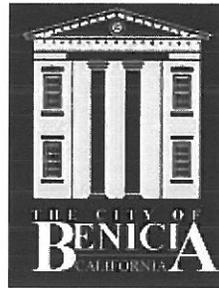


Prepared exclusively for



**Response to RFQ
For the Benicia Arsenal Investigation and
Cleanup Project**

**Proposal to Provide
Legal Services and Project Management**

Steven L. Hoch
Brownstein Hyatt Farber Schreck, LLP
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DUE DATE: November 4, 2010, 5:00 PM PDT

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Brownstein | Hyatt
Farber | Schreck

November 3, 2010

Steven L. Hoch
Attorney at Law
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shoch@bhfs.com

VIA FEDERAL EXPRESS DELIVERY

Heather C. McLaughlin
City Attorney
City of Benicia
250 East L Street
Benicia, CA 94510

RE: Response to RFQ for the Benicia Arsenal Investigation & Cleanup Project

Dear Ms. McLaughlin:

Brownstein Hyatt Farber Schreck, LLP ("Brownstein" or "the Firm") is pleased to submit this proposal in response to The City of Benicia's ("the City") Request for Qualifications for legal services and project management. It would be Brownstein's privilege to advise the City in regards to its Benicia Arsenal Investigation and Cleanup Project, and other related legal matters as requested. The City is facing a significant and complex problem that needs the creation of an immediate pathway for a solution that is both effective and cost efficient. As we demonstrate in this proposal, our qualifications and experience make us uniquely well-qualified to represent the City and develop a cost effective and successful pathway and solution.

Within the City's boundaries lies property integral to the City's ongoing vitality that is contaminated by a legacy of the 150 plus years of Army use as an arsenal ("the Site"). In order to comply with the law and meet the City's needs, the City seeks to bring on board a team to develop and negotiate a solution among multiple parties involved in the cleanup of the Site, provide ongoing management of the cleanup efforts, furnish legal advice to the City concerning liability and related strategies and assist with obtaining outside Federal funding. Brownstein is uniquely qualified to handle all aspects of this work.

Brownstein has an extraordinary level of experience in dealing with federal and state agencies in such situations. In addition, Brownstein thoroughly understands liability issues associated with these situations and has defended property owners, both public and private, against such claims and understands full well the interplay between the issues of liability, obtaining the necessary response for a successful cleanup and minimizing our client's exposure. We have the reach in Washington, DC and Sacramento to maximize the potential for funding as well as identifying other avenues to obtain funding or shifting the burden of costly cleanup to others.

Ms. Heather C. McLaughlin, City of Benicia
November 3, 2010
Page 2

The City is being uniquely proactive to this problem through its solicitation of this RFQ. Brownstein believes it can work hand in hand with the City to take the steps both short term and long term to effectuate a solution.

This proposal contains the requested detailed information of our legal services and project management capabilities. As a Shareholder of the firm, I am authorized to submit this proposal, negotiate contract terms and commit the necessary resources to execute any subsequent contract with the City. This proposal is effective for 90 days from the proposal due date of November 4, 2010.

Thank you very much for your consideration of this proposal. We look forward to further discussing our capabilities with you. Please do not hesitate to contact me if you have any questions or require any additional information.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'S. Hoch', written in a cursive style.

Steven L. Hoch
Brownstein Hyatt Farber Schreck, LLP

Enclosures

APPROACH – SECTION 1

In order to develop an approach to the myriad of issues in this matter, baseline information needs to be obtained, analyzed and then discussed with the City in order to develop an approach that addresses the City's legal requirements, its plans and principles, its financial constraints and its goals. Brownstein proposes a two-step process to allow assessment of the current status of the Project in order to develop a comprehensive approach and budget that cannot be accurately developed based on the limited information in the RFQ. To do otherwise would amount to creating a plan based on complete speculation leading inevitably to a waste of time and resources. Our two-step process is discussed in detail below under Scope of Work – Section 4.

ORGANIZATION, MANAGEMENT AND TEAM MEMBERS –SECTION 2

Brownstein offers an integrated team of attorneys with significant experience in legal services. We strive for efficiency when staffing matters, typically using a combination of shareholders, associates and legal assistants with each task performed by the attorney with the requisite level of experience but with the lowest billing rate thereby providing the City with economic efficiencies. While Brownstein has many resources which could be brought to bear on this matter, our core approach is to operate as "lean" as possible so as to be efficient and cost effective. That calls for a dedicated group of professionals who understand the issues and can work effectively together with consultants and the City.

Therefore, our approach is to have one person who is extremely experienced in dealing with not only the laws, science and agencies involved, but in organizing and managing attorneys to effectuate the most economic and efficient production of work for the City. The team would include attorneys with the unique requisite experience and who would not have to learn "from scratch." They would work under the overall direction of the lead counsel, performing discrete tasks in their specialty, with full knowledge of their integration into the whole. We suggest employing, at the appropriate time, document management techniques that would create for higher efficiency in dealing with the large number of documents that are often a hallmark of these types of matters.

Of course, the most important aspect of this organization and management of this matter is Brownstein's integration with various persons within the City. Such integration is critical to effective communication and timely decision making to reach the goals set. This also creates efficiency through use of the City's own resources, knowledge and ability. The Firm also has relationships with consultants that have experience in these types of cases and whose services can be drawn upon to assist in the technical aspects of the work.

The following persons are being suggested for the team at this juncture. However, until more information is obtained about the Project, the attorneys and their level of involvement cannot be determined. Each member has committed their time to this Project should Brownstein be selected. From time to time other associates and legal

assistance may be called to assist in dealing with matters as they arise. These matters will be discussed with the City Attorney as necessary to keep the City informed. Full biographies of each team member are attached in Appendix A.

Proposed Natural Resources Team

Steven L. Hoch

Mr. Hoch will serve as overall Team Leader. He has 36 years of experience in the field of environmental law in the context of litigation and litigation avoidance, regulatory and administrative practice, public policy and practical solutions to contamination working with both public and private parties in advancing successful remediation techniques. He specializes in soil and water contamination issues but is well versed and practices in the area of air resources as well. He has managed many matters that involved large groups of litigants and agencies and managed not only the firm's own attorneys, but other attorneys in other firms who have asked for his assistance in leading diverse groups to reach consensus. He is a frequent speaker at professional education and policy seminars on various environmental issues.

Gary M. Kvistad

Mr. Kvistad will provide specific project management for the Brownstein team and other consultants for integration with the City based on his knowledge and practice as an attorney and architect. He has over 20 years experience in representing public agency clients, including as general counsel and deputy city attorney, in a wide variety of contamination problems, site characterization, cleanup and cost recovery. He has experience with negotiating resolutions and, in those situations where unsuccessful, federal and state court litigation. Mr. Kvistad has been involved in CERCLA cost recovery actions, groundwater contamination cases, and water quality issues under the Clean Water Act. An important aspect of his practice is identifying and obtaining other sources of funding for project cleanup and remediation, such as through agreements or insurance.

