator voted to reject the president’s veto of the legislation, which would allow victims of the September 11, 2001 terrorist attacks to sue Saudi Arabia in U.S. court. On the other side of the Capitol, Ryan said that he hoped there could be a ‘fix’ to the very law he allowed to pass through the House—one that would protect U.S. soldiers abroad from legal retribution that the Obama administration had warned for months would follow as a result of the law.” [The Atlantic, [9/30/16](https://www.theatlantic.com/politics/archive/2016/09/911-legislation-congress-obama-veto-override/502337/)]

**September 2016: BHFS Registered As Foreign Agent Of Kingdom Of Saudi Arabia**. According to BHFS’ FARA Registration, it planned to “communicate with Members of Congress and members of the executive branch regarding the Justice Against Sponsors of Terrorism Act (JASTA) and JASTA’s passage into law.” [Brownstein Hyatt Farber Schreck Exhibit A to Registration Statement, Filed [9/22/16](https://www.fara.gov/docs/5870-Exhibit-AB-20160922-4.pdf)]

* **BHFS Provided Services To Related To JASTA From September 2016 To December 2016**. [Supplemental Statement Filed [1/30/17](https://www.fara.gov/docs/5870-Supplemental-Statement-20170130-17.pdf)]
* **Saudi Arabia Paid BHFS At Least $400,000 For Representation Pertaining to Justice Against Sponsors of Terrorism Act.** According to the fee agreement for representation, “Effective upon execution of this agreement, our fee amount will be $100,000 for the month of September. The September fee amount will be paid by wire transfer and will be wired immediately upon execution of this agreement. (Wiring instructions are attached to this fee agreement.) In addition, starting October 1, 2016, our fee amount will be $100,000 per month until JASTA becomes law or until March 31, 2017, whichever is later.” [Brownstein Hyatt Farber Schreck Exhibit A to Registration Statement, Filed [9/22/16](https://www.fara.gov/docs/5870-Exhibit-AB-20160922-4.pdf)]
* **JASTA Was Introduced And Became Law In September 2016 Over President’s Veto.** [Congress.gov, accessed [5/11/17](https://www.congress.gov/bill/114th-congress/senate-bill/2040/actions)]
* **Saudi Arabia Opposed JASTA.** “Saudi Arabia is mounting a last-ditch campaign to scuttle legislation allowing families of victims of the Sept. 11, 2001 attacks to sue the kingdom — and they're enlisting major American companies to make an economic case against the bill.” [Politico, 9/26/16]

**Zach Pfister Worked On Saudi Arabian Contract**. Pfister’s services were to “Facilitate meetings with federal government officials either via phone or e-mail on behalf of the foreign principal; attend meetings with federal government officials in relation to the Justice Against Sponsors of Terrorism Act (JASTA).” [Short Form Registration Statement, filed [9/22/16]](https://www.fara.gov/docs/5870-Short-Form-20160922-24.pdf)

* **Zach Pfister Was Senior Policy Advisor At BHFS**. “Zach Pfister built his career in Democratic politics, gaining extensive public policy experience and in-depth knowledge of the legislative process while working on Capitol Hill, as well as lobbying experience in the areas of financial services, tax, health care and telecommunications. He has a keen understanding of policy issues under the jurisdiction of the House Financial Services, Energy and Commerce, and Ways and Means Committees, as well as committees of jurisdictional equivalence in the Senate.”

**Marc S. Lampkin Worked On Saudi Arabian Contract**. Lampkin’s services were to “Facilitate meetings with federal government officials either via phone or e-mail on behalf of the foreign principal; attend meetings with federal government officials in relation to the Justice Against Sponsors of Terrorism Act (JASTA).” [Short Form Registration Statement, filed [9/22/16]](https://www.fara.gov/docs/5870-Short-Form-20160922-30.pdf)

* **Lampkin Was BHFS Shareholder, Managing Partner Of DC Office, And Member Of Firm’s Executive Committee.** “Marc Lampkin serves as the managing partner of Brownstein's Washington, DC office, and serves on the firm's Executive Committee. He also previously served as a co-chair of the firm's Government Relations Department. He is a highly respected advisor and veteran Republican House and Senate lobbyist, bringing years of political, legislative and campaign experience to bear for his clients.” [BHFS, accessed [5/11/17](http://www.bhfs.com/people/attorneys/l-o/mlampkin)]

**Elizabeth Gore Worked On Saudi Arabian Contract**. Gore’s services were to “Facilitate meetings with federal government officials either via phone or e-mail on behalf of the foreign principal; attend meetings with federal government officials in relation to the Justice Against Sponsors of Terrorism Act (JASTA).” [Short Form Registration Statement, filed [9/22/16]](https://www.fara.gov/docs/5870-Short-Form-20160922-32.pdf)

* **Gore Was BHFS Policy Director Working On Appropriations, Energy, And Telecommunications**. “Elizabeth Gore serves as chair of the firm's Government Relations Department and has more than 20 years of experience in Democratic politics and advocacy. She has worked as a strategist and a lobbyist for a wide range of clients and has successfully navigated Capitol Hill and executive agencies on their behalf. Her background and experience give her insight and expertise that help move issues forward across the public policy spectrum.” Practice: Appropriations; Energy, Environment, and Resource Strategies; Telecommunications and Media. [BHFS, accessed [5/11/17](http://www.bhfs.com/people/policy/egore#tab2)]

**International Court Of Justice Found US Violated International Treaty By Executing Mexican National In “Case Concerning Avena And Other Mexican Nationals.”** “A United Nations court has found that the United States violated an international treaty and the court's own order when a Mexican national was executed last year in a Texas prison. The International Court of Justice (ICJ) issued a ruling Monday in an unusual case that pitted President Bush against his home state in a dispute over federal authority, local sovereignty and foreign treaties. Mexico had filed a formal complaint against U.S. state and federal officials.” [CNN, [1/19/09](http://www.cnn.com/2009/CRIME/01/19/mexican.execution.violation/)]

**2009: Mexican Embassy Paid BHFS For Representation Regarding International Court Of Justice’s Decision In Case Concerning Avena And Other Mexican Nationals.** “We have a formal written contract (attached) with Kuykendall & Associates who directs and supervises our efforts on behalf of the foreign principal. We will be compensated for our services by funds provided to Kuykendall & Associates by the Government of Mexico… Communicate with Members of Congress, members of the executive branch, and other public officials regarding the implementation and enforcement of the International Court of Justices’ decision in the Case Concerning Avena and Other Mexican Nationals… Attend meetings with US public officials to pursue legislation necessary to decision’s enforcement.”

