UNITED STATES SENATE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

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1. Name: **David Longly Bernhardt**

2. Position to which nominated: **Deputy Secretary, United States Department of the Interior**

3. Date of nomination: **April 28, 2017**

4. Place of birth: **Atwood Kansas**

5. Name of spouse: **Gena Bernhardt**

6. Spouse's occupation: **Attorney** Spouse's employer: **U.S. Department of Justice**

7. Education: Please list, in chronological order, from the earliest to the latest, each college, university, and graduate school you attended, when you attended, the degrees you received, and the date on which you received it.

Name of institution	Dates attended	Degree received	Date of degree
The University of Northern Colorado,	**8/87-12/90**	**Bachelor of Arts**	**12/90**
The George Washington University,	**08/91-05/94**	**Juris Doctor, with honors**	**05/94**

8. Employment: Please list, in chronological order, from the earliest to the present, all positions held since college, including dates of employment, your title or job description, the name of the employer, and the city and state in which you were employed.

Dates	Title	Name of employer	Location
12/90-8/91	Manager	Dave's Furniture Mart, Inc.	Greeley, CO
05/92-8/92	Law Clerk	Stuver & George, P.C.	Rifle, CO
1/93-8/98	Held various legislative aide positions in the same office: Legislative Assistant, Senior Legislative Assistant, Legislative Director, Counsel/Associate Staff House Rules Committee	The Honorable Scott McInnis, U.S House of Representatives	Washington, DC
8/98-3/01	Associate	Brownstein, Hyatt and Farber, P.C.	Washington, D.C/Denver, CO
03/01-4/01	Special Assistant to the Secretary of the Interior	U.S. Department of the Interior	Washington, DC
04/01-07/04	Counselor to the Secretary and Director of Congressional and Legislative Affairs	U.S Department of the Interior	Washington, DC
07/04-11/05	Deputy Chief of Staff and Counselor to the Secretary of the Interior	U.S Department of the Interior	Washington, DC
11/05-09/06	Deputy Solicitor	U.S. Department of the Interior	Washington, DC
09/06-1/09	Solicitor	U.S. Department of the Interior	Washington, DC
07/07-09/08	Acting Commissioner on the part of the United States, International Boundary Commission, U.S. and Canada	International Boundary Commission	Washington, DC
09/08-1/09	Commissioner on the part of the United States, International Boundary Commission, U.S. and Canada	International Boundary Commission	Washington, DC
06/09-Present	Shareholder	Brownstein, Hyatt, Farber and Schreck, LLP	Washington, DC

9. Military service: Please describe any military service not listed above, including dates, rank, and type of discharge. **None.**

10. Honors and awards: Please list any scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognition for outstanding service or achievement you have received.

Selected by the University of Northern Colorado to give the farewell address at the University of Northern Colorado's commencement (12/1990).

Recipient of the "Departmental Scholar Award" from the Department of Political Science and the Department of the Business Management at the University of Northern Colorado (appx. 1989, 1990 respectively).

11. Publications: Please list the titles, publishers, and dates of any books, articles, or reports that you have written.

"Guiding Principles in Informational Privacy: The Rules Are Changing," *The Colorado Lawyer*, April 2000.

"The U.S. Fish and Wildlife Service Wants to Hear From You, but Don't Count Your Credits Too Quickly," *Irrigation Leader*, April 2012.

"Outlining Key ESA Policy Developments in 2009, From a Former Insider's Perspective," *ALI-ABA Course Study Species Protection: Critical Legal Issues*, November 5-6, 2009.

12. Testimony: Please identify each instance in which you have testified before Congress in a non-governmental capacity.

Subject of testimony	Committee	Date
Endangered Species	**Senate Committee on Environment and Public Works**	**May 6, 2015.**
Endangered Species	**House Committee on Natural Resources**	**April 19, 2016.**

13. Financial report: Please attach a copy of your Executive Branch Personnel Public Financial Disclosure Report (SF 278), and a statement from the appropriate agency ethics official explaining the applicable laws or regulations applicable to the position to which you have been nominated, any potential conflicts of interest, and any action required to resolve such conflicts.

14. Clients: At any time during the past 5 years, have you or any company or firm with which you have been affiliated, received a fee or payment of more than $5,000 from any source that is not listed on Schedule D, Part II of your SF 278, for services you performed for that source? If so, Please identify the source of the payments, the nature of the service you performed, and the period of time when you performed the service.