Michele C. Kales

Ms. Kales has been practicing law for 15 years and represents clients in CERCLA compliance and cost recovery actions, water quality issues, Endangered Species Act issues, Clean Water Act storm water permitting compliance issues, federal claims actions against the United States and environmental due diligence matters associated with the acquisition of contaminated property. Importantly, Ms. Kales has had extensive experience working on several actions involving the remediation and redevelopment of former military installations, including the Lowry Air Force Base in Denver, Colorado and on former military installations in Florida and Louisiana. Prior to joining Brownstein, Ms. Kales served as general counsel for the Upper Chattahoochee Riverkeeper, a nonprofit environmental organization in Atlanta.

Chad P. Seber

Mr. Seber has been practicing law for 11 years. Prior to joining the firm, Mr. Seber was a Captain in the U.S. Marine Corps and served as Special Water Counsel for the Marine Corps' Western Bases. There he was the lead agency counsel with practical experience in water rights and water quality cases. Mr. Seber advised the Marine Corps on complex

legal and strategic issues enabling it to execute its environmental stewardship and National Defense Missions. Since joining BHFS, he has dealt with matters dealing with complex water rights and water quality issues. He also has experience in infrastructure siting and development, environmental litigation, and land use planning issues.

Kari N. Vozenilek

Ms. Vozenilek has been practicing law for 4 years and has had hands on experience in several major environmental matters, in litigation and in the administrative problem solving context, under CERCLA, Clean Water Act, NEPA and CEQA.

Proposed Federal and State Funding Team

For the integrated, but separate task of exploring the possible avenues of federal and state funding, the following two attorneys may be assigned primary responsibility, integrating their work through Mr. Hoch. We are suggesting these attorneys because each has a unique audience that they can reach, which is often key to successfully obtaining funding.

Kenneth L. Khachigian

Mr. Khachigian has been a member of the State Bar of California for over 40 years. His practice includes a range of high-level environmental and government relations matters, particularly where legal, government and public issues intersect. Mr. Khachigian is widely regarded throughout California for providing exceptional counseling in government relations, crisis management and strategic problem-solving. He has led successful negotiations of major litigations and disputes for private and public agency clients. Mr. Khachigian has directly served Presidents of the United States and Governors of the State of California. He is widely quoted in state and national publications, has appeared on prominent cable and network television programs and frequently lectures before businesses and associations on government affairs and politics.

David Longly Bernhardt

Mr. Bernhardt is a resident in our Washington, DC office. He developed significant expertise in natural resources, environmental law, climate change, species conservation and Indian affairs during nearly eight years at the Department of the Interior (DOI). He has managed nearly 500 attorneys and support staff and a bi-national treaty organization. Mr. Bernhardt was unanimously confirmed by the United States Senate to serve as the Solicitor of the Department of the Interior, the departments highest legal officer. Prior to serving as Solicitor, he held several positions including: Deputy Solicitor, Deputy Chief of Staff, Counselor to the Secretary of the Interior, and Director of the Office of Congressional and Legislative Affairs. Before DOI, he served as legislative director and rules committee associate in the U.S. House of Representatives for Congressman Scott McInnis.

ORGANIZATION QUALIFICATIONS – SECTION 3

Founded in 1968, Brownstein is a respected national law firm in natural resources, water law, litigation, real estate, corporate counsel, tax and government relations. With over 250 attorneys and legislative consultants in offices across the Western U.S. and in Washington, DC, we have the geographic reach and professional scope to handle our clients' full range of needs. We design integrated strategies that combine our multidisciplinary teams with the City's in-house resources. We stress open communication, access to our high-level professionals and a client-centric approach to service.

Brownstein's clients range from public and municipal organizations, to individuals and Fortune 500 companies. We have experience dealing with the highest levels of government, and are active in the communities in which our clients are situated.

The Firm's Natural Resources Group

Natural resource laws are more pervasive than ever, affecting almost every industry in the United States. Today's businesses face complex legal challenges from increasing regulatory oversight, growing public environmental awareness and new environmental laws. With nationally-respected practitioners in hazardous waste, water, energy, land use, and renewable energy, Brownstein provides the legal services needed to achieve logical resolutions with an eye toward environmental responsibility.

The group has collectively worked on hundreds of contaminated sites in many jurisdictions representing both public and private parties. The Natural Resources group has dealt with the myriad of environmental laws and agencies on both the state and federal level. In fact, many of our attorneys have worked in the Department of Justice, the United States Environmental Protection Agency, the Departments of Energy and Interior, the Bureau of Land Management, Department of Defense, and state and local agencies too numerous to mention.

Specifically, as discussed further below in Section 6, the group has experience in military base cleanups, specifically Lowry Air Force Base.

The Firm's Government Relations Group

The Government Relations Group is a full-service lobbying, public policy and legal representation practice that helps our clients interpret federal government actions, solve challenges and seize opportunities through interaction with government officials. Our work includes legislative consulting, lobbying, policy development, public relations strategy and representation in front of the Congress, federal agencies and regulatory bodies. With seasoned government relations professionals in every office, we are able to provide comprehensive service at the federal, state and local levels throughout the country. The Government Relations Group includes former legislative staffers, executive administration officials, federal regulatory professionals and attorneys from the United States Attorneys office, and a former Member of Congress.

SCOPE OF WORK – SECTION 4

As noted earlier, we propose a Scope of Work that allows for the gathering of baseline information and the creation of a plan that makes sense based on that information. Only with such knowledge can any useful analysis and discussion take place. Therefore, we propose that the initial Scope of Work would include:

- Obtaining access to and review available information relating to the Project to obtain an overview of the various parts of the overall facts, science and legal issues involved.
- Discussions with the City Attorney, City Staff and the City Counsel to make certain we have significant input from each to create a matrix of goals and opportunities.
- Meetings with the various agencies involved to obtain a full and complete briefing from them as to their positions on the investigation and clean up.

From this, we would develop a comprehensive plan setting forth goals, possible timetables for reaching those goals, and budgets. It is our experience that to reach any specific goal in these types of situations is difficult and cannot simply be put on a strict timetable or measured with some performance criteria. These types of matters are complicated politically, factually and legally and do not lend themselves to such strict criteria since they are not within the control of any one of the entities involved. Also, it is our experience that the key agencies of the government involved here do not move rapidly and are all too often ingrained in a style and process that can be extremely frustrating to resolve. Given that the City is a potentially responsible party as well, should litigation be commenced, this will further complicate the matter.