**BHFS Received $15,000 Monthly Through December 2009 For Representing Mexico.** “Effective January 22, 2009, our retainer fee amount will be $15,000 per month through December 31, 2009.”

**Mexican Retained BHFS In April And May 2013 For $4,285 Per Month.** “You have asked us, and we have agreed, subject to our firm's conflicts of interest check, to act as government relations counsel for Kuykendall & Associates regarding the implementation of the International Court of Justice's decision in the Case Concerning Avena and Other Mexican Nationals . Effective April 1,2013 our retainer fee amount will be $4,285 per month through May 31, 2013. This agreement will expire on May 31,2013. It is anticipated that William Moschella will perform most of the work on this matter.” [Exhibit AB Filed [7/30/13](https://www.fara.gov/docs/5870-Exhibit-AB-20130730-3.pdf)]

## Center For Environmental Science Accuracy And Reliability

**2015: David Bernhardt Was Board Member Of Center For Environmental Science Accuracy And Reliability**. [Center for Environmental Science Accuracy and Reliability 2015 Form 990]

* **2017: Bernhardt Resigned from CESAR.** [Bernhardt Ethics Pledge Recusals, accessed [10/18/18](https://assets.bwbx.io/documents/users/iqjWHBFdfxIU/rL2bONoceiOY/v0)]
* **David Bernhardt Recused Himself from Matters Involving CESAR Until August 2019.** [Bernhardt Ethics Pledge Recusals, accessed [10/18/18](https://assets.bwbx.io/documents/users/iqjWHBFdfxIU/rL2bONoceiOY/v0)]

**2014: Donors Trust Inc Donated $10,000 To Center For Environmental Science Accuracy And Reliability**. [Donors Trust Inc. 2014 Form 990]

**Charles Koch Used Donors Trust to Hide Donations To Right-Wing Organizations**. “Since its founding in 1999, Donors Trust and its affiliated organization, Donors Capital Fund, have distributed nearly $400 million, becoming major vehicles for tax-exempt giving from wealthy conservatives such as billionaire industrialist Charles Koch. Koch is among an exclusive pool of donors who have used Donors Trust as a “pass-through,” says Marcus Owens, the former director of the IRS Exempt Organizations Division, now in private legal practice. ‘It obscures the source of the money. It becomes a grant from Donors Trust, not a grant from the Koch brothers.’” [Center for Public Integrity, [2/14/13](https://www.publicintegrity.org/2013/02/14/12181/donors-use-charity-push-free-market-policies-states)]

**Center for Environmental Science Accuracy and Reliability v. Salazar et al. (12-cv-01311).** On August 7, 2012, the Center for Environmental Science Accuracy and Reliability (CESAR) sued Secretary Ken Salazar and United States Fish and Wildlife Service Director Dan Ashe for failing to make a listing determination about the American Eel under the Endangered Species Act in the District Court for the District of Columbia. According to the complaint, “CESAR believes that the American eel population is in severe decline due, in large part, to habitat loss and modification across much of its historic range. The eels have been eliminated in many areas of their historic range. Much of this loss is attributable to reduced accessibility to freshwater streams due to habitat changes limiting access in coastal tributaries and drainage systems. Accessibility has been particularly limited by the construction of dams, preventing eels from migrating upstream to freshwater habitats and downstream to the ocean to spawn, and killing large, fecund females as they travel downstream to spawn, thus disproportionately affecting reproductive ability… On April 30, 2010, CESAR submitted a 67-page petition to the Service to list the eel as threatened pursuant to the ESA.” On April 24, 2013, CESAR and Salazar and Ashe filed a stipulated settlement agreement. The terms of the settlement required the Fish and Wildlife Service to “review the status of the American eel and submit to the federal register a 12-month finding as to whether listing the American eel as a threatened or endangered species is (a) not warranted; (b) warranted; or, (c) warranted but precluded by other pending proposals…” CESAR accepted $8,000 in legal fees from the defendants. David Bernhardt and Ryan A. Smith of Brownstein Hyatt Farber Schreck, LLP were attorneys for CESAR.

**2012: Bernhardt Represented CESAR in Lawsuit Against Department of Interior Secretary and Fish and Wildlife Service Director.** [U.S. District Court District of Columbia, Docket #1:12-cv-01311-EGS, 8/7/12]

* **CESAR Wanted DOI to Make a Listing Determination on American Eel to Save Species.** “The American eel (Anguilla rostrata) is at substantial risk of extinction due to habitat loss and modification, overutilization, in adequate regulatory protection disease, and other natural and manmade factors. The eel faces increasing dangers from hydropower turbines, disease, and 2 unchecked commercial harvesting. Absent the protection afforded by the Endangered Species Act (ESA), the species population will become critically and irreversibly low. On this basis, the C ENTER FOR ENVIRONMENTAL SCIENCE ACCURACY AND RELIABILITY f/k/a the Council for Endangered Species Act Reliability (‘CESAR’) petitioned the Secretary of the Interior (the ‘Secretary’) on April 30, 2010, to make a listing determination regarding the American eel.” [U.S. District Court District of Columbia, Docket #1:12-cv-01311-EGS, 8/7/12]
* **CESAR Believed Habitat Loss Was a Significant Contributor to Population Decline.** “CESAR believes that the American eel population is in severe decline due, in large part, to habitat loss and modification across much of its historic range. The eels have been eliminated in many areas of their historic range. Much of this loss is attributable to reduced accessibility to freshwater streams due to habitat changes limiting access in coastal tributaries and drainage systems. Accessibility has been particularly limited by the construction of dams, preventing eels from migrating upstream to freshwater habitats and downstream to the ocean to spawn, and killing large, fecund females as they travel downstream to spawn, thus disproportionately affecting reproductive ability.” [U.S. District Court District of Columbia, Docket #1:12-cv-01311-EGS, 8/7/12]
* **FWS Agreed to Meet Deadline and Justice Department Paid $8,000 to Bernhardt’s Firm.** “The lawsuit was subsequently settled, with FWS agreeing to meet a deadline for an American eel decision and the Justice Department agreeing to pay Bernhardt’s law firm $8,000 in costs and fees, court records show. In Congress, some of Bernhardt’s Republican allies are now pushing legislation to limit Endangered Species Act-related lawsuits, as well as the amount in fees that attorneys can receive. Interior and FWS could play key roles in future negotiations over the bills (Greenwire, July 19).” [Greenwire, 7/24/17]

