

C A M P A I G N F O R

**ACCOUNTABILITY**

August 10, 2018

The Honorable Julie E. Adams  
Secretary of the Senate  
Room S-312  
U.S. Capitol  
Washington, D.C. 20510-7116

The Honorable Karen L. Haas  
Clerk of the U.S. House of Representatives  
Room H154  
U.S. Capitol  
Washington, D.C. 20510-6601

**Re: Lobbying Disclosure Act Violations/Faegre Baker Daniels  
Consulting/Andrew Wheeler**

Dear Secretary Adams and Clerk Haas:

Campaign for Accountability (“CfA”) is writing to call to your attention multiple serious violations of the Lobbying Disclosure Act (“LDA” or “the Act”) by the lobbying firm of Faegre Baker Daniels Consulting (“Faegre Baker”) and one of its lobbyists, Andrew Wheeler, in connection with their representation of Energy Fuels Resources, Inc. (“Energy Fuels”). CfA respectfully requests that you initiate an investigation of Faegre Baker and Mr. Wheeler and take all appropriate actions to ensure compliance with the Act as required by 2 U.S.C. § 1605(a)(7)&(8).

**Factual Background**

Energy Fuels Resources, Inc. is the U.S. subsidiary of a Canadian mining company that owns the now-dormant Daneros uranium mine located within the original boundaries of the Bears Ears National Monument in Utah. In addition, Energy Fuels owns the nation’s only uranium processing mill located just outside the original boundaries of the Bears Ears National Monument. In a letter to the Interior Department, Energy Fuels Vice President of Operations William Paul Goranson said that the company is confident that the construction of nuclear plants in Asia will lead to higher prices for uranium that would justify the reopening of the Daneros mine. The mine cannot be reopened, however, as long as it remains within the boundaries of the Bears Ears National Monument.<sup>1</sup>

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<sup>1</sup> Juliet Eilperin, Uranium Firm Urged Trump Officials to Shrink Bears Ears National Monument, *Washington Post*, December 8, 2017, available at <https://www.washingtonpost.com/national/health-science/uranium-firm-urged->

On January 27, 2017, *The Washington Post* reported that President Trump was eager to work with Republican lawmakers to change the boundaries of the Bears Ears National Monument.<sup>2</sup> Four days later, the lobbying firm of Faegre Baker was retained to lobby on behalf of Energy Fuels. On its Lobbying Registration form for Energy Fuels, the firm described the purpose of the representation generically as lobbying on “[g]eneral energy issues related to uranium mining and milling.”<sup>3</sup> Faegre Baker reported that Andrew Wheeler was expected to be the only person who would be acting as a lobbyist for Energy Fuels with regard to this issue.<sup>4</sup> Although the lobbying representation began on February 1, 2017, Faegre Baker did not file its Lobbying Registration with the Senate and House of Representatives until April 12, 2017.<sup>5</sup>

On April 18, 2017, Faegre Baker filed its First Quarter 2017 Lobbying Disclosure Report for Energy Fuels indicating that Mr. Wheeler and another Faegre Baker lobbyist, Mary Bono, had made lobbying contacts with the Senate and the House of Representatives and again described the lobbying effort generically as being with regard to the issue of uranium mining and milling.<sup>6</sup>

On April 26, 2017, President Donald Trump issued an executive order directing the Secretary of the Interior to conduct a review of all Presidential designations under the Antiquities Act made since January 1, 1996 where the designation covered more than 100,000 acres.<sup>7</sup> The Secretary of the Interior was specifically directed to provide an interim report to President Trump within forty-five days summarizing the findings of the review with respect to Proclamation 9558 of December 28, 2016 establishing the Bears Ears National Monument.<sup>8</sup> The Secretary was directed to provide a final report to President Trump within one hundred and twenty days.<sup>9</sup>

On July 20, 2017, Faegre Daniels filed its Second Quarter 2017 Lobbying Disclosure Report for Energy Fuels indicating that Mr. Wheeler, Ms. Bono and a third Faegre Daniels lobbyist, Darrin Munoz, had again made lobbying contacts with both the Senate and the House of Representatives and again described the lobbying contacts as related to the general issue of uranium mining and milling.<sup>10</sup> Faegre Baker subsequently filed an Amended Second Quarter 2017 Lobbying Report for Energy Fuels indicating that Mr. Wheeler would no longer be acting

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[trump-officials-to-shrink-bears-ears-national-monument/2017/12/08/2eea39b6-dc31-11e7-b1a8-62589434a581\\_story.html](https://www.washingtonpost.com/news/energy-environment/wp/2017/01/27/hatch-trump-is-eager-to-work-with-gop-lawmakers-to-undo-sacred-tribal-monument/).