Notwithstanding the inability of the City to control the process for the reasons discussed above, we are experienced in developing interim scopes of services and budgets to keep on track and within established budgets. Our approach will produce the following deliverables for the City, in as short a timeframe as possible, estimated at this point to be approximately 60 days:

1. An overview of the critical science and facts that are key to the goals set.
2. An overview of the legal issues that confront and afford possibilities to reach the goals set.
3. An overview of potential litigation and litigation avoidance methods.
4. An overview of other experts and/or consultants that may be needed to be of assistance.
5. An overview of the concept of obtaining federal and/or state funding to assist the City.

6. A matrix of the possible pathways to reach the goals set for major aspects of the matter.
7. An analysis of the costs of resolution and defense of the City's position including obtaining necessary insurance coverage from older policies the City may have had pre-1980.

It is important that there be candid and timely communication throughout this process. We will discuss with the City our communication approach including the type of information desired to be communicated and the frequency and format of the communications, all of which will enable us to meet the City's expectations. Some of the issues may require public disclosure and discussion, some may not. We will work with the City Attorney to assure compliance with the Brown Act, Public Records Act and any other issue regarding communication. This communication approach will be employed throughout Brownstein's involvement in the matter.

PROPOSED PROJECT SCHEDULE – SECTION 5

Brownstein has outlined an initial scope of work and approach above. We do not believe that any responsible professional could create an accurate all-inclusive proposal at this juncture beyond what we have outlined since certain information still needs to be obtained and analyzed in order to develop a comprehensive scope of work, schedule and budget. As noted, we believe that we can provide the deliverables within 60 days of retention.

After that point in time, we would meet with the City and outline further proposed projects and sub-projects which would be assigned completion dates should they lend themselves to such a conclusion. For example, the Firm may recommend that certain environmental engineers, scientists and other consultants investigate particular aspects of the arsenal cleanup and, as such, the recommendations could be given a due date. Brownstein may also provide due dates for certain additional legal analysis needed, or schedules within which various meetings will be held for the purpose of exploring funding. As the Project becomes more defined, a more comprehensive scope of work, schedule and budget can be developed.

PROPOSED BUDGET – SECTION 6

Brownstein believes that the initial scope of work it has projected can be accomplished within a budget of approximately \$35,000. This would include all necessary services and costs involved. Brownstein bills on a monthly basis and provides for all necessary itemization and backup as may be requested by the City. In order to keep this initial scope of work on budget, the Firm will not charge the City for travel time to meetings for this phase of the work.

Upon completion of the initial scope of work, Brownstein would develop an overall estimated Project Budget as well as more specific short term budgets for specific tasks.

The subsequent scope of work and budget development is an ongoing process that the Firm recognizes is important to the City as part of its fiduciary obligation with public funds. Brownstein is prepared to assist the City to ensure that the funds spent by the City are reasonable within agreed upon budgets. Brownstein is prepared to discuss fee arrangements, other than on a hourly basis, after the conclusion of the scope of work when the Project is more defined.

The proposed billing rates for the attorneys to be employed on this matter are as follows:

Attorney Name	Regular 2010 Hourly Rate	Discounted Rate for the City
Steven L. Hoch	\$535	\$435
Gary M. Kvistad	\$470	\$390
Michelle C. Kales	\$340	\$320
Chad P. Seber	\$360	\$320
Kari N. Vozenilek	\$275	\$250
Kenneth L. Khachigian	\$685	\$550*
David Longly Bernhardt	\$810	\$700*

*It is not unusual for our firm to engage in alternate fee arrangements such as a retainer for ongoing work on behalf of a client, especially where funding is being sought.

Brownstein has reviewed the Consultant Agreement, Appendix A to the RFQ, which agreement is generally acceptable. The agreement, however, appears to be an engineering type consultant rather than the provision of legal services. We therefore believe it will be necessary to make some modifications to address our professional responsibilities for the provision of legal services. The final terms of the agreement can be negotiated after selection of Brownstein.

REFERENCES AND RELATED EXPERIENCE – SECTION 7

In addition to the references included below, Brownstein will be pleased to send additional references upon request.

- Client:** Richmond American Homes of Colorado Inc., Standard Pacific of Colorado Inc., Metropolitan Development IV LLC and Metropolitan Builders, and Touchstone Homes LLC
Contact & Phone Number: Contact information to be supplied upon request.
Location: Denver, CO
Team Members & Roles: Michelle Kales, litigation counsel.

Description of Project: Represented a group of homebuilders against the U.S. Air Force seeking indemnification under Section 330 of the Defense Authorization Act for cost incurred to remediate asbestos contamination in soil on their properties at the former Lowry Air Force Base in Denver, Colorado. Based on the refusal of Air Force to take certain actions, the homebuilders undertook the investigation and remediation activities required at their own expense. Investigation and remediation ultimately cost the homebuilders approximately \$9 million in out-of-pocket costs and related damages. Brownstein brought a lawsuit on behalf of the homebuilders against the Air Force, asserting claims for indemnification under Section 330 of the National Defense Authorization Act and breach of deed covenants. Following a two-year legal battle, the U.S. Court of Federal Claims found that the Air Force caused the asbestos contamination by demolishing a number of asbestos-contaminated buildings prior to transferring the property to private parties. Additionally, the Court found that the broad indemnity language of Section 330 required the Air Force to compensate the Homebuilders for costs arising out of that contamination and the related issuance of the Advisories.

2. **Client:** Lennar Colorado, LLC
Contact & Phone Number: Contact information to be supplied upon request.
Location: Denver, CO
Team Members & Roles: Michelle Kales, litigation counsel.
Description of Project: Represented Lennar Colorado, LLC in a CERCLA cost recovery action, seeking recovery of costs incurred to remove munitions contamination discovered on its property on the former Lowry Bombing and Gunnery Range. The action involved several key questions of law including whether UXO constituted a hazardous substance under CERCLA and whether Lennar was an innocent purchaser entitled to seek cost recovery under section 107 of CERCLA. Brownstein was able to settle the matter for on favorable terms for the client.
3. **Client:** Golden State Water Company
Contact & Phone Number: Denise Kruger, 909.394.3600.
Location: San Gabriel Valley, CA
Team Members & Roles: Steve Hoch, lead counsel in litigation against PRPs and negotiator with EPA.
Description of Project: Cost recovery/CERCLA suit involving cleanup in the San Gabriel Valley.
4. **Client:** Bank of America
Contact & Phone Number: Jan Aniel, formerly with Bank of America. Contact information to be supplied upon request.
Location: Mojave, CA
Team Members & Roles: Steve Hoch, lead counsel in litigation in defense of Bank of America.
Description of Project: Multiparty cost recovery/CERCLA suit against Bank involving dioxin cleanup.

