

INTERIOR

Energy companies paid Bernhardt more than \$80K last year

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David Bernhardt filed documents ahead of his confirmation hearing to be Interior deputy secretary that said he will recuse himself for a year from issues involving companies he had lobbied for. Photo courtesy of Brownstein Hyatt Farber Schreck LLP.

Interior deputy secretary nominee David Bernhardt earned at least \$80,000 last year working for a host of energy and environmental interests, disclosure forms show.

He agreed to recuse himself for one year from matters involving any of the companies as well as other former clients of his or his law firm, Brownstein Hyatt Farber Schreck LLP.

The documents Bernhardt filed in order to advance through the confirmation process were signed off on earlier this week by the Interior Department's top ethics official.

Bernhardt's [**financial disclosure report**](#) was filed with the independent Office of Government Ethics on March 6, more than a month before the White House formally nominated him for Interior's second-highest post ([**Greenwire**](#), April 28).

The disclosures show Bernhardt made more than \$1.1 million last year from Brownstein Hyatt, where he is a partner, and a holding company of the law firm.

The disclosure report lists the following clients as paying him at least \$5,000 for his legal services in 2016: Targa Resources Co. LLC, Noble Energy Co. LLC, NRG Energy Inc., Sempra Energy, Lafarge North America - Western Region, Safari Club International Foundation, Active Network LLC, Statoil Gulf Services LLC, Cobalt International Energy, Rosemont Copper Co., Independent Petroleum Association of America, Taylor Energy Co. LLC, Garrison Diversion Irrigation District, Westlands Water District, Cadiz Inc., and the Forest County Potawatomi Community.

Bernhardt also has a stock portfolio worth at least \$559,000 and other assets including bank and brokerage accounts worth more than \$253,000. He was previously the co-owner of Bernhardt Brothers Land & Cattle, a limited liability corporation valued at more than \$15,000 that he dissolved in March, and lives in a home worth between \$500,000 and \$1 million.

In a May 1 letter to Melinda Loftin, the director of Interior's Ethics Office, Bernhardt promised to withdraw from the partnership of Brownstein Hyatt and all related entities. He would be paid out based on the value of his work through the date of his withdrawal and pledged to forfeit any money the firm doesn't pay out before he enters federal service.

Bernhardt also promised to "not participate personally or substantially in any particular matter involving" his former clients or "specific parties in which I know the firm is a party or represents a party" for one year, unless he receives authorization to do so.

A separate [disclosure form](#) filed with the Senate Energy and Natural Resources Committee revealed several additional clients whom Bernhardt had done significant work for in the past five years: the American Wind Energy Association, Archer Daniels Midland Co., American West Potash LLC, Diamond Ventures Inc., DLJ Real Estate Capital Partners, Halliburton Energy Services, Kingman Farms Ventures LLC, the state of Alaska, Samson Resources, Alcatel-Lucent Submarine Networks and Ur-Energy USA Inc.

In the committee disclosure form obtained by E&E News, he sought to downplay his lobbying on behalf of clients and claimed to have not used his former role at Interior to gain access.

"The primary focus of my practice is on legal matters including investigations, negotiations, counseling and litigation regarding existing or potential legal, administrative law procedures, processes, and compliance," Bernhart wrote. "To the extent that I actually engaged in regulated lobbying activities for a particular client, my activities were focused on lobbying activities or lobbying contacts with covered officials within the Legislative Branch."

His OGE [ethics agreement](#) also would prevent Bernhart from participating without approval in matters involving the Virginia Board of Game and Inland Fisheries and the Center for Environmental Science Accuracy and Reliability, two organization where he previously served as a board member.

Finally, he pledged to divest from a Virginia Tax-Free Bond Fund worth at least \$100,000 and to ensure that any fund manager he employs obtains his approval "for the purchase of any assets other than cash, cash equivalents" or federally approved investment funds.

A [letter](#) from Loftin to Senate Energy and Natural Resources Chairwoman Lisa Murkowski (R-Alaska) and ranking member Maria Cantwell (D-Wash.) approving Bernhardt's forms was obtained today from a committee source by E&E News.

"It is my opinion, based upon my review of Mr. Bernhardt's [financial disclosure report] and the specific commitments made by him in his ethics agreement that he will be in compliance with the conflicts of interest laws and regulations that will apply to him as Deputy Secretary of the Department of the Interior," Loftin said on May 8.

Allegations of scientific meddling

Some environmentalists, however, are raising concerns about Bernhardt's time at Interior during the George W. Bush administration. They cite his involvement in producing incorrect testimony that former Interior Secretary Gale Norton delivered to the Energy and Natural Resources Committee at a hearing about oil drilling in the Arctic National Wildlife Refuge.

"I am writing you on behalf of Public Employees for Environmental Responsibility (PEER) to express our opposition to the nomination of David Bernhardt as Deputy Secretary, Department of Interior and to urge your Committee to thoroughly investigate his role in political manipulation of science during his first stint at Interior before considering his nomination," PEER Executive Director Jeff Ruch wrote in a [letter](#) sent today to Murkowski and Cantwell.

Ruch alleged that Bernhardt, in his previous role as director of congressional and legislative affairs and counselor to the secretary, abetted "the doctoring of scientific findings about effects of oil development in the Arctic National Wildlife Refuge (ANWR) and misleading the Congress."

After PEER obtained and released internal Fish and Wildlife Service documents that contradicted Norton, the former secretary admitted that she made mistakes in describing caribou calving behavior in ANWR ([Greenwire](#), Oct. 26, 2001).

"Whether he was the author or the midwife [of the errors], these events should bear directly on his fitness to serve in the nominated position," Ruch wrote.

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