

The Wilderness Society, American Bridge 21st Century, Animal Welfare Institute, Center for Biological Diversity, Clean Water Action, Defenders of Wildlife, Earthjustice, Earthworks, Environmental Protection Information Center, Friends of the Earth US, GreenLatinos, International Fund for Animal Welfare, Klamath Forest Alliance, League of Conservation Voters, National Parks Conservation Association, Natural Resources Defense Council, Northeastern Minnesotans for Wilderness, Public Citizen, Sierra Club, Soda Mountain Wilderness Council, Southern Utah Wilderness Alliance, Utah Diné Bikéyah, Western Environmental Law Center, Western Values Project, Western Watersheds Project, Wilderness Workshop

May 1, 2019

The Honorable Lisa Murkowski
Chairman, Senate Committee on Energy and Natural Resources
304 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Joe Manchin
Ranking Member, Senate Committee on Energy and Natural Resources
304 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Murkowski, Ranking Member Manchin and Members of the Committee on Energy & Natural Resources:

On behalf of the undersigned organizations and our millions of members and supporters across the country, we write to urge you to oppose the nomination of Daniel Jorjani for Solicitor of the Department of the Interior. Mr. Jorjani is subject to profound conflicts of interest and has provided the dubious legal justification for the Interior Department's "energy dominance" agenda to sell out public lands and waters for the sake of private profits.

Since being named Principal Deputy Solicitor in May 2017, Mr. Jorjani has functionally led the Solicitor's Office and manufactured the legal rationales for some of the Department's most egregious decisions. Federal courts have now repeatedly rebuked those decisions and the Department's inability or unwillingness to follow the law. This track record strongly suggests that the Solicitor's Office under Mr. Jorjani's leadership is more committed to advancing the Interior Department's ideological agenda to sell out public lands and waters to private profits than to following the law.

The 8 legal opinions ("M-opinions") Mr. Jorjani authored during the first 18 months of the Trump Administration are more than the combined total issued by the previous three Solicitors during the same 18-month timeframe. Mr. Jorjani's opinions uniformly benefited oil, gas, energy or extractive interests at the expense of tribes, public health and conservation. For instance, Mr. Jorjani's opinions or influence paved the way for:

- **Reinstatement of Expired Mining Leases that Threaten Minnesota's Boundary Waters Wilderness**

In May 2018, Interior reinstated expired copper and nickel mining leases for a project on the border of the Boundary Waters Canoe Area Wilderness in Minnesota, reversing a decision by the Obama Administration. The reversal came after a December 2017 opinion penned by Mr. Jorjani, concluding that the Obama Administration was mistaken in its refusal to renew the half-century-old leases because of the unacceptable risk they posed of contaminating the Boundary Waters' interconnected system of lakes and streams. The leases are held by Antofagasta, a Chilean company owned by the landlord of Ivanka Trump and Jared Kushner.

- **Rolling Back Migratory Bird Protections**

In December 2017, Daniel Jorjani authored a legal opinion that changed the Department's interpretation of the Migratory Bird Treaty Act to eliminate penalties for accidental or incidental bird deaths, paving the way for energy development companies to kill migratory birds without legal ramifications.

- **Advancing a Controversial Groundwater Pumping Project in the Mojave Desert for Secretary Bernhardt's Former Client**

In 2015, the Obama Administration blocked Cadiz, Inc.'s plan to build a pipeline to pump groundwater from an aquifer underneath the Mojave Desert. Mr. Jorjani issued a legal opinion in September 2017 that cleared the way for BLM to instruct the company in October 2017 that it may proceed with the project without agency authorization. Cadiz Inc. is a client of law firm Brownstein Hyatt Farber Schreck LLP, of which Secretary Bernhardt is a former partner.

- **Eliminating Over Two Million Acres of National Monument Protections**

Interior Department records indicate Mr. Jorjani was heavily involved in the national monument review, sitting in on multiple meetings during the review and ultimately approving the maps and proclamations for President Trump's illegal effort to eliminate over two million acres of Bears Ears and Grand Staircase-Escalante National Monuments, the largest rollback of public land protections in history. Mr. Jorjani has also participated in numerous internal and external meetings regarding Cascade Siskiyou National Monument, including meetings with timber industry plaintiffs in lawsuits challenging President Obama's expansion of the monument.