- 5. Client:** Washington Mutual Bank
Contact & Phone Number: Theresa Marchlewski, formerly with Washington Mutual Bank. Contact information to be supplied upon request.
Location: Los Angeles, CA
Team Members & Roles: Steve Hoch, lead counsel in resolving cost recovery claim against insurance company and counsel in litigation against the Los Angeles Department of Water and Power (LDWP).
Description of Project: Failure of LADWP transformer contaminated entire bank building with PCBs. Effectuated a \$9M recovery from insurer and prepared and litigated cost recovery action against LADWP.
- 6. Client:** Southern California Water Company
Contact & Phone Number: Denise Kruger, 909.394.3600.
Location: Sacramento, CA
Team Members & Roles: Steve Hoch, lead counsel in litigation against Aerojet General Corporation.
Description of Project: Contamination litigation under common law, litigated/settled in favor of client valued over \$60M.
- 7. Client:** Golden State Water Company
Contact & Phone Number: Denise Kruger, 909.394.3600 or Floyd Wicks, former Chief Executive Officer of Golden State Water Company. Contact information for Mr. Wicks to be supplied upon request.
Location: Los Angeles, CA
Team Members & Roles: Steve Hoch, lead counsel in litigation.
Description of Project: Multiparty litigation with over 1,000 plaintiffs regarding claims of contamination of drinking water causing injury. Successful trial and Supreme Court and Appellate Court results with finding of no liability to water provider clients.
- 8. Client:** South Tahoe Public Utility District
Contact & Phone Number: Richard Solbrig, 530.544.6474.
Location: South Lake Tahoe, CA
Team Members & Roles: Steve Hoch, litigation counsel and lead negotiator with US Forest Service and DOJ. Gary Kvistad, litigation counsel.
Description of Project: Represented South Tahoe Public Utility District in federal district court in an action commenced by the US Forest Service against multiple parties regarding ground and groundwater contamination stemming from the contribution of waste, location of a district wastewater pipeline, and improper operation and closure of a landfill. The case was successfully resolved in the District's favor by entering into a consent decree and settlement agreement, neither of which required payment by the district. The district's legal costs were fully paid as a result of our identifying and obtaining insurance coverage.

9. Client: City of Morgan Hill

Contact & Phone Number: Ed Tewes, 408.776.7337.

Location: Morgan Hills, CA

Team Members & Roles: Steve Hoch, lead counsel in negotiation and administrative action with the Regional Water Quality Control Board.

Description of Project: Negotiations and actions adverse to the RWQCB regarding perchlorate contamination and the responsibility of the Olin Corporation for clean up.

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Steven L. Hoch



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Shareholder
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T 310.500.4611 F 310.500.4602

Resident in the firm's Los Angeles office, Mr. Hoch is a Shareholder in Brownstein Hyatt Farber Schreck's Natural Resources, Climate Change and Litigation groups. Mr. Hoch has 35 years of experience with both federal and state environmental laws and regulations in the context of permitting, regulatory proceedings, litigation (in both State and Federal Courts) and public policy formation and advise, relating to groundwater issues, groundwater contamination, hazardous substances and waste handling practices, soil erosion soil contamination, as well as air resource issues.

Mr. Hoch often takes primary roles in many contamination and environmental tort cases and has served as liaison counsel for groups of parties at the request of fellow counsel. He was also lead PG&E counsel in the case made famous by the movie Erin Brockovich.

Mr. Hoch's practice has allowed him to take part in numerous Regional Water Quality Control Board matters, including negotiations on permits, defense of enforcement actions, and Petitions to the State Water Resources Control Board and Writs to the Superior Court. He has also had extensive experience with the USEPA in regard to Superfund Sites in both the litigation and administrative context. Mr. Hoch has frequent interaction with various California environmental agencies such as the Department of Toxic Substance Control on remediation issues.

In addition, Mr. Hoch provides guidance to developers, municipalities, businesses, banks and trusts on transactional issues involving contaminated property. Mr. Hoch's practice involves assisting businesses in finding cost-effective solutions to environmental issues by using the businesses' own attributes to bring about sensible economical results.

Mr. Hoch is a recognized authority in his field. He has published several definitive articles on environmental liability, and has lectured at many professional conferences on hazardous waste, environmental regulation, groundwater modeling, products liability, toxic torts and other environmental matters.

Representative Matters

Property contamination requiring remediation. Negotiated approvals with

Practices

Natural Resources
Litigation
Climate Change
Environmental &
Remediation

Education

J.D., 1973, Boston
University School of Law
B.A, 1970, State University
of New York, Buffalo

Admitted

California
U.S. District Court, Central
District of California
U.S. District Court, Eastern
District of California
U.S. District Court,
Northern District of
California
U.S. District Court,
Southern District of
California

Memberships

Association of California
Water Agencies - Water
Quality Committee
American Water Works
Association
California Chamber of
Commerce Environmental
Committee
Century City Bar
Association
Groundwater Resources
Association
State of California Bar
Association Environmental
Section
American Bar Association
Environmental and
Litigation Sections

agencies, approved cleanup.

The Firm is providing advice and guidance on the sale of power from major wind farm facilities (up to 1250 MW) in Mexico to investor owned and public utilities in California, including securing cooperative agreements for transmission capacity, framing and wheeling, qualifying and registering projects with the California ISO (CAISO) and Energy Commission (CEC) as renewable energy projects, negotiating Power Purchase Agreements (PPAs), securing financing for projects and/or joint venture agreements, negotiating design, construction and operational agreements, and securing and unbundling Renewable Energy Credits (RECs) for the project.

Multiparty litigation with over 1,000 plaintiffs regarding claims of contamination of drinking water causing injury. Successful trial and Supreme Court and Appellate Court results with finding of no liability to water provider clients.

MTBE Contamination - Resolved the matter by coming to an agreement with Shell Oil that they would purchase the City Pumping Station; in addition they would pay for the purchase of substitute property as well as the increased costs in infrastructure development. Shell paid the City over \$8M to accomplish these resolutions.

Negotiations with the EPA regarding hexavalent chromium issues and potential responsible parties involving the contribution for remediation.

Settled for minimum penalties of \$945K with \$6,000,000 in potential penalties. Provided the legal representation and the negotiations with RWQCB.

Promoted and obtained RWQCB alteration in policy to protect Golf Courses.

Cost recovery/CERCLA suit involving cleanup in the San Gabriel Valley.

Contamination litigation under common law, litigated/settled in favor of client valued over \$60M.

Successfully settled reimbursement claim by water company against four major oil companies with no direct evidence of whose MTBE impacted the well.

