

To: "Rees["Rees]; Gareth"[gareth_rees@ios.doi.gov]
Cc: "Connors["Connors]; Margaret"[margaret.connors@sol.doi.gov]; "Bernhardt["Bernhardt]; David"[REDACTED]@ios.doi.gov]
From: "McDonnell, Edward" <edward.mcdonnell@sol.doi.gov>
Sent: 2018-07-14T15:15:32-04:00
Importance: Normal
Subject: Re: [EXTERNAL] Invitation for Mr. Bernhardt to meet with API Upstream Committee on July 17th in DC
Received: 2018-07-14T15:16:16-04:00

Hi Gareth,

After reviewing the invitation sent by the API to the Deputy Secretary to speak at the API Upstream Committee meeting on July 17, 2018 in Washington, DC, we have determined that there is no legal objection to Deputy Secretary Bernhardt's acceptance, on behalf of the Department of the Interior (DOI), of this invitation. It is our understanding that **his attendance will be in his official capacity** and that he will be making official remarks and presenting information on behalf of DOI and the U.S. Government at this event. We further understand that employees of approximately 30 separate organizations are expected to attend the meeting and that at least two of the expected attendees (1) are the Deputy Secretary's former clients under the administration ethics pledge and (2) have a covered relationship with the Deputy Secretary under 5 CFR 2635.502.

Official Capacity Speech – The Deputy Secretary has reasonably determined that attendance at the API Upstream Committee meeting is part of his official duties and is an appropriate forum to present information on behalf of the DOI and the Government. The meeting will be from 8:00 am to 2:00 pm at API headquarters. The Deputy Secretary is expected to provide a 20-25 minute presentation to be followed by a 20-25 minute question and answer period. We understand that the Deputy Secretary's formal remarks as a speaker at the meeting will focus on matters related to the Department's mission, including the Outer Continental Shelf Financial Assurance Program. The Deputy Secretary will also have the opportunity to communicate with various attendees at the event about the mission of the DOI and to present information on behalf of the Administration relating to the President's policy goals and priorities.

Since the Deputy Secretary's attendance at this event will be in his official capacity, he may accept any meal, refreshments, entertainment, instruction, or materials furnished to all attendees as an integral part of the meeting on July 17, 2018. 5 C.F.R. 2635.203(b)(8). Additionally, any Department staff whose presence at the meeting is essential to the Deputy Secretary's participation and presentation of official remarks may also accept free attendance at the event pursuant to 5 C.F.R. 2635.203(b)(8)(ii).

Please note the following guidelines for the Deputy Secretary speaking/presenting information in an official capacity:

1. **Ethics Pledge and 5 CFR 2635.502** - To avoid potential violation of the administration ethics pledge and 5 CFR 2635.502, the Deputy Secretary must not participate in the discussion of any particular matter involving a specific party or parties during his presentation or at any other time during the event.
2. **Official Title** – Use of his official title is permitted as the Deputy Secretary will be attending and presenting in his official capacity. 5 C.F.R. 2635.702.
3. **Endorsement** – We remind the Deputy Secretary that he may not use his official Government position or title or any authority associated with his public office to endorse any product, service, or enterprise, including non-profit and charitable organizations that may have some affiliation with DOI. 5 C.F.R. 2635.702(c).
4. **Nonpublic Information** – The Deputy Secretary may not discuss at this event any nonpublic information he has gained by reason of his Federal position. 5 C.F.R. 2635.703.
5. **No Partisan Political Activity** – While the Deputy Secretary may discuss the Administration's policy priorities and ideological approach to proposed laws and regulations (especially in regard to DOI-related issues), he must strictly avoid partisan political activity in order to remain in compliance with the Hatch Act. Partisan political activity is any activity directed towards the success or failure of a political party, candidate for a partisan political office, or partisan

political group and can include verbal remarks and speech.

Please do not hesitate to contact us if you have any questions or concerns, or if we can be of any additional assistance.

Thanks very much,

Ed

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--- Please note that a current or former employee who discloses information to an agency ethics official or a Government attorney does not personally enjoy an attorney-client privilege with respect to such communications. Additionally, reliance on the oral or written advice of an agency ethics official cannot ensure that an employee will not be prosecuted for a violation of Title 18 of the United States Code. However, good faith reliance on such advice is a factor that may be taken into account by the Department of Justice in the selection of cases for prosecution. ---

Ed McDonnell

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On Fri, Jul 13, 2018 at 4:30 PM, Rees, Gareth <gareth_rees@ios.doi.gov> wrote:

Hi,

Just wanted to quickly follow-up on this to confirm that it is okay for David to speak at this event on Tuesday.