Based on the parameters described above, during the last five years, in addition to those disclosed on the Form 278, I have performed legal services for the following entities through my firm. The period of time performed are based upon my best recollection and a review of records in my possession:

Entity	Nature of Service	Period of Performance
American Wind Energy Association	Legal services	2013-2014
Archer Daniels Midland Company	Legal services	2013
American West Potash LLC	Legal services	2012-2014
Diamond Ventures Inc.	Legal services	2010-2012
DLJ Real Estate Capital Partners	Legal services	2012
Halliburton Energy Services	Legal services	2011-2013
Kingman Farms Ventures, LLC	Legal services	2014
State of Alaska	Legal services	2014-2015
Samson Resources Company	Legal services	2012-13
Alcatel-Lucent Submarine Networks	Legal services	2013
Ur Energy USA, Inc.	Legal services	2009-2012

ADDITIONAL QUESTIONS

15. Agreements or arrangements:

(a) Will you sever all connections with your present employer, business firm, association, or organization if you are confirmed by the Senate? **Yes.**

(b) Has anyone made a commitment to you to employ or compensate you after you leave public service? **No.**

16. Term of service: If confirmed, are you willing and able to serve for your full term (if appointed for a fixed term) or until the end of the current Presidential Administration (if appointed for an indefinite term)? **Yes.**

17. Legal proceedings:

(a) Are you currently a party to any legal action? **No.**

(b) Have you ever declared bankruptcy? **No.**

(c) Have you ever been investigated, arrested, or charged by any federal, state, or local law enforcement authority for the violation of any federal, state, or local law, regulation, or ordinance, other than a minor traffic offense? **No.**

(d) Have you ever been convicted (including a plea of guilty or no contest) of any criminal violation other than a minor traffic offense? **No.**

(e) Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to, any court, administrative agency, professional association, disciplinary committee, or other professional group?

No, I am an active, admitted member of good standing of the bars for Colorado, District of Columbia, and Arizona courts. In addition, I am also admitted to the U.S. Federal Court of Claims, the U.S. Federal District Court in DC, the Ninth Circuit Court of Appeals, and the Fourth Circuit Court of Appeals. I have never had my license to practice law subject to a complaint nor been cited, or disciplined, for a breach of ethics for unprofessional conduct in any such jurisdiction.

18. Taxes:

(a) Have you and your spouse filed all federal, state, and local income tax returns? **Yes.**

(b) Have you or your spouse ever filed a late income tax return without a valid extension?

We have always filed our federal taxes on time. As previously disclosed to the Committee on my 2006 Committee questionnaire, in 2000, we incorrectly thought our Virginia state extension had been filed by our accountant, along with the extensions he filed in various other jurisdictions that year. We paid our taxes at the appropriate extension due date for each jurisdiction, including Virginia, and later we were informed of our error by the Commonwealth of Virginia. Upon notification, we promptly paid a $28.47 fee that included both a penalty and interest fee for this error. In addition, in 2016 it was brought to our attention by the State of Colorado that despite the fact that we had no taxable income in Colorado, we were required to file a 2012 Colorado state income tax return. After conferring with our accountant, we were informed that our accountant's software system had erroneously indicated that no filing was required because we did not have any income from Colorado and owed no Colorado tax. We immediately filed the appropriate Colorado forms.

(c) Have you or your spouse ever paid any tax penalties or been subject to a tax lien or other tax collection procedure? If so, please explain.

We have never been subject to a tax lien or any other tax collection measure. As described in the response to 18(b), we have a penalty and interest of $28.47 in 2000. In addition, in 2015, 2016, and 2004, we paid an additional fee, or penalty, on Form 1040, Line 79 of $178, and $312 and Form 1040, Line 70, of $70 dollars respectively. We paid these fees at the time of filing.

19. Foreign ties:

(a) Have you or your spouse ever represented in any capacity (e.g., employee, attorney, accountant, consultant, or business, media, or political adviser), with or without compensation, a foreign government or an entity controlled by a foreign government? **No.**

(b) During the past 10 years, have you or your spouse received any compensation from, or been involved in any financial or business transactions with, a foreign government or an entity controlled by a foreign government? **No.**

(c) Have you or your spouse ever registered under the Foreign Agent Registration Act? **No.**

20. Lobbying: Please describe any lobbying activity that you have performed during the past 10 years with respect to legislative or administrative actions at the Federal, State, or local level.

I practice at a law firm with approximately 300 lawyers that provides a wide range of legal services to its clients. I chair the firm's natural resources department. The firm also has a large government affairs department. 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.