**2012: CESAR Filed Petition to Remove Orcas from Endangered Species Act.** “The population of killer whales that resides primarily in Puget Sound doesn’t deserve Endangered Species Act protection, the conservative Pacific Legal Foundation says in a delisting petition filed today with the Obama administration. The petition sent to the National Oceanic and Atmospheric Administration argues the orcas shouldn’t have been listed in 2006 because they are not a distinct population different from other killer whales that are thriving elsewhere.’ When a species as a whole isn’t endangered, government can’t invent a justification for ESA regulations by arbitrarily carving out a single geographical area and focusing only on the species’ numbers in that narrow zone,’ said Damien Schiff, the foundation’s principal attorney. Furthermore, he said, the Endangered Species Act doesn’t allow for distinct populations of subspecies to be listed, only distinct populations of species. The foundation filed the petition on behalf of two California farms and the Center for Environmental Science, Accuracy and Reliability (CESAR).” [E&E News, [8/2/12](https://earthfirstnews.wordpress.com/2012/08/02/petition-seeks-delisting-of-pacific-northwest-orcas/)]

**CESAR Consultants Included Former Interior Official Who Interfered With ESA Listings.** “CESAR is a California-based nonprofit that says it aims to ‘bring scientific rigor to environmental regulatory decisions.’ Among its consultants is Julie MacDonald, the former Interior Department deputy assistant secretary who was found by the department’s inspector general to have meddled in scientific decisions on endangered species listings during the George W. Bush administration.” [E&E News, [8/2/12](https://earthfirstnews.wordpress.com/2012/08/02/petition-seeks-delisting-of-pacific-northwest-orcas/)]

**CESAR Scientist Reviewed Hookless Cactus Listing for Western Energy Alliance; Hoped Findings Would “Be Useful as We Continue to Advocate Against Needlessly Restrictive Setbacks.”** [WEA Meeting Minutes, [3/13/12](http://s3.documentcloud.org/documents/370522/wea-accomplishments.pdf)]

**WEA Paid CESAR Scientist $200 Per House for Sage Grouse Study.** [WEA Email, [2/10/15](http://elkocounty.granicus.com/MetaViewer.php?view_id=2&clip_id=508&meta_id=26602)]

## Environmental Views

**Bernhardt Served As Counsel For Determination That Polar Bear Was A Threatened Species**. “Serving as primary counsel for the determination that the polar bear was a threatened species under the Endangered Species Act (ESA) and developing a special rule for the application of Section 9 of the ESA to threatened polar bears.” [Brownstein Hyatt Farber Schreck, David Longly Bernhardt bio, accessed [11/10/16](http://www.bhfs.com/people/attorneys/a-b/dbernhardt)]

**Bernhardt Co-Chaired Department Of The Interior’s Energy Coordination Council**. “Co-chairing the Department of the Interior’s Energy Coordination Council, whose purpose was to facilitate the implementation of the Energy Policy Act of 2005.” [Brownstein Hyatt Farber Schreck, David Longly Bernhardt bio, accessed [11/10/16](http://www.bhfs.com/people/attorneys/a-b/dbernhardt)]

**Bernhardt Represented DOI In Federal Reserved Water Right For The Black Canyon Of The Gunnison National Park**. “Leading the Department of the Interior’s team that worked with representatives of the environmental community, the State of Colorado, local governments and various water users to successfully resolve longstanding litigation regarding the federal reserved water right for the Black Canyon of the Gunnison National Park.” [Brownstein Hyatt Farber Schreck, David Longly Bernhardt bio, accessed [11/10/16](http://www.bhfs.com/people/attorneys/a-b/dbernhardt)]

**Bernhardt Negotiated For DOI In Indian Water Rights Settlement**. “Successfully negotiating on behalf of the Department of the Interior and subsequently leading the implementation of the Arizona Water Rights Settlement Act of 2005, one of the largest Indian water rights settlements in U.S. history.” [Brownstein Hyatt Farber Schreck, David Longly Bernhardt bio, accessed [11/10/16](http://www.bhfs.com/people/attorneys/a-b/dbernhardt)]

**Bernhardt: “Executive Branch Is Entitled To Place Its Gloss On How The ESA Will Be Executed.”** “The executive branch is entitled to place its gloss on how the ESA will be executed, provided it operates within the scope of the statute and complies with the Administrative Procedure Act.” [House Natural Resources Committee Hearing, 4/19/16]

#### Climate Change

**Bernhardt Concluded There Were No “Indirect Effects” On Wildlife That Can Be Isolated To Specific Greenhouse Gas Sources**. “In an October 3, 2008 memo to Secretary Dirk Kempthorne, Interior Solicitor David Bernhardt concluded that there are no “indirect effects” on wildlife that can be isolated to specific greenhouse gas sources.” [PEER, [10/14/08](http://www.peer.org/news/news-releases/federal-wildlife-agencies-ordered-to-ignore-global-warming.html)]

* **“Cumulative Effects’ Bernhardt Opined ‘Are Of No Relevance In Determining Whether A Proposed Action ‘May Affect Listed Species Or Critical Habitat.’”** “Moreover, “cumulative effects” Bernhardt opined “are of no relevance in determining whether a proposed action ‘may affect listed species or critical habitat.’” [PEER, [10/14/08](http://www.peer.org/news/news-releases/federal-wildlife-agencies-ordered-to-ignore-global-warming.html)]