Representation of a public utility district in Federal Court in an action commenced by the Forest Service against multiple parties regarding ground and groundwater contamination from the contribution of waste, location of a waste water pipeline, and improper operation and closure of a landfill. The case was successfully resolved in the district's favor through identifying and obtaining insurance coverage and entering into a consent decree and settlement agreement, neither of which required a monetary

payment by the district.

Trial regarding water rights of the Seaside Basin in Northern California. Successfully obtained judgment favorable to client, City of Sea Side.

Negotiated settlement with insurer of \$9M regarding dioxin contamination; commenced action against LADWP (settled).

Property contamination requiring remediation, CERCLA 104(e) response. Drafted complex sale and indemnity agreement.

Kern County/Department of Toxic Substance Control administrative civil actions against client City of Oxnard regarding the storage and handling of biosolids. Successfully negotiated fines and remedy.

Publications & Presentations

"Energy Disclosures: California Law and the Pending ASTM Standard," Speaker, SCILL Conference, November 20, 2010.

"Groundwater and Water Rights," Speaker, Paso Robles Wine Country Alliance, October 21, 2010.

"A Tale of Environmental Inclusion," *The Daily Journal*, July 26th, 2010

"Little Stuff, Legal Consequences?" Speaker, American Water Works Association Annual Conference, Chicago, IL, June 21, 2010.

"Nanoparticles & Their Impact on the Safe Drinking Water Act & Clean Water Act," present to the American Water Works Association, Portland, OR, March 21, 2010.

"Impact of Climate Change on Golf Industry," Speaker, Club Managers Association of America, San Diego, CA, February 8-13, 2010.

"Client Alert: SEC Clarifies Public Companies' Obligation to Disclose Impact of Climate Change, Including Pending Green House Gas Emission Reduction Legislation and Regulation," Brownstein Client Alert, February 2, 2010.

"Client Update: Requiring Reports of Water Quality Also Requires Action to be Taken," Brownstein Client Alert, November 11, 2009.

"Client Alert: Appellate Court Holds Utilities Liable on a Nuisance Theory For Greenhouse Gas Emissions is Likely to Lead to a Proliferation of Suits," Brownstein Client Alert, September 29, 2009.

"Case Alert: U.S. Supreme Court's Failure to Review Ninth Circuit Superfund Ruling May Result in Increased Filing of Claims by Plaintiffs for

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Toxic Torts," Brownstein Case Alert, July 17, 2009.

"Case Alert: Guzman v. County of Monterey, More Protection for Municipal Water Suppliers," Brownstein Case Alert, June 24, 2009.

"The Brewing Climate Change Storm and TRUs," Western Grower & Shipper, June 2009.

Brownstein Hyatt Farber Schreck

Gary M. Kvistad



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Shareholder
gkvistad@bhfs.com

Santa Barbara
T 805.882.1414 F 805.965.0898

Mr. Kvistad is a Shareholder in Brownstein Hyatt Farber Schreck's Water and Natural Resources groups. Based in the firm's Santa Barbara office, Mr. Kvistad's practice focuses on the representation of public and private clients relating to water, recycled water, wastewater and associated environmental issues in the western United States.

In the water arena, Mr. Kvistad represents clients with respect to: groundwater and surface water rights; recycled water planning, distribution and use; stormwater permitting; wastewater collection, treatment, and disposal; groundwater storage; water exchanges; and water transfers. He has extensive experience in negotiating a wide variety of water related agreements, cooperative arrangements, disputes and settlements. Mr. Kvistad also serves as general and special counsel to numerous public and private clients.

Mr. Kvistad's water practice routinely includes representation of clients with respect to environmental issues involving the National Environmental Quality Act (NEPA), the California Environmental Protection Act (CEQA), the Clean Water Act (CWA), Endangered Species Act (ESA), as well as other federal and state environmental laws and regulations. He has represented clients with respect to groundwater contamination involving such contaminants as MTBE, VOC and PCE. He is experienced in CERCLA cost recovery actions such as contamination emanating from landfills, administrative proceedings relating to water rights and public trust resources and endangered species under the Endangered Species Act.

In connection with his water practice, Mr. Kvistad also represents public agency clients on matters concerning public contracting, construction contracting, contract compliance and risk management with respect to infrastructure projects. He also advises public clients on conflicts of interest, public records disclosures, open meeting laws, and litigation planning and management. He regularly represents public agencies with respect to disputes, joint powers authorities, business transactions and the development of strategic planning to maximize opportunities while minimizing risks. He is skilled in negotiating and preparing a wide variety of agreements routinely encountered by public agencies and private clients doing business with public agencies.

Practice

Natural Resources
Water
Infrastructure Development
Public Agency
Endangered Species

Education

J.D., 1984, University of
Denver College of Law
B.A., 1975, Architecture,
Washington State
University
B.A., 1975, Construction
Management, Washington
State University

Admitted

California
Nevada
Colorado
U.S. District Court, Central
District of California
U.S. District Court, Eastern
District of California
U.S. District Court, Nevada

Memberships

State Bar of California
Colorado Bar Association
Nevada Bar Association
Association of California
Water Agencies
Groundwater Resources
Association
Nevada Water Resources
Association
California Association of
Sanitation Agencies
American Ground Water
Trust

Representative Matters

Acquisition of Water Rights and Property. Represented a public utility district in federal district court to acquire property and water rights for use by the district for its recycled water operations. The district required additional property and water rights for use in conjunction with land application of recycled water from its wastewater operations and for recreational and agricultural purposes.

Defense of Groundwater Rights. Represented a town with substantial groundwater rights in Nevada's Carson River Valley with regard to water rights litigation commenced by the Pyramid Lake Paiute Tribe of Indians. Litigation included challenges to State Engineer rulings on water right change applications for new development and impacts to the Carson River surface water rights. Cases were filed in both federal district and state district courts and involved issues of jurisdiction and venue in addition to substantive water law. Appeals were filed by the Tribe in the Ninth Circuit Court of Appeals and the Nevada Supreme Court.

Water Right Permit Hearings and Related ESA Issues. Represented the District before the California State Water Resources Control Board regarding renewal of water right permits for a United States Bureau of Reclamation (USBR) owned reservoir and before the National Marine Fisheries Service with respect to Endangered Species Act compliance for listed steelhead. Representation included coordination with USBR, who holds the water right permits, and other project members holding water right entitlements in the reservoir for environmental compliance with CEQA, development of a biological assessment and biological opinion, and protection of downstream water rights interests.

Construction of the Central Coast Aqueduct. Provided legal services to the Central Coast Water Authority for all phases of planning, permitting, environmental compliance, right-of-way acquisition, construction and operation related to a \$600 million drinking water delivery system. The project included 150 miles of pipeline, multiple pumping stations and a water treatment plant. Resolved construction disputes by negotiation and successfully defended the Authority in related litigation.