<sup>2</sup> Juliet Eilperin, *Trump is Eager to Undo Sacred Tribal Monument, Says Orrin Hatch*, *Washington Post*, January 27, 2017, available at <https://www.washingtonpost.com/news/energy-environment/wp/2017/01/27/hatch-trump-is-eager-to-work-with-gop-lawmakers-to-undo-sacred-tribal-monument/>.

<sup>3</sup> Faegre Baker Daniels Consulting, Lobbying Registration on behalf of Energy Fuels Resources, Inc., April 12, 2017, U.S. Senate Lobbying Disclosure Database.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Faegre Baker Daniels Consulting, First Quarter 2017 Lobbying Disclosure Report on behalf of Energy Fuels Resources, Inc., U.S. Senate Lobbying Disclosure Database.

<sup>7</sup> Exec. Order No. 13792, § 2(a) (April 26, 2017), 82 Fed. Reg. 20429 (May 1, 2017).

<sup>8</sup> *Id.* at § 2(d).

<sup>9</sup> *Id.* at § 2(e).

<sup>10</sup> Faegre Baker Daniels Consulting, Second Quarter 2017 Lobbying Disclosure Report on behalf of Energy Fuels Resources, Inc., U.S. Senate Lobbying Disclosure Database.

as a lobbyist for Energy Fuels as of August 11, 2017.<sup>11</sup> On October 20, 2017, Faegre Baker filed its Third Quarter 2017 Lobbying Report for Energy Fuels indicating that Ms. Bono and Mr. Munoz had again made lobbying contacts with Senate and the House of Representatives, again with regard to the generic issue of uranium mining and milling.<sup>12</sup>

The Third Quarter 2017 Lobbying Report does not disclose any lobbying contacts by Andrew Wheeler with any covered legislative or executive branch official at any point in the third quarter of 2017 despite the fact that Mr. Wheeler remained a lobbyist for Energy Fuels until August 11, 2017. Moreover, none of the lobbying reports filed by Faegre Baker disclose *any* lobbying contacts with *any* covered executive branch official with *any* executive branch agency during 2017. In fact, however, during the third quarter of 2017 Mr. Wheeler and other Faegre Baker lobbyists were actively lobbying senior officials at the Department of the Interior in an effort to change the boundaries of the Bears Ears National Monument in order to allow Energy Fuels to be able to reopen the Daneros uranium mine when uranium prices rise enough to make it commercially viable again.

On July 17, 2017, Faegre Baker lobbyists Andrew Wheeler and Mary Bono, along with Energy Fuels Vice President for Operations William Paul Goranson, met with the Interior Department's Deputy Chief of Staff for Policy Development Downey Magallanes and Energy Policy Counselor Vincent DeVito to discuss changing the boundaries of the Bears Ears National Monument. "Company officials 'were trying to get a sense of what was going on' with the review [of the boundaries] because some of their air and water quality monitoring stations and a road leading to the now-dormant Daneros mine all lay within the original monument, Goranson explained."<sup>13</sup> Goranson admitted that he and the Faegre Baker lobbyists' "proposed small boundary adjustments to accommodate the monitoring stations as well as the mine."<sup>14</sup>

On December 4, 2017, President Trump issued Proclamation 9681 drastically shrinking the boundaries of the Bears Ears National Monument in accordance with the request of Faegre Baker and Andrew Wheeler.<sup>15</sup>

### **Violations of the Lobbying Disclosure Act**

Faegre Baker and Andrew Wheeler have apparently been in violation of the Lobbying Disclosure Act since the day they filed their Lobbying Registration on behalf of Energy Fuels Resources, Inc. As you know, the Act requires a lobbying firm to register with the Secretary and the Clerk of the House of Representatives no later than forty-five days after the lobbying firm is retained to

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<sup>11</sup> Faegre Baker Daniels Consulting, Second Quarter 2017 Lobbying Disclosure Report on behalf of Energy Fuels Resources, Inc., Amended, U.S. Senate Lobbying Disclosure Database.