**Bernhardt: Federal Agencies Do Not Need To Consult With Government Biologists About The Impact Of Greenhouse Gases**. “A memo from Interior solicitor David Bernhardt concludes that federal agencies do not need to consult with government biologists about the impact of greenhouse gases from a proposed project on protected plants or animals. Indirect effects on wildlife, the memo says, cannot be traced to one specific source, and cumulative effects "are of no relevance" under the species law.” [Land Letter, 10/16/08]

**Bernhardt: “Emission Of GHG... Is Not Subject To Consultation Under ESA And Its Implementing Regulations.”** “‘We conclude that where the effect at issue is climate change in the form of increased temperatures, a proposed action that will involve the emission of GHG [greenhouse gas] cannot pass the ‘may affect’ test and is not subject to consultation under ESA and its implementing regulations,’ Bernhardt wrote.” [Land Letter, 10/16/08]

**Bernhardt Memo: Endangered Species Act Can’t Be Used To Protect Animals And Their Habitats From Climate Change By Regulating Specific Sources Of Greenhouse Gas Emissions**. “New legal memos by top Bush administration officials say that the Endangered Species Act can’t be used to protect animals and their habitats from climate change by regulating specific sources of greenhouse gas emissions, the cause of global warming.” [Lewiston Morning Tribune, 10/15/08]

**Bernhardt: “I Personally Believe That The [Human] Contribution [To Climate Change] Is Significant, Very Significant. Now, That’s Different That What We Do With It, And Here’s Where People Disagree.”** “About an hour and a half into Deputy Interior Secretary nominee David Bernhardt’s Thursday confirmation hearing before the Senate Committee on Energy and Natural Resources, committee member Sen. Al Franken (D-Minn.) asked Bernhardt whether he believes climate change represents a ‘serious threat that requires aggressive action?’ In response, Bernhardt commented that ‘we need to take the science as it comes, whatever that is.’ After Franken interjected and stated, ‘I believe the science is pretty decided on this,’ Bernhardt added, ‘I personally believe that the [human] contribution [to climate change] is significant, very significant. Now, that’s different that what we do with it, and here’s where people disagree.’” [HuffPost, [5/18/17](https://www.huffingtonpost.com/entry/david-bernhardt-interior-department-climate-change_us_591ddf43e4b094cdba523369)]

* **Bernhardt: “My Task Will Be To Take The Science, Put It In The Paradigm Of The Administration’s Policy Perspective Which Is [That] We’re Not Going To Sacrifice Jobs For This And Then Look At The Legal Rubric And Say How Do We Apply The Law There?”** [HuffPost, [5/18/17](https://www.huffingtonpost.com/entry/david-bernhardt-interior-department-climate-change_us_591ddf43e4b094cdba523369)]

**Bernhardt Rescinded Climate Change Policies.** “Secretarial Order 3360, signed Dec. 22 by Interior Deputy Secretary David Bernhardt, wipes away four separate directives and policy manuals aimed at showing departmental employees how to minimize the environmental impact of activities on federal land and in federal waters, and calls for the review of a fifth one that applies to the National Petroleum Reserve-Alaska. Instead, it directs officials to reinstate and update guidance issued during the final year of George W. Bush’s second term by Jan. 22.” [Washington Post, [1/5/18](https://www.washingtonpost.com/news/energy-environment/wp/2018/01/05/interior-rescinds-climate-conservation-policies-because-theyre-inconsistent-with-trumps-energy-goals/?utm_term=.aeb8010b63e9)]

#### Endangered Species Act

**Bernhardt Memo Concluded ESA Protections Could Be Applied To Just A Portion Of A Species’ Range; Federal Judge Rejected Memo’s Interpretation Of Law**. According to an article in the New York Times, “In the 2007 memo, Interior’s then-solicitor, David Bernhardt, concluded that ESA protections could be applied to just a portion of a species’ range. That interpretation was then applied to the high-profile case of the northern Rocky Mountain gray wolf, in which the Fish and Wildlife Service proposed they be delisted in all states within their range except Wyoming. In 2010, a federal judge in Montana rejected the memorandum’s interpretation of the law. Another judge, this time in Arizona, ruled likewise in a case involving the listing of the Gunnison’s prairie dog.” [New York Times, [5/24/11](http://www.nytimes.com/gwire/2011/05/24/24greenwire-interior-returns-to-drawing-board-after-withdr-28744.html)]

**Bernhardt Played ‘Significant Role’ In NEPA Compliance Practices And Wildlife Conservation Measures At DOI**. According to his bio, “Playing a significant role in the development of multiple land use plans, offshore energy leasing programs, and developing new regulatory paradigms related to conventional and alternative energy development, including enhancing NEPA compliance practices and wildlife conservation measures.” [Brownstein Hyatt Farber Schreck, David Longly Bernhardt bio, accessed [11/10/16](http://www.bhfs.com/people/attorneys/a-b/dbernhardt)]

**Bernhardt Authored Opinions Formalizing The Department Of The Interior’s Legal Interpretation On ESA, Mineral Leasing Act, And Others**. According to his bio, “Issuing multiple M-Opinions formalizing the Department of the Interior’s legal interpretation regarding various statutes including: the Endangered Species Act (ESA), the Mineral Leasing Act, the Outer Continental Shelf Lands Act (OCS), the Marine Mammal Protection Act, and the Indian Gaming Regulatory Act.” [Brownstein Hyatt Farber Schreck, David Longly Bernhardt bio, accessed [11/10/16](http://www.bhfs.com/people/attorneys/a-b/dbernhardt)]