Defense of a Public Utility District in a CERCLA Action. Represented a public utility district in federal district court in a CERCLA action commenced by the Forest Service against multiple parties regarding ground and groundwater contamination stemming from the contribution of waste, location of a district wastewater pipeline, and improper operation and closure of a landfill. The case was successfully resolved in the district's favor by entering into a consent decree and settlement agreement, neither of which required payment by the district. The district's legal costs were fully paid as a result of our identifying and obtaining insurance coverage.

District Reorganization. A district encountered a dispute with a Local Agency Formation Commission (LAFCO) regarding jurisdiction over annexations and the district's provision of additional latent services. The District and LAFCO agreed to resolve their dispute through the introduction of legislation rather than resorting to litigation. Services included drafting special state legislation, working with legislative consultants and lobbying services.

Public Infrastructure Project. Development of a process and framework to select a zero emissions technology for subsequent preparation of a RFQ/RFP to implement an environmentally friendly system to move shipping containers from the ports' docks to railroad distribution yards. Advised the ports concerning selection of procurement frameworks, public contracting, public relations, public records and confidential information.

Reorganization of a Major California City Utilities Department. Advised a major city on reorganization of its water, wastewater and solid waste utilities, including evaluation of dependent and independent special district, privatization and public-private partnership options and financing. Legal services were provided in conjunction with financial consultants to advise the city on developing an option to meet its short and long term financial goals and commitments.

Brownstein | Hyatt Farber | Schreck

Michelle C. Kales



Michelle C. Kales
Shareholder
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Denver
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Ms. Kales is a Shareholder in Brownstein Hyatt Farber Schreck's Natural Resources Group. She is chair of the Renewable Energy Practice Group, and Editor of *FOREcast*, the Group's periodic newsletter reporting on funding opportunities for renewable energy projects. Based in the firm's Denver office, she focuses on environmental and energy law, litigation, and land use for a variety of clients, including utilities, energy development companies, residential developers and other real estate developers.

Ms. Kales represents clients in both federal and state courts in litigation involving federal and state preemption issues, NEPA challenges, water quality issues, Endangered Species Act issues, Federal Energy Regulatory Commission proceedings, Clean Water Act storm water permitting compliance issues, CERCLA cost recovery actions, federal claims actions against the United States and environmental due diligence matters associated with the acquisition of contaminated property. Ms. Kales has also represented clients in a variety of administrative proceedings before state agencies including the Colorado Public Utilities Commission, the Colorado Department of Public Health and Environment and the Colorado Office of Public Safety.

Ms. Kales recently successfully represented a group of residential homebuilders in a lawsuit against the U.S. Department of Defense to recover costs incurred by the homebuilders to cleanup property owned by the homebuilders on a former military base. She also represented a coalition of developers in a project to ensure that DOD-sponsored legislation did not impair private parties' rights to cost recovery under CERCLA.

Ms. Kales also represents clients on energy and clean technology issues. For example, she currently represents an advanced power technology company in all aspects of the development and implementation of a combined wind and natural gas generating project in Colorado. Ms. Kales also recently represented a client in a Public Utilities Commission proceeding including a landmark one-month proceeding before the PUC, concerning Colorado Public Service Company's resource plan.

Prior to joining Brownstein, Ms. Kales served as general counsel for the Upper Chattahoochee Riverkeeper, a nonprofit organization in Atlanta, where her work focused on Clean Water Act permitting and administrative litigation. Ms. Kales began her legal career at Smith, Gambrell and Russell,

Practice

Development
Energy
Natural Resources
Environmental & Remediation
Water & Public Lands

Education

J.D., 1995, with distinction, Emory University
B.B.A., 1992, University of Kentucky, Dean's List, all semesters

Admitted

Colorado
Georgia
U.S. District Court, District of Colorado

Distinctions

40 Under Forty, 2008
Editor, *FOREcast* (Funding Opportunities for Renewable Energy), Brownstein's periodic newsletter on renewable energy funding issues
Managing Editor, *Bankruptcy Law Journal*, Emory University School of Law

Memberships

Colorado Bar Association
Colorado Women's Bar Association
Georgia Bar Association

Community Involvement

Board Member and Chairman of Governance Committee, Project Pave
Institute Associate, Institute for Environmental Solutions
Former Board of Advisors, Emory University School of

where she represented and advised clients on a wide range of environmental matters, including water quality laws, hazardous waste laws and regulations, underground storage tank issues and state nuisance, trespass and riparian rights laws.

Representative Matters

Represented a major hydroelectric utility company in litigation against the State of Idaho and federal Bureau of Reclamation. Litigation against the State concerned the adjudication of the utility's water rights and the relationship of hydropower water rights to groundwater pumping and recharge. The litigation was resolved through an agreement with the Governor and the Attorney General and the enactment of legislation and state water policy. The litigation against the federal Bureau of Reclamation was in regards to whether the contracts between the parties obligated the federal government to release water from its upstream reservoirs to ensure certain flows in the Snake River reached the utility's hydropower facilities. Representation was also given with regards to the Endangered Species Act, the Clean Water Act and other matters related to the federal FERC relicensing of the largest private hydroelectric facility in the United States.

Represented Vail Resorts, Inc. in its \$38.3 million acquisition of Colorado Mountain Express, a resort ground transportation business. Brownstein also handled the related real estate, tax, environmental, ERISA and employment aspects of the transaction.

Assisted Slaterpaul Architects in acquiring historic real property from the City & County of Denver and with related environmental and rehabilitation tax credit matters.

Provided strategic counsel to Bion Environmental Technologies, Inc. in establishing federal-level guidance for a nutrient trading program and in evaluating the possibility of a cellulosic-styled tax credit that would apply to Bion's process for producing cellulose-based renewable energy.

Represented a national homebuilder in defense of a nationwide enforcement action concerning alleged violations of construction storm water requirements under the Clean Water Act. Successfully negotiated a consent decree entered in federal district court in Virginia which resolved all claims.

Represented the Colorado Community College System in the development of a 150-acre campus at Lowry. Brownstein handled negotiations involving federal limitations, multi-jurisdictional land use matters and related real estate issues for this mixed use development.

Publications & Presentations

"Special Report – Water Woes Dry Up Solar Projects," *Colorado Energy News*, August 16, 2010

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Farber | Schreck

"United States Responsible for Cleanup of the Sale of Former U.S. Air Force base," *ABA Trends*, July 1, 2007

"Lowry Decision Has National Significance for Redevelopers," *Colorado Real Estate Journal*, May 16, 2007

"Government Must Bear Costs for Cleanup of Asbestos in Soil of Former Military Base," *U.S. Law Week*, March 13, 2007

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Farber | Schreck

Chad P. Seber



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Associate
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Mr. Seber is an Associate in Brownstein Hyatt Farber Schreck's San Diego office and a member of the firm's Natural Resources and Water groups. His practice focuses on complex water rights and water quality issues. He also has experience in infrastructure siting and development, environmental litigation, and land use planning issues.

