## Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM 2157 RAYBURN HOUSE OFFICE BUILDING

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March 19, 2019

Mr. Laurence Brewer Chief Records Officer for the U.S. Government National Archives and Records Administration 8601 Adelphi Road College Park, MD 20740-6001

Dear Mr. Brewer:

The Committee requests that the National Archives and Records Administration (NARA) exercise its authority under the Federal Records Act and evaluate whether the Department of the Interior (DOI) is fully complying with the law. Recent testimony from a senior official at DOI and recent press reports raise questions about whether DOI is adequately preserving records related to Acting Secretary David Bernhardt's schedule and daily appointments.

On March 13, 2019, the Committee held a hearing on compliance with the Freedom of Information Act. During the hearing, in response to questions about whether Acting Secretary Bernhardt has calendars or calendar entries that are being deleted at the end of each day, Rachel Spector, Deputy Chief FOIA Officer for DOI, testified that she is aware of an issue being evaluated internally by DOI:

I have some familiarity with the issue that you are raising and understand that the Solicitor's office in the Department is working with the records officer in the Department to determine what's occurred there and whether it's consistent.<sup>2</sup>

On February 28, 2019, Acting Secretary Bernhardt wrote in a letter to Committee on Natural Resources Chairman Raúl Grijalva that he did not personally maintain a calendar, but he did not explain whether DOI preserves a complete record of his activities. Acting Secretary Bernhardt explained that his daily schedule provided to the public differs from the actual entries on his calendar, stating:

<sup>&</sup>lt;sup>1</sup> 44 U.S.C. Chapter 29.

<sup>&</sup>lt;sup>2</sup> Committee on Oversight and Reform, *Deputy Chief FOIA Officer at Department of Interior Admits Issue with Secretary Bernhardt's Calendars Being Deleted* (Mar. 13, 2019) (online at oversight.house.gov/news/press-releases/deputy-chief-foia-officer-at-department-of-interior-admits-issue-with-secretary).

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Numerous people create calendar entries on what can be labeled my calendar to maintain a schedule for the organization of daily appointments, both personal and official. However, the details of the schedule I receive each day are publicly provided.<sup>3</sup>

Acting Secretary Bernhardt reportedly did not publicly disclose several meetings with industry representatives, including a meeting with the former CEO of the American Petroleum Institute.<sup>4</sup>

This record raises questions about whether all of the Acting Secretary's meetings are being captured and preserved in accordance with DOI's record schedules.

The Committee requests that NARA review DOI's recordkeeping procedures and practices and ensure that Acting Secretary Bernhardt and his staff are complying with the Federal Records Act, NARA's regulations, and DOI's approved records schedules.

Sincerely,

Elijah E Cummings

Chairman

cc: The Honorable Jim Jordan, Ranking Member

<sup>&</sup>lt;sup>3</sup> Letter from David Bernhardt, Acting Secretary, Department of the Interior, to Chairman Raúl Grijalva, Committee on Natural Resources (Feb. 28, 2019).

<sup>&</sup>lt;sup>4</sup> Congress Wants to See Acting Interior Secretary's Calendar – He Says He Doesn't Keep One, CNN (Mar. 8, 2019) (online at www.cnn.com/2019/03/08/politics/david-bernhardt-calendar-democrats/index.html).