**David Bernhardt: “A Modern Vision Of Conservation Is One That Uses Federalism, Public-Private Partnerships And Market-Based Solutions To Achieve Sound Stewardship.”** “A modern vision of conservation is one that uses federalism, public-private partnerships and market-based solutions to achieve sound stewardship. These approaches, combined with sensible regulations and the best available science, will achieve the greatest good in the longest term. Last month, the Trump administration took this approach to bringing our government’s implementation of the Endangered Species Act into the 21st century. We asked ourselves how we can enhance conservation of our most imperiled wildlife while delivering good government for our citizens. We found room for improvement in the administration of the act. When Congress created the Endangered Species Act, it built a tiered classification for our most at-risk wildlife, designing different protections for ‘endangered’ and ‘threatened’ species. The act was designed to give endangered species the most stringent protections while affording federal agencies the authority to tailor special rules for lower-risk, threatened species on a case-by-case basis.” [Washington Post, [8/9/18](https://www.washingtonpost.com/opinions/at-interior-were-ready-to-bring-the-endangered-species-act-up-to-date/2018/08/09/2775cd8e-9a96-11e8-b55e-5002300ef004_story.html?utm_term=.f90b79342edc)]

**David Bernhardt: ESA “Blanket Rule” Negatively Impacted Citizens and Threatened Species.** “It may surprise most Americans, however, that the highest level of protection is often applied, regardless of the classification, through application of a ‘blanket rule.’ The use of this rule by the U.S. Fish and Wildlife Service automatically elevates protections for threatened species to the same level as those given to endangered species. But automatically treating the threatened species as endangered places unnecessary regulatory burden on our citizens without additional benefit to the species. The blanket rule reflexively prohibits known habitat management practices, such as selective forest thinning and water management, that might ultimately benefit a threatened species.” [Washington Post, [8/9/18](https://www.washingtonpost.com/opinions/at-interior-were-ready-to-bring-the-endangered-species-act-up-to-date/2018/08/09/2775cd8e-9a96-11e8-b55e-5002300ef004_story.html?utm_term=.f90b79342edc)]

**David Bernhardt: “We Must Return Conservation Management Back To The Capable Hands Of The States And Focus Our Federal Protections And Resources On Those Species That Need Them Most.”** “The Endangered Species Act provides intensive care for the species with the greatest need in order to ensure they survive for future generations. Like with a hospital’s intensive care unit, the goal is not to keep patients there forever. The goal is recovery — to send the healthier patients home where they can continue to receive the lower level of care they still need. The criterion for admission to a hospital’s ICU is the same as it is for discharge: critical need. The same principle applies to the act, but over the years, the standards for down-listing (from endangered to threatened) and altogether delisting a species have been pushed higher than the standards for initially granting protection under the act. We are proposing to clarify that the standards for listing and delisting are identical. With limited resources, we cannot and should not keep recovered species on the list forever. We must return conservation management back to the capable hands of the states and focus our federal protections and resources on those species that need them most.” [Washington Post, [8/9/18](https://www.washingtonpost.com/opinions/at-interior-were-ready-to-bring-the-endangered-species-act-up-to-date/2018/08/09/2775cd8e-9a96-11e8-b55e-5002300ef004_story.html?utm_term=.f90b79342edc)]

**Bernhardt: “I Think We’ll Hear People Say It’s Great, We’ll Have People Say It’s Crazy, And We’ll Have Everything In Between.”** “The Interior Department rolled out three new proposed rules on Thursday to ‘tweak’ how the federal government manages endangered species, which is expected to receive enormous pushback but also praise. ‘Here’s my expectation for pretty much all three rules,’ said Interior Deputy Secretary David Bernhardt on a call with reporters. ‘I think we’ll hear people say it’s great, we’ll have people say it’s crazy, and we’ll have everything in between.’ Nevertheless, he is ‘hopeful’ that people that have views ‘take the time to write’ the agency ‘serious’ and ‘thoughtful’ responses to what is being proposed, Bernhardt said. He said he will read over them ‘laboriously,’ and anticipates responses from the ‘entire spectrum of opinion.’” [Washington Examiner, [7/19/18](https://www.washingtonexaminer.com/policy/energy/interior-expects-both-crazy-and-great-responses-to-new-endangered-species-plan)]

**Bernhardt: “The Big Picture Of This Rule Is That, Together, These Rules Will Be Very Protective And Enhance The Conservation Of The Species.”** [Washington Examiner, [7/19/18](https://www.washingtonexaminer.com/policy/energy/interior-expects-both-crazy-and-great-responses-to-new-endangered-species-plan)]

**Bernhardt: “We Want To Ensure That Listing Factors And The De-Listing Factors [Taking Species Off The List] Are The Same Legal Standard.”** “The first proposal deals with section 4 of the law, which governs when and how a species is listed as endangered or threatened, as well as the process for designating habitat for additional protections, said Bernhardt. ‘We want to ensure that listing factors and the de-listing factors [taking species off the list] are the same legal standard,’ he said. ‘We propose to clarify instances where it may not necessarily be prudent to designate critical habitat and we intend to incorporate a few terms to clarity in the regs,’ such as the term ‘foreseeable future,’ that aren’t well defined under current rules. It would also seek to ensure critical habitat begins where the species presently resides before including another ‘unoccupied habitat,’ he said.” [Washington Examiner, [7/19/18](https://www.washingtonexaminer.com/policy/energy/interior-expects-both-crazy-and-great-responses-to-new-endangered-species-plan)]

**Bernhardt: ESA Revisions Would Speed Up Project Approvals and Simplify Definitions.** “The second rule deals with section 7 of the Endangered Species Act, which is ‘where the rubber meets the road,’ Bernhardt said. Section 7 governs how other agencies coordinate their activities with Interior to ensure species are not disturbed in implementing other unrelated federal regulations. The second rule proposes ‘alternative consultation mechanisms’ to speed up approvals, according to Bernhardt. It would also ‘simplify a few definitions that have led to difficult court decisions,’ and a lack of understanding by the public and within the agency itself, he said.” [Washington Examiner, [7/19/18](https://www.washingtonexaminer.com/policy/energy/interior-expects-both-crazy-and-great-responses-to-new-endangered-species-plan)]

**Bernhardt: ESA Revision Would Rescind “Blanket Rule.”** “Finally, Interior will be proposing a third regulation to change how it designates species by adopting the same method used by Commerce’s National Marine Fisheries Service under its separate rules for protecting ocean species. This would mean that Interior’s Fish and Wildlife Service will ‘rescind its blanket rule’ that ‘automatically conveyed the same protections for threatened species as for endangered species unless otherwise specified.’ The process employed by Commerce is much more tailored to the species and the level of protection, Berhardt said.” [Washington Examiner, [7/19/18](https://www.washingtonexaminer.com/policy/energy/interior-expects-both-crazy-and-great-responses-to-new-endangered-species-plan)]