Mr. Seber has experience with water quality and rights advising clients with large scale projects, including infrastructure and highway projects, on water quality issues involving the 404 and 401 permit process. Mr. Seber has provided counsel on NEPA and CEQA issues, as well as consulted with the Army Corps of Engineers (ACOE) for a potable water diversion and percolation project to obtain a "non-jurisdictional ruling" thereby avoiding extensive permitting requirements. He worked with the ACOE and the San Diego Regional Board to achieve a creative successful solution on a dredge and fill reservoir operation dealing with 404 permit and 401 Water Quality Certification Issues. For several years, he orchestrated a large scale conjunctive use water project which required coordination with state and federal entities on water rights and quality issues. Mr. Seber also has experience in dealing with CERCLA issues involving groundwater contamination.

Prior to joining the firm, Mr. Seber was a Captain in the U.S. Marine Corps and served as Special Water Counsel for the Marine Corps' Western Bases. There he was the lead agency counsel with practical experience in water rights and water quality cases. Mr. Seber advised the Marine Corps on complex legal and strategic issues enabling it to execute its environmental stewardship and National Defense Missions. Prior to serving as Special Water Counsel for the Marine Corps' Western Bases, Mr. Seber served as Prosecutor for I Marine Expeditionary Force.

Representative Matters

Appointed as Special Attorney for Department of Justice to litigate a complex water contract case in federal court with damage exposure over \$100 million; subject matter included water rights, economic feasibility, and water quality issues.

Prosecutor for United States Marine Corps Forces Pacific Trial Team charged with litigating complex National Security Cases involving one of

Practice

Natural Resources
Water
Litigation

Education

J.D., 1999, University of San Diego School of Law
B.A., 1996, University of San Diego
2001-2002, Marine Corps Officer Candidate School and Naval Justice School

Admitted

California
Oregon

Distinctions

Environmental Litigation
Excellence Award

Memberships

Environment, Energy &
Resources Section, ABA

Community Involvement

Chair, Board of Directors,
Fallbrook Chamber of
Commerce

the largest compromises of classified material in U.S. history. Successfully prosecuted a multiple felony jury trial involving national security and weapons charges.

Implemented and tried court actions for violations of the California Environmental Quality Act (CEQA).

Worked with watershed stakeholder group and represented client before Regional and State Water Boards on Nutrient TMDL implementation.

Participated in regional watershed Bureau of Reclamation modeling effort to address land use planning impacts from TMDLs.

Led federal team on water development project with cost in excess of \$120 million.

Orchestrated water rights permit change before California State Water Resources Control Board.

Negotiated with various agencies for Bureau of Reclamation Water Project Bill before U.S. Congress.

Participated in assertion of federal reserved rights, involving three Mission Indian reservations.

Represented client in adjudicative proceeding by court-appointed watermaster.

Publications & Presentations

"Implications of California's Construction Storm Water Program,"
Brownstein Client Alert, January 23, 2009

Kari Nieblas Vozenilek



Kari Nieblas Vozenilek
Associate
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Practices

Natural Resources
Land Use
Litigation

Education

J.D., 2006, University of California Davis School of Law
B.A., 2002, University of California, Los Angeles

Distinctions

Environs Law & Policy Journal

Admitted

California

Memberships

State Bar of California
Orange County Bar Association
San Diego County Bar Association

Ms. Vozenilek is an Associate in Brownstein Hyatt Farber Schreck's Los Angeles office and a member of the Natural Resources Group. Her practice focuses on environmental law, land use and water rights.

Prior to joining the firm, Ms. Vozenilek was an associate at Jackson, DeMarco, Tidus & Peckenpaugh in Irvine, California. During law school, Ms. Vozenilek was a Judicial Extern for the U.S. Attorney's Office in Sacramento as well as a Judicial Intern for The Honorable Michael B. Orfield of the Superior Court of California, County of San Diego.

Representative Matters

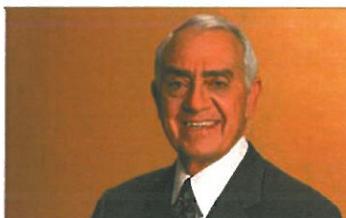
The Firm serves as appellate counsel in challenge to CEQA compliance for project including challenges to water supply and greenhouse gas emissions.

Publications & Presentations

"CEQA and Climate Change: Environmental Review and Mitigation of Climate Change Impacts" distributed at Los Angeles Port Authority lecture, February, 2008

"Water Boundaries: What Are Your Rights, Responsibilities, And Potential Liabilities?" Boundary Disputes: *Resolving Conflicts Without Going to Court*, (Co-Author), The National Business Institute, November, 2006

Kenneth Khachigian



Kenneth Khachigian
Senior Partner
kkhachigian@bhfs.com

Orange County, California
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Mr. Khachigian is a Senior Partner in the Orange County office of Brownstein Hyatt Farber Schreck and a member of the Government Relations and Natural Resources departments. His practice includes a range of high-level environmental and government relations matters, particularly where legal, government and public issues intersect.

Mr. Khachigian possesses more than 30 years of strategic expertise in governmental affairs, complex business litigation and public service. He has represented companies in diverse industries including energy, telecommunications, transportation, water systems, private equity, real estate, pharmaceuticals, agriculture and waste management as well as several public agencies. Mr. Khachigian is widely regarded throughout California for providing exceptional counseling in government relations, crisis management and strategic problem-solving. He has led successful negotiations of major litigations and disputes for private and public agency clients.

Mr. Khachigian began his distinguished public service career in the White House immediately after law school, rising to Deputy Special Assistant under President Richard Nixon. President Reagan commissioned him Special Consultant to the President in 1981, where Mr. Khachigian served as Chief Speechwriter and senior White House adviser. Beginning with President Reagan's first inaugural address, Mr. Khachigian collaborated on dozens of major and historic political and policy speeches throughout the President's two terms in office. Mr. Khachigian served the Reagan-Bush campaign as Director of Issues and Research, senior adviser and chief campaign speechwriter and was one of only two campaign aides who accompanied President Reagan aboard Air Force One throughout his 1984 landslide re-election effort.