<sup>12</sup> Faegre Baker Daniels Consulting, Third Quarter 2017 Lobbying Disclosure Report on behalf of Energy Fuels Resources, Inc., U.S. Senate Lobbying Disclosure Database.

<sup>13</sup> Eilperin, *Washington Post*, Dec. 8, 2017.

<sup>14</sup> *Id.*

<sup>15</sup> Proclamation 9681 of December 4, 2017, 82 Fed. Reg. 58081 (December 8, 2017). See also Julie Turkewitz, [Trump Slashes Size of Bears Ears and Grand Staircase Monuments](https://www.nytimes.com/2017/12/04/us/trump-bears-ears.html), *New York Times*, December 4, 2017, available at <https://www.nytimes.com/2017/12/04/us/trump-bears-ears.html>.

make lobbying contacts.<sup>16</sup> By its own admission, Faegre Baker was retained to lobby on behalf of Energy Fuels on February 1, 2017, but the lobbying firm did not file its Lobbying Registration with the Senate and House of Representatives until April 12, 2017.<sup>17</sup> Faegre Baker should have registered to lobby on behalf of Energy Fuels no later than March 16, 2017. Instead, the firm did not file the required Lobbying Registration for nearly a month after the statutory deadline. Accordingly, Faegre Baker and Andrew Wheeler began their lobbying representation by violating 2 U.S.C. § 1603(a)(1). Unfortunately, this was only the first of many violations of the Act committed by Faegre Baker and Andrew Wheeler.

As you know, the Lobbying Disclosure Act defines the term “lobbying contact” broadly to include “any oral or written communication . . . to a covered executive branch official . . . that is made on behalf of a client with regard to . . . the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy, or position of the United States Government.”<sup>18</sup> Similarly, the definition of “covered executive branch official” is broadly defined to include “any officer or employee serving in a position in level I, II, III, IV, or V of the Executive Schedule” as well as “any officer or employee serving in a position of a confidential, policy-determining, policy-making, or policy-advocating character.”<sup>19</sup>

Faegre Baker’s July 17, 2017 meeting with senior officials of the Interior Department clearly constituted a reportable lobbying contact under the Lobbying Disclosure Act. Interior Department Deputy Chief of Staff for Policy Development Downey Magallanes and Energy Policy Counselor Vincent DeVito are both “covered executive branch officials” within the meaning of 2 U.S.C. § 1602(3)(D)&(F). Moreover, the express purpose of the meeting was to seek a *modification* of the boundaries of the Bears Ears National Monument established by Proclamation 9558 of December 28, 2016 as part of the review process established by Executive Order 13792.<sup>20</sup>

A lobbying firm registered with the Senate and the House of Representatives under the Lobbying Disclosure Act is required to file quarterly activity reports each of which must include (1) “a list of the specific issues upon which a lobbyist employed by the registrant engaged in lobbying activities, including, *to the maximum extent practicable* . . . references to specific executive branch actions,”<sup>21</sup> (2) “a statement of the Houses of Congress and the Federal agencies contacted by lobbyists employed by the registrant on behalf of the client,”<sup>22</sup> and (3) “a list of the employees of the registrant who acted as lobbyists on behalf of the client.”<sup>23</sup>

It is clear that Faegre Baker and Andrew Wheeler violated all three of these LDA reporting requirements. First, Faegre Baker and Andrew Wheeler failed to disclose that they had been

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<sup>16</sup> 2 U.S.C. § 1603(a)(1).

<sup>17</sup> *Id.*

<sup>18</sup> 2 U.S.C. § 1602(8)(A)(ii).

<sup>19</sup> 2 U.S.C. § 1602(3)(D)&(F).

<sup>20</sup> 2 U.S.C. § 1602(8)(A)(ii).

<sup>21</sup> 2 U.S.C. § 1604(b)(2)(A)(emphasis added).

<sup>22</sup> 2 U.S.C. § 1604(b)(2)(B).