**130 Scientists Asked Interior Secretary Salazar to Rescind Bernhardt Guidance on ESA.** “Nearly 130 scientists today asked the Interior Department to change a policy set under the Bush administration guiding how agencies decide whether a species is endangered. At issue is guidance issued in 2007 that redefined when the Fish and Wildlife Service would protect a species as "endangered" or "threatened." The Endangered Species Act requires protection of any species in danger of extinction throughout all or a significant portion of its range. Then-Interior Solicitor David Bernhardt issued guidance that recommended agencies focus on plants and animals most at risk in their current locations, rather than throughout their historic range or in other locations where species may be healthy. The scientists want Interior Secretary Ken Salazar to rescind that memorandum. They say it sharply limits the scope of the ESA by limiting analysis to species' current range and by specifying that species will be listed only in the portion of range considered significant.” [E&E News, [12/10/09](https://www.eenews.net/stories/85528)]

**Ohio State Study: Bernhardt Legal Opinion Would Reduce Number of Species Protected.** “If the federal government implements a 2007 legal interpretation of the Endangered Species Act, the likely result will be a reduction in the number of species listed for protection, scientists say. Researchers analyzed potential effects of a legal memorandum issued in March 2007 by the Department of the Interior, which, among other points, advised the U.S. Fish and Wildlife Service that only an endangered species' current range need factor into whether the species is listed for protection. The researchers say such an interpretation sets the stage for the creation of sporadically located ‘wilderness zoos’ that would reduce protections for endangered species and the habitat on which they depend.” [Ohio State University, [8/3/09](https://news.osu.edu/ohio-state-study-2007-legal-opinion-is-a-threat-to-imperiled-species/)]

**Bernhardt: ESA Should be Interpreted in Present Tense Regarding Range and Level of Threat.** “Following this decision, the solicitor for the Department of the Interior in 2007, David Bernhardt, issued his legal advice. He contended that that the present-tense language of the Endangered Species Act serves as a guide for the interpretation and concluded that the term ‘range' refers only to a species' current range: ‘The phrase 'is in danger' denotes a present-tense condition of being at risk ... [h]ence, to say a species 'is in danger' in an area where it no longer exists - i.e., in its historical range - would be inconsistent with common usage.’ He also argued that the Department of the Interior should not be held to any one standard in how it interprets the term "significant," but rather should be able to apply the term differently on a case-by-case basis.” [Ohio State University, [8/3/09](https://news.osu.edu/ohio-state-study-2007-legal-opinion-is-a-threat-to-imperiled-species/)]

**Ohio State Study: Interpretation Was “Plainly Inconsistent with the Statutory History.”** “Enzler said the results of a review of the act's legal history suggest that the 2007 interpretation is "plainly inconsistent with the statutory history." The review cites several historical sources that indicate Congress, as well as the Fish and Wildlife Service, have interpreted the term "range" to include the historical range of a species. For example, the authors cite a 1978 report issued by the House of Representatives that noted "the term 'range' is used in the general sense and refers to the historical range of the species.” The authors further contend that Bernhardt's interpretation of the phrase would set up a shifting definition, which would likely increase litigation.” [Ohio State University, [8/3/09](https://news.osu.edu/ohio-state-study-2007-legal-opinion-is-a-threat-to-imperiled-species/)]

#### Public Lands

**Bernhardt Took Fault for Proposal to Sell Public Land Outside Redrawn Grand Staircase Boundaries.** “The Interior Department canceled a proposal to potentially sell public land that was once protected inside the Grand Staircase-Escalante National Monument before its boundary was redrawn, saying it contradicted Secretary Ryan Zinke’s assurance last year that he would not do so. Deputy Secretary David Bernhardt issued a statement Friday taking responsibility for an oversight that led to the bid to dispose of 1,600 acres outside the redrawn boundary despite Zinke’s vow during his Senate confirmation hearing and to department staff members shortly after he took office. ‘The failure to capture this inconsistency stops with me,’ Bernhardt wrote. Bernhardt’s statement came a day after a news report revealed the proposal buried deep inside new management plans for Grand Staircase and Bears Ears, two national monuments in Utah that the Trump administration moved to shrink significantly. The effort has faced multiple court challenges.” [Washington Post, [8/17/18](https://www.washingtonpost.com/energy-environment/2018/08/18/second-thought-zinke-nixes-interiors-plan-possibly-sell-public-land/?utm_term=.4cd90cafed84)]

* **Land Was Near Property of former Utah State Representative and Fierce Monument Foe.** “Some land marked for potential disposal is adjacent to the property of Mike Noel, an avid supporter of President Trump who advocated for the scaling back of Grand Staircase. Noel’s 40-acre property sat within the original boundaries that were drawn when President Bill Clinton designated the national monument in 1996. His property was left outside Grand Staircase’s boundary when the Trump administration cut its 1.9 million acres in half. At the request of public officials in Utah, the administration also cut the 1.3 million-acre Bears Ears by 85 percent.” [Washington Post, [8/16/18](https://www.washingtonpost.com/energy-environment/2018/08/16/zinke-said-he-would-never-sell-public-land-interior-is-considering-it/?utm_term=.c2b850ba2b50)]

#### Mining

**Interior Apologized for Error in Bernhardt Op-Ed Claiming Obama Administration Had Blocked Mine Approval.** “The Interior Department has apologized after an official incorrectly blamed the Obama administration for blocking approval of two coal mines. Deputy Interior Secretary David Bernhardt wrote a Jan. 28 opinion piece in the Grand Junction, Colo., Daily Sentinel, his hometown paper, lauding the Trump administration’s pro-coal agenda. One accomplishment Bernhardt boasted about was approving expansion applications for the West Elk and King II mines in Colorado. ‘These moves were only possible with the lifting of the coal moratorium,’ he wrote. ‘Members of the previous administration may scoff at 222 jobs as a drop in the bucket, but we understand that this number means a lot in rural communities.’ The Obama administration did indeed put a moratorium on new leases for coal mines on federal land in 2016, as part of an effort to review the environmental and climate impact of coal mining and whether to increase costs. One of Interior Secretary Ryan Zinke’s first actions in office was to roll back the coal moratorium. But the West Elk and King II expansions were far enough along in the process that they were excluded from the moratorium from the beginning. They did not get approved until Trump took office — and Trump expedited the King II process — but their applications did move forward under Obama.” [The Hill, [2/2/18](https://thehill.com/policy/energy-environment/372048-interior-apologizes-after-incorrectly-saying-obama-blocked-coal)]