Mr. Khachigian was also a key adviser and strategist for President George H. W. Bush's successful 1988 election campaign, for California Governors George Deukmejian and Pete Wilson, California Attorney General, Dan Lungren, and Supreme Court Justice, Ming Chin, as well as directing several other statewide campaigns. He served as national senior adviser and California campaign director to presidential nominee Robert Dole in 1996 and to Senator John McCain in 2000. He is widely quoted in state and national publications, has appeared on prominent cable and network television programs and frequently lectures before businesses and

Practice

Government Relations
State & Local Legislation & Policy
Natural Resources
Water
Public Lands

Education

J.D., 1969, Columbia University
B.A., 1966, with honors, University of California, Santa Barbara

Admitted

California
Supreme Court of California
U.S. Court of Appeals, Ninth Circuit
U.S. District Court, Central and Eastern Districts of California

Distinctions

Distinguished Alumni Award, University of California, Santa Barbara
Lifetime Humanitarian Award, Armenian Eyecare Project

Memberships

California Bar Association

Community Involvement

Editorial Advisory Board, *Campaigns & Elections Magazine*
Advisory Board, Armenian Eyecare Project
Board of Directors, California Chamber of Commerce
Board of Directors, California Council for Environmental and Economic Balance

associations on government affairs and politics.

Publications & Presentations

"Political Perspectives on Water Rights Transfers," Seminar on Water Rights Sales and Transfers in California

"Don't Blame the Bradley Effect," *The Washington Post*, November 2, 2008, Page B01

"How Justice O'Connor Got Her Job," Opinion Editorial, *OC Register*, July 8, 2005

Director, The Richard Nixon
Foundation

David Longly Bernhardt



David Longly Bernhardt
Shareholder
dbernhardt@bhfs.com

Washington, DC
T 202.296.7353 F 202.296.7009

Practices

Government Relations
Litigation
Natural Resources
Public Lands
Renewable Energy

Education

J.D., with honors, The
George Washington
University Law Center
B.A., University of Northern
Colorado

Admitted

Colorado
District of Columbia

Resident in the Washington, DC office, Mr. Bernhardt is a Shareholder and a member of Brownstein Hyatt Farber Schreck's Government Relations, Natural Resources and Litigation departments. He focuses on counseling clients through litigation and transactions involving environmental, energy and natural resource matters.

Mr. Bernhardt developed significant expertise in conventional and alternative energy development, natural resources, environmental law, climate change, species conservation and Indian affairs during nearly eight years at the Department of the Interior (DOI). He has managed nearly 500 attorneys and support staff and a bi-national treaty organization.

Mr. Bernhardt was unanimously confirmed by the United States Senate to serve as the Solicitor of the Department of the Interior. Prior to serving as Solicitor, he held several positions including: Deputy Solicitor, Deputy Chief of Staff, Counselor to the Secretary of the Interior, and Director of the Office of Congressional and Legislative Affairs.

As Director of the Office of Congressional and Legislative Affairs, Mr. Bernhardt formulated and executed strategy for the Department's legislative initiatives on Capitol Hill. His responsibilities included developing testimony, preparing witnesses (including the Secretary of the Interior) to testify before congressional committees, responding to congressional requests for information and documents, and guiding the President's Interior Department nominees through the confirmation process.

As Solicitor, Mr. Bernhardt was the Chief Legal Officer and third ranking official for the U.S. Department of the Interior. He provided advice and counsel on a wide range of legal and policy matters to each of the agencies that make up the Department of the Interior – the U.S. Fish and Wildlife Service, the Bureau of Land Management, the Bureau of Reclamation, the Bureau of Indian Affairs, the National Park Service, the Minerals Management Service, the Office of Surface Mining and the U.S. Geological Survey.

Throughout his tenure at the DOI, Mr. Bernhardt played a lead role in many of the Department's most difficult and important matters including:

- Issuing eleven M-Opinions formalizing the Department of the Interior's legal interpretation regarding various provisions of multiple statutes including: the Mineral Leasing Act, the Outer Continental Shelf Lands Act (OCS), the Endangered Species Act, the Marine Mammal Protection Act, and the Indian Gaming Regulatory Act.
- Co-chairing the Department of the Interior's Energy Coordination Council, whose purpose was to facilitate the implementation the Energy Policy Act of 2005.
- Successfully negotiating on behalf of the Department of the Interior and subsequently leading the implementation of the Arizona Water Rights Settlement Act of 2003, one of the largest Indian water rights settlements in U.S. history.
- Leading the Department of the Interior's team that worked with representatives of the environmental community, the State of Colorado, local governments and various water users to successfully resolve longstanding litigation regarding the federal reserved water right for the Black Canyon of the Gunnison National Park.
- Serving as primary counsel for the determination that the polar bear was a threatened species under the Endangered Species Act, and playing a significant role in development of a special rule for the application of section 9 of the ESA to threatened polar bears.
- Serving as the Department of the Interior's lead agency counsel on numerous litigation matters ranging from multi-billion dollar civil litigation cases to certain matters before the Supreme Court of the United States and other Federal appellate courts.
- Playing a significant role in the development of multiple land use plans and offshore energy leasing programs, and leading efforts to work with Congress and throughout the administration to make certain areas within the OCS available for conventional and alternative energy development, as well as NEPA compliance.

In addition to his responsibilities at the Department of Interior, Mr. Bernhardt was appointed by President Bush to lead the International Boundary Commission between the United States and Canada from July 2007 to January 2009. He was responsible, along with his Canadian counterpart, for maintaining an effective international boundary between the two nations.

Prior to serving within the Department of the Interior, Mr. Bernhardt was an associate at Brownstein from 1998-2001. Before joining Brownstein in

1998, he served as legislative director and rules committee associate in the U.S. House of Representatives for Congressman Scott McInnis.

Presentations & Publications

"InfoCast Corporate Water Vision Conference: National Water Policy," Panel Moderator, Washington D.C., June 7, 2010

"Council on Environmental Quality Issues Draft Guidance on Considering Greenhouse Gases in NEPA Reviews," *Brownstein Client Alert*, February 26, 2010

"The Promise & Peril of Oil Shale: Federal Law and Policy," presenter and panelist, *The Promise and Peril of Oil Shale* program sponsored by The Natural Resources Law Center, Denver Colorado, February 5, 2010

"Outlining Key ESA Policy Developments in 2009," presentation, American Law Institute, American Bar Association's Course of Study Program, *Species Protection: Critical Legal Issues*, Washington, DC, November 6, 2009

"Scrutinizing Regulatory Reversals: Specific Examples of Changing Course in 2009," presentation, American Bar Association's Administrative Law Conference, Washington, DC, October 22, 2009

"The Role of Transmission and Smart Grid Technology in the West," presenter, Brownstein Hyatt Farber Schreck Renewable Energy Speaker Series, Denver, CO, October 13, 2009

"Balancing Energy and the Environment," 2009 Energy Conference Series, Midland, Texas, June 22-23, 2009

"The Canada-United States Boundary – The Next Century," presentation at The State of Sovereignty 20th Annual Conference, Durham University, UK, April, 2009

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