<sup>23</sup> 2 U.S.C. § 1604(b)(2)(C).

retained by Energy Fuels to lobby with regard to the Interior Department's review of the boundaries of the Bears Ears National Monument. The Secretary and the Clerk have made it abundantly clear in their guidance that when a registrant identifies the specific issue for which it has been retained to lobby "the quarterly activity report must . . . always contain information that is adequate, *standing alone*, to inform the public of the specific lobbying issues."<sup>24</sup> Describing its work for Energy Fuels as lobbying on "[g]eneral energy issues related to uranium mining and milling" provided absolutely no notice to the public that the firm and its lobbyists would be attempting to influence the Interior Department's review of the boundaries of the Bears Ears National Monument required by President Trump in Executive Order 13792. Accordingly, Faegre Baker and Andrew Wheeler violated 2 U.S.C. § 1604(b)(2)(A) when they filed the 2017 Third Quarter Lobbying Report for Energy Fuels. Moreover, Faegre Baker and Andrew Wheeler may have violated the Act each time they filed a quarterly activity report for 2017 because none of the reports disclose their effort to change the boundaries of the Bears Ears National Monument.

Second, Faegre Baker and Andrew Wheeler failed to disclose that they had made lobbying contacts at the Interior Department with regard to its review of the boundaries of the Bears Ears National Monument. The Lobbying Disclosure Act requires registrants to provide a statement on each quarterly activity report of the "Houses of Congress *and* the Federal agencies contacted" by lobbyists on behalf of their client.<sup>25</sup> Faegre Baker and Andrew Wheeler only disclosed on their Third Quarter 2017 Lobbying Report for Energy Fuels that they made lobbying contacts with the Senate and the House of Representatives – their July 17, 2017 lobbying contacts with the Interior Department were not disclosed on the Third Quarter 2017 Lobbying Report or on any other quarterly activity report for 2017. Accordingly, Faegre Baker and Andrew Wheeler violated 2 U.S.C. § 1604(b)(2)(B) when they filed their 2017 Third Quarter Lobbying Report for Energy Fuels.

Finally and most importantly, Faegre Baker and Andrew Wheeler failed to disclose that Andrew Wheeler acted as a lobbyist on behalf of Energy Fuels when he made lobbying contacts with covered executive branch officials at the Interior Department on July 17, 2017. The guidance issued by the Secretary and the Clerk is excruciatingly clear that registrants must disclose on the quarterly activity report the identity of each person who acted as a lobbyist during each quarterly reporting period. This disclosure requirements applies to persons who acted as lobbyists at any point during the reporting period. "Previously identified lobbyists . . . must be listed on the quarterly activity report (LD-2) *if they had any lobbying activities during the reporting period*, whether or not they made lobbying contacts."<sup>26</sup> Faegre Baker's Amended Second Quarter 2017 Lobbying Report for Energy Fuels indicated that Mr. Wheeler acted as a lobbyist for Energy Fuels until August 11, 2017, well after his lobbying contacts with covered executive branch officials at the Interior Department on July 17, 2017. Accordingly, Faegre Baker and Andrew Wheeler violated 2 U.S.C. § 1604(b)(2)(C) when they filed their 2017 Third Quarter Lobbying Report for Energy Fuels.

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<sup>24</sup> U.S. Congress, Secretary of the Senate and Clerk of the House of Representatives, *Lobbying Disclosure Act Guidance* at 19 (January 31, 2017)(emphasis added)(hereinafter "LDA Guidance).

<sup>25</sup> 2 U.S.C. § 1604(b)(2)(B)(emphasis added).

<sup>26</sup> LDA Guidance at 20 (emphasis added).

Ms. Julie E. Adams and Ms. Karen L. Haas

August 10, 2018

Page 6

**Conclusion**

Faegre Baker Daniels Consulting and Andrew Wheeler committed multiple serious violations of the Lobbying Disclosure Act by failing to register as lobbyists for Energy Fuels when required by the Act and then by failing to disclose lobbying contacts they made with covered executive branch officials at the Interior Department in connection with their successful effort to change the boundaries of the Bears Ears National Monument for the commercial benefit of Energy Fuels Resources, Inc. Campaign for Accountability respectfully requests that you initiate an investigation of Faegre Baker and Mr. Wheeler and take all appropriate actions to ensure compliance with the Act as required by 2 U.S.C. § 1605(a)(7)&(8).

Sincerely,

A handwritten signature in blue ink, appearing to read "Dan E Stevens", with a long horizontal flourish extending to the right.

Daniel Stevens  
Executive Director