- **Reversing Tribal Mineral Rights and Federal Authority to Take Tribal Land into Trust**

In June 2018, Mr. Jorjani issued an opinion suspending and withdrawing an opinion from the previous Solicitor which granted mineral rights under the dammed Missouri River on the Fort Berthold Reservation to the Mandan, Hidatsa and Arikara Nation. Additionally, a month later, he withdrew a previous opinion on the authority to take land into trust on behalf of Alaska Natives.

- **Eliminating Compensatory Mitigation Policies**

In June 2017, Mr. Jorjani issued an opinion which rescinded the Department's previous policy requiring compensatory mitigation from permit holders to offset adverse impacts

of development on lands and wildlife. As a result, BLM no longer allows or accepts compensatory mitigation payments from permit holders.

Mr. Jorjani's efforts to shield the Interior Department's actions from public transparency and his web of conflicts of interest with the industries which seek to profit from the Interior Department's policies should be disqualifying. Prior to joining the Solicitor's Office, Mr. Jorjani worked for Freedom Partners Chamber of Commerce, a group funded by the Koch Brothers, which has sought an anti-regulatory agenda, promoted energy development on public lands, and is affiliated with pro-development interests. Unsurprisingly, Mr. Jorjani's external meetings during his tenure at the Solicitor's Office have focused almost exclusively on industry officials and affiliated think tanks (including his former employers).

Mr. Jorjani's efforts to avoid transparency and his pattern of industry influence include:

- **Restricting FOIA Responses**
In November 2018, former Interior Secretary Ryan Zinke named Mr. Jorjani Chief Freedom of Information Act Officer in charge of overseeing the Department's responses to FOIA requests, including those for records related to Mr. Jorjani's own controversial legal opinions. Shortly afterwards, Jorjani authored a proposed regulation that would make it more difficult for the public to receive records under FOIA by allowing staff to reject requests they deem "unreasonably burdensome" and establishing monthly limits on FOIA requestors, among other hurdles. A bipartisan group of congressional leaders called the proposed rule a "*violation of the letter and spirit of FOIA.*"
- **Providing Cover for Secretary Bernhardt's Dubious Calendar Practices**
Secretary Bernhardt's alleged failure to properly report and maintain records of his meetings and schedule is currently being investigated by the National Archives and Records Administration. In a February letter to Chairman Grijalva and Chairwoman McCollum, Secretary Bernhardt relied on the Solicitor's Office to justify his practices: "*I have inquired with the . . . Office of the Solicitor and have been advised that I have no legal obligation to personally maintain a calendar.*"
- **Targeted by Industry to Block the Release of Pesticide Report on Endangered Species**
In 2017, senior Interior Department officials blocked the release of a years-long study of the impacts of three widely used pesticides on over 1,200 endangered species. A New York Times exposé reported that the pesticide industry specifically targeted Mr. Jorjani in the lead-up to the decision.

Mr. Jorjani's record over the past two years of issuing dubious legal opinions to justify actions which benefit private industry at the expense of the public should be immediately disqualifying. So too should his clear resistance to public transparency and cozy relationship with industry. This is all in the context of Mr. Jorjani's oversight of the Interior Department Ethics Office while one Secretary has resigned under a cloud of suspicion and numerous investigations of high-level Department officials are ongoing.

For these reasons and many others we urge you to oppose the nomination of Mr. Jorjani to serve as Solicitor for the Department of the Interior.

Sincerely,

The Wilderness Society
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Animal Welfare Institute
Center for Biological Diversity
Clean Water Action
Defenders of Wildlife
Earthjustice
Earthworks
Environmental Protection Information Center
Friends of the Earth US
GreenLatinos
International Fund for Animal Welfare
Klamath Forest Alliance
League of Conservation Voters
National Parks Conservation Association
Natural Resources Defense Council
Northeastern Minnesotans for Wilderness
Public Citizen
Sierra Club
Soda Mountain Wilderness Council
Southern Utah Wilderness Alliance
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Western Watersheds Project
Wilderness Workshop