



Public Employees for Environmental Responsibility

962 Wayne Avenue, Suite 610 • Silver Spring, MD 20910

Phone: (202) 265-PEER • Fax: (202) 265-4192

Email: info@peer.org • Web: <http://www.peer.org>

May 11, 2017

Senator Lisa Murkowski
Chairperson
U.S. Senate Committee on
Energy & Natural Resources
304 Dirksen Senate Building
Washington, DC 20510

Senator Maria Cantwell
Ranking Member
U.S. Senate Committee on
Energy & Natural Resources
511 Hart Senate Office Building
Washington DC 20510

Re: Nomination of David Bernhardt to Serve as Deputy Secretary, Department of Interior

Dear Sens. Murkowski and Cantwell:

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.

The matter we are bringing to your attention is Mr. Bernhardt's role in abetting the doctoring of scientific findings about effects of oil development in the Arctic National Wildlife Refuge (ANWR) and misleading the Congress.

Back in May 2001, Senator Frank Murkowski, then Chair of the Energy & Natural Resources Committee, asked then-Secretary Gale Norton for Interior's official evaluation of the impacts of oil drilling on the Porcupine caribou herd in ANWR. Norton tasked the U.S. Fish & Wildlife Service (FWS) with developing answers.

The resulting FWS findings were transmitted to Sec. Norton's office where they were extensively rewritten in ways to downplay the adverse impacts FWS found and to present a misleading picture of the state of scientific evidence.

At the time these alterations took place, Mr. Bernhardt was one of the few political staff in Norton's office and served as Counselor to the Secretary and Director of Congressional Affairs. Mr. Bernhardt was not only a key aide but was also the office's point person on both Arctic and petroleum issues.

The extensive changes made by Sec. Norton's shop were both extensive and all skewed one way:

- **Changing Numbers.** While FWS noted "there have been PCH [Porcupine caribou herd] calving concentrations within the 1002 Area in 27 of 30 years," Interior changed that to say "Concentrated calving occurred primarily outside of the 1002 Area in 11 of the last 18 years." [emphases added]
- **Ignoring Key Data.** FWS reported that calving reproductive "pauses" (years that females do not produce a calf) is higher in developed areas in Prudhoe Bay than in undisturbed areas. Interior left these data out and instead stated that "Parturition and recruitment data do not support the hypothesis that oil fields adversely affect caribou productivity."
- **Spinning Absence of Data.** Norton stated that "There is no evidence that the seismic exploration activities or the drilling of the Kaktovik Inupiat Corporation exploratory well...have had any significant negative impact on the Porcupine caribou herd," but she omitted the FWS disclaimer that "no studies were conducted to determine the effects of the above activities on the PCH."

Shortly thereafter, concerned FWS employees supplied the paper trail documenting those alterations to PEER, which brought the issue to the media. The episode was only the earliest but far from the only blatant skewing of scientific information for political purposes during the Bush years.

In letters Mr. Bernhardt sent to Senators to contain fallout from PEER's revelation of these falsifications, he sought to minimize the discrepancies, writing "we made a mistake in the letter" as if there was only one alteration. He later wrote that the FWS assessment had been "edited for responsiveness."

Mr. Bernhardt's detailed involvement with these technical changes also raise the question of whether he was the author of these alterations.

Whether he was the author or the midwife, these events should bear directly on his fitness to serve in the nominated position. As you know, Interior's operations are largely rooted in science, necessitating a Deputy Secretary dedicated to scientific integrity. Unless the truth of his involvement is detailed, his service as Deputy Secretary would throw a shadow over all scientific work by Interior agencies that has a bearing on the interests of the oil and gas industry and also on the interests of his clients whom he has represented in his private law practice.

Besides questioning Mr. Bernhardt about his role in this matter, PEER would urge the Committee to seek out witnesses both to his functions and to the significance of the changes

Interior's political staff made to the FWS findings.

Such an inquiry is important both to this nomination and to the consideration by Congress of any proposals to change the status of safeguards for the Arctic Refuge.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeff Ruch". The signature is fluid and cursive, with the first name "Jeff" being more prominent than the last name "Ruch".

Jeff Ruch
Executive Director

Attachments:

Summary of changes Interior made to FWS Arctic assessment
https://www.peer.org/assets/docs/ak/Norton_comparison.pdf

Letter FWS transmitted to DOI Sec.
https://www.peer.org/assets/docs/ak/01_19_10_fws_ltr.pdf

Letter DOI sent to Senate
https://www.peer.org/assets/docs/ak/01_19_10_interior_ltr.pdf

Bernhardt letters to Senators
https://www.peer.org/assets/docs/doi/5_11_17_Bernhardt_letters.pdf