

March 20, 2019

BY ELECTRONIC MAIL: os_foia@ios.doi.gov

Clarice Julka
Office of the Secretary
U.S. Department of the Interior
MS-7328, MIB
1849 C Street, N.W.
Washington, D.C. 20240

Re: Freedom of Information Act Request

Dear Ms. Julka:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and U.S. Department of the Interior regulations.

Specifically, CREW requests:

1. All communication between the office of Secretary David Bernhardt and any individuals from Norton Regulatory Strategies and Brownstein Hyatt Farber & Schreck representing or lobbying on behalf of MGM Resorts from the time period of August 1, 2017 through March 19, 2019
2. All communications concerning Secretary Bernhardt’s meeting with Gale Norton of Norton Regulatory Strategies on October 16, 2017
3. All communications between Secretary Bernhardt’s office and any individuals from Halliburton Energy Services or from Brownstein Hyatt Farber Schreck representing or lobbying on behalf of Halliburton from the time period of August 1, 2017 through March 19, 2019

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records, as well as emails to which the subjects of this request were cc’ed or bcc’ed.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). If some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. See 5 U.S.C. § 552(b). If it is your position that a document contains

nonexempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. See *Mead Data Central v. U.S. Dep't of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A) and Interior Department regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. See 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. See, e.g., *McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

On October 16, 2017, Secretary Bernhardt met with former Interior Gale Norton, who was registered to lobby on behalf of MGM Resorts.¹ Secretary Bernhardt's former employer, Brownstein Hyatt Farber & Schreck, also represents MGM.² Under then-Secretary Ryan Zinke, the Interior Department decided not to grant the Mashantucket Pequot and Mohegan tribes' petition to operate a casino in Connecticut following MGM's lobbying campaign opposing the petition. This lobbying effort led to an investigation by the Office of the Inspector General, which in turn reportedly referred Secretary Zinke to the Department of Justice.³ A grand jury examined whether Mr. Zinke lied to investigators.⁴

Secretary Bernhardt also previously represented Halliburton Energy Services. Secretary Zinke's involvement in a land deal connected to Halliburton was the subject of an additional Inspector General investigation that was also reportedly referred to the Justice Department.

¹ David Bernhardt, calendar records, 11am - 11:30am, October 16, 2017.

https://www.doi.gov/sites/doi.gov/files/uploads/bernhardt_oct_2_-_nov_1_2017_redacted.pdf
Itai Vardi, "Deputy Interior Secretary Met With Lobbyist For A Casino His Former Firm Also Represents," *HuffPost*, April 20, 2018, available at https://www.huffingtonpost.com/entry/deputy-interior-secretary-lobbyist-casino_us_5ada2588e4b01c279db425d9

² Vardi, *HuffPost*, April 20, 2018.

³ Matt Zapotosky, Josh Dawsey, Juliet Eilperin and Lisa Rein, "Justice Dept. investigating whether Zinke lied to inspector general," *Washington Post*, January 3, 2019, available at https://www.washingtonpost.com/world/national-security/justice-dept-investigating-whether-zinke-lied-to-inspector-general/2019/01/03/6c9dea06-0eac-11e9-84fc-d58c33d6c8c7_story.html?utm_term=.2973738e3d60

⁴ Juliet Eilperin and Juliet Eilperin, "Grand jury is examining whether former interior secretary Ryan Zinke lied to federal investigators," *Washington Post*, February 22, 2019, available at https://www.washingtonpost.com/national/health-science/grand-jury-is-examining-whether-former-interior-secretary-ryan-zinke-lied-to-federal-investigators/2019/02/22/ofb2427a-36c4-11e9-854a-7a14d7fec96a_story.html?utm_term=.0e5a1fb684ae

⁵ The requested documents would shed light on Secretary Bernhardt's involvement as a government official with companies connected to investigations into former Interior Secretary Ryan Zinke. The public has a strong interest in accessing this information, given Secretary Zinke's potential criminal liability in the investigations connected to Halliburton and MGM.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public's right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and working to reduce the influence of money on politics. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to analyze the information responsive to this request and to share its analysis with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, www.citizensforethics.org. The release of information obtained through this request is not in CREW's financial interest.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. See *Nat'l Sec. Archive v. U.S. Dep't of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a "representative of the news media" and broadly interpreting the term to include "any person or organization which regularly publishes or disseminates information to the public").

CREW routinely and systematically disseminates information to the public in several ways. CREW's website receives tens of thousands of page views every month. The website includes a blog that reports on and analyzes newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts the documents it receives under the FOIA on its website, which has been visited hundreds of thousands of times.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

Conclusion

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at (202) 408-5565 or czhang@citizensforethics.org. Also, if CREW's request for a fee waiver is not granted in full, please contact our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to me either at czhang@citizensforethics.org or Caroline Zhang, Citizens for

⁵ Zapotosky, *Washington Post*, January 3, 2019.

Responsibility and Ethics in Washington, 1101 K St NW, Suite 201, Washington, DC 20005.
Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'CZ', with a long horizontal flourish extending to the right.

Caroline Zhang
Social Media Manager