**Bernhardt: “The President’s Made It Pretty Clear That The War On Coal Is Over.”** [Farmington Daily News, [10/3/18](https://www.daily-times.com/story/news/local/2018/10/03/san-juan-county-commission-bernhardt-coal-pilt-bia-interior-us-department-interior/1510799002/)]

#### Water

**Bernhardt: President’s Directive Ordering Agencies To More Quickly Approve Water Projects Was “The Most Significant Action Taken By A President On Western Water Issues In [His] Lifetime.”** “In October, 18 days before Election Day, Trump pledged to ‘eliminate all unnecessary burdens’ on water supply in California and other Western states. The president signed a memorandum telling federal agencies to find regulations to cut and to swiftly approve environmental reviews for the canals and dams that supply water to the Central Valley. Standing next to Trump during the signing ceremony were five California House Republicans, including Denham. Deputy Secretary of the Interior David Bernhardt hailed that move as ‘the most significant action taken by a president on Western water issues in my lifetime’ during a conference call with reporters explaining the directive.” [Washington Post, [11/4/18](https://www.washingtonpost.com/politics/2018/11/04/water-sustains-everything-california-farm-country-it-may-also-save-this-house-republican/?utm_term=.7c4424c84f0b)]

#### Regulations and Permitting

**Bernhardt Wanted to Cut Agency Review Times from 100 to 18 Days.** “The Interior Department is testing a program aimed at speeding Federal Register notices through its agencies — cutting review times from 100 days to just 18 days — according to Deputy Secretary David Bernhardt. Bernhardt — who's visited Interior offices in Colorado, Nevada and New Mexico in recent days — [spoke](https://www.gjsentinel.com/opinion/editorials/changes-at-interior/article_6db8570c-7c88-11e8-b4af-10604b9f1ff4.html) with Colorado's Grand Junction Daily Sentinel last week about the department's looming reorganization. "If I look at where I thought things would be — our agenda in terms of priorities — and line it up with the time frame, we're ahead of where I thought we'd be," Bernhardt told the newspaper.” [E&E News, [7/2/18](https://www.eenews.net/eenewspm/2018/07/02/stories/1060087521)]

**Bernhardt: “If someone is working out here in the local field office and they send something up to the state director, they're supposed to get a yes or no in 18 days.’** “‘If someone is working out here in the local field office and they send something up to the state director, they're supposed to get a yes or no in 18 days,’ Bernhardt told the Daily Sentinel, noting that the pilot program is targeting approvals that may otherwise take between 60 and 100 days to go through the chain of command. ‘That's a lot better than sitting here saying, 'I don't know.' Little things like that can add a lot of sanity to the process.’” [E&E News, [7/2/18](https://www.eenews.net/eenewspm/2018/07/02/stories/1060087521)]

#### ANWR

**David Bernhardt Represented Alaska in Attempt to Allow Seismic Testing in ANWR.** “But then in 2013, the state of Alaska claimed that the window was still open because, if you take a close look at ANILCA, the law does not provide a date saying when authority for seismic work would expire. U.S. District Court Judge Sharon Gleason decided in favor of the Obama administration in 2015. She said when you look at the context of the law it was ‘reasonable’ to read ANILCA as saying the authority for seismic work was a one-time deal and the window closed in 1987. The judge did not say that was the only reasonable interpretation. And we may find out if a very different interpretation can pass judicial muster, too, because there’s been a sea change in management at Interior. The attorney who argued the state’s case, David Bernhardt, is the new deputy secretary of Interior. The department is now moving to rewrite its rules to allow more seismic exploration on the coastal plain. Hayes, the former deputy, said this is folly.” [Alaska Public Media, [9/18/17](https://www.alaskapublic.org/2017/09/18/seismic-work-in-anwr-can-they-do-that/)]

* **Obama Administration Argued Window for Seismic Testing Had Closed and Would Require Act of Congress.** “When Congress was redrew the map of Alaska’s federal lands in 1980, it couldn’t decide whether the flat part along the coast of the Arctic Refuge should be wilderness or oilfield. So it said it would decide later. That was in the Alaska National Interest Lands Conservation Act. Congress also called for a report on what might be there, with seismic work to inform that report. That was done. Congress got its report in 1987. And for 30 years, the Interior Department maintained any more seismic work – like drilling – would require an act of Congress. David Hayes was the Deputy Interior Secretary in the Clinton and Obama administrations. He said a formal memo on the subject by the Interior solicitor in 2001 was crystal clear. ‘It was quite definitive that the window was closed,’ Hayes said.” [Alaska Public Media, [9/18/17](https://www.alaskapublic.org/2017/09/18/seismic-work-in-anwr-can-they-do-that/)]

**Interior Secretary Gale Norton Omitted Scientific Data Detailing Impact of Oil Drilling on Caribou in Answers to Senate Committee.** “When a Senate committee asked Interior Secretary Gale A. Norton questions about caribou in the Arctic National Wildlife Refuge, she sought answers from the agency in her department that runs the refuge. But when Norton formally replied to the committee, she left out the agency's scientific data that suggested caribou could be affected by oil drilling, while including data that supported her case for exploration in the refuge, documents show. Norton also added data that were erroneous, stating that caribou calving has been concentrated outside the proposed drilling area in 11 of the last 18 years, when the opposite is true. The Arctic refuge was already the first issue to pierce the bipartisan consensus that prevailed on Capitol Hill since last month's terrorist attacks, with drilling proponents pushing for a vote on national security grounds and opponents arguing for delay.” [Washington Post, [10/19/01](https://www.washingtonpost.com/archive/politics/2001/10/19/departmental-differences-show-over-anwr-drilling/cf80543c-3ad9-4a5d-99b8-bab2afc9c468/?utm_term=.ce71016e4a39)]