In addition, at various times I have registered to lobby under the Lobby Disclosure Act of 1995 for particular clients of the law firm. Given the size of the law firm, in many instances there are a team of lawyers and policy experts working on a particular client matter. As a result, the lobbying disclosure reports use one form to collectively describe a multitude of activities these various individuals engaged in individually. 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. Moreover, for some of the firm's clients, such as Access Industries, I was initially registered by the firm based upon the mere assumption that I might potentially engage in regulated lobbying activities or contact covered officials for the particular client when the client retained the firm, and those assumptions were never borne out. For that particular client, my firm has amended its disclosure forms to accurately depict the firm's lobbying activity,

which did not include my involvement, except for the initial expectation. Based on my review of available materials and my recollection, I engaged in, or was anticipated to engage in, lobbying activities for the following clients at various times under the Lobbying Disclosure Act of 1995:

Entity	General Issue Area	Period
Alcatel-Lucent Submarine Networks	Natural Resources	2013
Active Network LLC	Natural Resources	2015- June, 2016
Access Industries	Natural Resources/Energy	2011
Association of American Publishers	Education/Budget	2009
Coastal Point Energy	Natural Resources	2009-2010
First Wind Energy	Tax	2010
Diamond Ventures Inc.	Natural Resources	2010-2012
Freeport LNG Expansion	Energy	2010
Cobalt International Energy	Natural Resources/Energy	2010-2013
Vail Resorts Management Company	Natural Resources	2010-2011
Strata Production Company	Energy	2010
Otay Water District	Natural Resources	2011
Rosemont Copper Company	Natural Resources	2011-2014, 2015 quarter 4
Navajo Nation	Natural Resources	2012
Samson Resources Company	Natural Resources	2012-2013
Westlands Water District	Natural Resources	2011- November 2016

21. Appearances before Congress: If confirmed, will you be available to appear before this Committee and other Congressional committees to represent agency positions and respond to issues of concern to the Congress? **Yes.**

22. Conflicts of interest:

(a) Have your investments, personal holdings, and other interest been reviewed by yourself and the appropriate ethics counselors within the Federal

Government to determine if any of your investments, personal holdings, or other interest could constitute a conflict of interest or create the appearance of such a conflict? **Yes.**

(b) Have you taken appropriate action to avoid any conflict of interest or any appearance of a conflict of interest?

Yes, as part of the nomination process, I have consulted with the Office of Government Ethics and the Department of the Interior's Designated Agency Ethics Official to identify potential conflicts of interest. Any potential conflict will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Designated Agency Ethics Official for the Department of the Interior, should I be confirmed. This document has been provided to the Committee, and I am not aware of any other potential conflicts of interest.

(c) To the best of your knowledge, do any of your investments, personal holdings, or other interests present a conflict of interest or an appearance of a conflict of interest?

No, as part of the nomination process, I have consulted with the Office of Government Ethics and the Department of the Interior's Designated Agency Ethics Official to identify potential conflicts of interest. Any potential conflict will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Designated Agency Ethics Official for the Department of the Interior, which commits me to certain actions should I be confirmed. This document has been provided to the Committee, and I am not aware of any other potential conflicts of interest related to personal holdings.

23. Recusal: The Committee on Energy and Natural Resources requires every Presidential nominee it considers to commit to adhere to the Recusal Policy adopted by the Committee on February 16, 2011 (a copy of which is attached to this Statement). If confirmed, will you adhere to the Committee's recusal policy? **Yes.**

AFFIDAVIT

I, David Langly Bernhardt, being duly sworn, hereby state that I have read the foregoing Statement for Completion by Presidential Nominees, including all attachments thereto, and that the information provided therein is , to be best of my knowledge and belief, current, accurate, and complete.

I understand that the Statement and its attachments may be made public.

(Signature of Nominee)

Subscribed and sworn to before me this 8th day of May, 2017.

Ericka L. Rojas

(Signature of Notary Public)

ERICKA L. ROJAS
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires January 31, 2021

District of Columbia: SS
Subscribed and sworn to before me, in my presence,
this 8th day of May 2017
Ericka L. Rojas
Ericka L. Rojas, Notary Public, D.C.
My commission expires January 31, 2021.

February 16, 2011

United States Senate

Committee on Energy and Natural Resources

Recusal Policy

Each nominee coming before the Committee on Energy and Natural Resources shall agree to:

(1) Abide by the recusal requirements imposed by federal conflict of interest laws and the Standards of Ethical Conduct for Employees of the Executive Branch;

(2) Seek the advice of his or her designated agency ethics officer before proceeding whenever faced with a situation that may give rise to an actual or apparent conflict of interest; and

(3) Adhere to the principles of ethical conduct and avoid any actions creating the appearance of violating the Standards of Ethical Conduct for Employees of the Executive Branch.