Thanks

On Thu, May 31, 2018 at 4:03 PM, Connors, Margaret <margaret.connors@sol.doi.gov> wrote:

Gareth:

After reviewing the meeting request for DB to address Upstream Members at API and after reviewing the meeting participant list, both Nobel Energy and Halliburton appeal on DB's recusal letters. Accordingly, DB is recused from discussing particular matters involving specific parties in which Halliburton is a party or represents a party (5 CFR 2635.502). Further and according to the Ethics Pledge, DB is prohibited from participation in any meeting or communication with (Nobel Energy or Halliburton) unless (1) there are five or more different stakeholders present and (2) no particular matters involving specific parties are discussed.

Markee

----- Forwarded message -----

From: **Connors, Margaret** <margaret.connors@sol.doi.gov>

Date: Wed, May 30, 2018 at 1:08 PM

Subject: Re: [EXTERNAL] Invitation for Mr. Bernhardt to meet with API Upstream Committee on July 17th in DC

To: Edward McDonnell <edward.mcdonnell@sol.doi.gov>

Ed:

After reviewing the meeting request for DB to address Upstream Members at API and after reviewing the meeting participant list, both Nobel Energy and Halliburton appeal on DB's recusal letters. Accordingly, DB is recused from discussing particular matters involving specific parties in which Halliburton is a party or represents a party (5 CFR 2635.502). Further and according to the Ethics Pledge, DB is prohibited from from participation in any meeting or communication with (Nobel Energy or Halliburton) unless (1) there are five or more different stakeholders present and (2) no particular matters involving specific parties are discussed.

Markee

On Wed, May 30, 2018 at 9:42 AM, Connors, Margaret <margaret.connors@sol.doi.gov> wrote:

Is it a lunch, meeting with coffee & pastries? If so, we may need to document this. Will others be present? How many?

Markee

On Wed, May 30, 2018 at 9:31 AM, Rees, Gareth <gareth_rees@ios.doi.gov> wrote:

There is no charge for the event. API invites its Upstream Committee to DC and then invite guest speakers to attend. Is there still a need for a WAG as there is not cost?

On Wed, May 30, 2018 at 9:25 AM, Connors, Margaret <margaret.connors@sol.doi.gov> wrote:

Did you fill out a WAG for this event? If not, please do so and send it to me. I looked and I do not have a WAG from you.

Markee

On Wed, May 30, 2018 at 9:12 AM, Rees, Gareth <gareth_rees@ios.doi.gov> wrote:

Just confirmed that David would like to speak at this if cleared by Ethics. David talk about big picture issues and no party specific issues. Let me know what further information you need.

Thanks

On Tue, May 29, 2018 at 1:31 PM, Rees, Gareth <gareth_rees@ios.doi.gov> wrote:

David is likely to say yes to do this so wanted to get down to you asap. Thanks
----- Forwarded message -----

From: **Erik Milito** <militoe@api.org>

Date: Tue, May 29, 2018 at 1:11 PM

Subject: RE: [EXTERNAL] Invitation for Mr. Bernhardt to meet with API Upstream Committee on July 17th in DC

To: "Rees, Gareth" <gareth_rees@ios.doi.gov>

Gareth,

Please attached for the form, and an additional document that I reference in the form itself.

Thanks.

Erik

From: Rees, Gareth <gareth_rees@ios.doi.gov>
Sent: Tuesday, May 29, 2018 11:14 AM
To: Erik Milito <militoe@api.org>
Subject: Re: [EXTERNAL] Invitation for Mr. Bernhardt to meet with API Upstream Committee on July 17th in DC

Hi Erik

Thank you for the request. Would you be able to complete the attached form. Once I have received the completed form, I will run it through Ethics and get back to you.

thanks

Gareth

On Thu, May 24, 2018 at 3:15 PM, Erik Milito <militoe@api.org> wrote:

Gareth,

API's Upstream Committee will be in DC on July 17th and it would be great if Mr. Bernhardt could join us as a guest speaker. The committee is comprised of executives from the companies listed in the attachment, and the committee is responsible for overseeing U.S. exploration and production policy efforts. The meeting will be from 8:00 am until 2:00 pm at API headquarters, located at [1220 L Street NW](#). We could accommodate Mr. Bernhardt during whatever time block is best for him. Our guest speakers from Interior normally give a 20-25 minute presentation and then we leave 20-25 minutes for question and answer.

Please let me know if this can be arranged.

Thank you.

Best regards,

Erik

Erik Milito

Group Director, Upstream & Industry Operations

American Petroleum Institute

[1220 L Street, NW](#)

[Washington, DC 20005](#)

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militoe@api.org



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