* **Answers Were Rewritten by David Bernhardt.** “The four questions related to caribou -- two about calving habits, two about the potential impact of oil development -- were referred to Fish and Wildlife. On May 24, biologists at the refuge provided their recommended answers, which were approved by five offices up the agency’s chain of command without substantive changes, agency sources said. When the answers arrived at Norton’s office, they were rewritten with input from her congressional affairs director, David Bernhardt, and her senior counselor, Ann Klee. The before-and-after documents were provided to The Washington Post by Public Employees for Environmental Responsibility (PEER), which has battled Norton since her nomination. The scientific data the agency gave Norton offered fuel for both sides of the debate. The bottom line was that caribou gravitate toward the 1002 area -- and that they tend to avoid oil fields when calving -- but that they have mostly prospered over the last three decades despite the development of sprawling oil infrastructure.” [Washington Post, [10/19/01](https://www.washingtonpost.com/archive/politics/2001/10/19/departmental-differences-show-over-anwr-drilling/cf80543c-3ad9-4a5d-99b8-bab2afc9c468/?utm_term=.ce71016e4a39)]

**Bernhardt on ANWR Leasing: “We Expect To Move Pretty Quickly On That Once We Go Through The 60-Day Comment Period.”** “The Interior Department will begin the environmental scoping process for selling leases in the Arctic National Wildlife Refuge’s coastal plain in the coming weeks, Interior Deputy Secretary David Bernhardt said today at an Alaska industry breakfast. ‘We expect to move pretty quickly on that once we go through the 60-day comment period,’ Bernhardt said. After the comment and scoping period, the department will consider whether to undertake a full environmental impact statement on the lease sale. He said the department has not yet received any requests to conduct seismic studies in the region, but added that exploration applications would require separate reviews under the National Environmental Policy Act, Endangered Species Act and Marine Mammal Protection Act.” [E&E News, [3/8/18](https://www.eenews.net/greenwire/2018/03/08/stories/1060075843)]

## Political Donations

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| **Federal Donations from David Bernhardt (1999-2017)** |
| **Recipient** | **Amount** |
| Brownstein Hyatt Farber Schreck PAC | $13,770.00 |
| NRSC | $10,000.00 |
| Hunter Action Fund (Haf) | $3,750.00 |
| Votetipton.Com | $3,700.00 |
| Cory Gardner For Senate | $3,600.00 |
| Friends of Mike Lee Inc | $3,500.00 |
| Donald J. Trump for President, Inc. | $2,700.00 |
| Alaskans For Dan Sullivan | $2,700.00 |
| Rob Bishop for Congress | $2,500.00 |
| Thom Tillis Committee | $2,500.00 |
| Simpson For Congress | $2,400.00 |
| Romney For President Inc. | $2,400.00 |
| Friends of Doc Hastings | $2,000.00 |
| Friends of John Hoeven | $2,000.00 |
| Tim Scott For Senate | $2,000.00 |
| Jeff Flake for Us Senate Inc | $2,000.00 |
| Bush-Cheney '04 Inc | $2,000.00 |
| Gardner For Congress | $2,000.00 |
| Hoeven For Senate | $2,000.00 |
| Pombo For Congress | $1,500.00 |
| Valadao For Congress | $1,500.00 |
| New Pac | $1,250.00 |
| NRCC | $1,125.00 |
| Friends of Jason Chaffetz | $1,000.00 |
| Ben Sasse for Us Senate Inc | $1,000.00 |
| Heller For Senate | $1,000.00 |
| Jane Norton for Colorado Inc | $1,000.00 |
| Arizona Republican Party | $1,000.00 |
| Friends for Chris Stewart, Inc. | $1,000.00 |
| Montanans For Rehberg | $1,000.00 |
| Jon Keyser For Senate | $1,000.00 |
| Cole For Congress | $1,000.00 |
| Lisa Murkowski For Us Senate | $1,000.00 |
| Republican National Committee | $1,000.00 |
| Liz Cheney For Wyoming | $1,000.00 |
| Friends of John Barrasso | $1,000.00 |
| Lummis For Congress | $1,000.00 |
| Friends of John McCain Inc | $1,000.00 |
| Cotton for Senate | $1,000.00 |
| Dakota Pac | $1,000.00 |
| McCain-Palin Victory 2008 | $1,000.00 |
| Devin Nunes Campaign Committee | $1,000.00 |
| McConnell Senate Committee '14 | $1,000.00 |
| George Allen For Us Senate | $1,000.00 |
| John McCain 2008 Inc. | $800.00 |
| Committee To Re-Elect Congresswoman Marge Roukema | $650.00 |
| Bayou Leader Political Action Committee | $600.00 |
| American Success Political Action Committee | $500.00 |
| Friends of Kelly Ayotte | $500.00 |
| Frist 2000 Inc | $500.00 |
| Deb Fischer for Us Senate Inc | $500.00 |
| Gardner For Congress 2012 | $500.00 |
| Cantor for Congress | $500.00 |
| Citizens for Cochran | $500.00 |
| Steve Daines For Montana | $500.00 |
| Pat Roberts for Us Senate Inc | $500.00 |
| Thornberry For Congress Committee | $500.00 |
| Paul Cook for Congress | $500.00 |
| Cannon for Congress | $500.00 |
| Hatch Election Committee Inc | $500.00 |
| Zinke For Congress | $500.00 |
| Friends of Pat Toomey | $500.00 |
| Bereuter For Congress Committee | $500.00 |
| Coffman For Congress | $500.00 |
| Pat Meehan for Congress | $400.00 |
| NRSC/NRCC Victory Committee | $250.00 |
| Safari Club International Pac (Sci-Pac) | $250.00 |
| Friends of Roy Blunt | $200.00 |
| **Total** | **$105,545.00** |

[Federal Election Commission, accessed 11/13/18]