



PROTECT the PUBLIC'S TRUST

July 12, 2023

Teri L. Donaldson
Inspector General
US Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Ms. Jocelyn Richards
Acting Assistant General Counsel
Office of the Assistant General Counsel for Ethics and Personnel Law
US Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Re: Supplemental Request for Investigation into Apparent Ethics Violations by Secretary of Energy Jennifer Granholm

Dear Ms. Donaldson and Ms. Richards,

Protect the Public's Trust (PPT) is a nonpartisan organization dedicated to promoting compliance in government and restoring the public's trust in government officials. On November 12, 2021, PPT submitted a request for investigation into a potential ethics violation by Department of Energy (DOE) Secretary Jennifer Granholm.¹ That complaint involved an incident in which Secretary Granholm participated in a federal grant program that benefited Proterra, a company with which she had a covered relationship based upon her service on its board of directors until her confirmation.² The circumstances of this complaint were explored during a question from Rep. Stephanie Bice to DOE Inspector General Teri Donaldson at an April 19, 2023 hearing of the House Science, Space, and Technology Committee.³

Recently, additional information has come to light to indicate Ms. Granholm's ethics violations related to that program were, in fact, much more egregious and clear-cut. Secretary Granholm recently admitted that her husband held stock in Ford Motor Company until May 2023, a company that received nearly \$25 million from the SuperTruck 3 program in question. As her husband's investments are imputed to her, this means Secretary Granholm had a direct financial

¹ <https://www.protectpublictrust.org/wp-content/uploads/2021/11/Granholm-Ethics-Complaint.pdf>

² <https://freebeacon.com/biden-administration/energy-secretary-granholm-violates-ethics-pledge-to-boost-proterra-watchdog-claims/>

³ <https://www.youtube.com/watch?v=SEJBsgFYzlk&t=4594s>



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interest in one of the companies to which her agency granted millions of dollars from a program she participated in personally and substantially.

Ms. Granholm's participation in matters involving Ford Motor Company was not limited to this one particular program. She appeared in a cringeworthy video with Transportation Secretary Pete Buttigieg produced by DOE that appears to endorse and promote a Ford product. Further, her disclosure of her husband's investment in Ford was part of a process involving multiple statements, each of which contradicted her previous declaration. On a related note, Secretary Granholm's multiple contradictory statements to Congress detailing her various financial interests also raise concern about her intention to mislead the Legislative Branch and the public about potential conflicts of interest that should have restricted her involvement in certain particular matters.

The sordid history of large federal investments in clean energy companies dependent on political connections and their subsequent financial mismanagement⁴ has undermined public confidence in these programs.⁵ In furtherance of PPT's mission and the need to ensure integrity in large-scale federal investments, we respectfully request you initiate an investigation into the involvement of Secretary Jennifer Granholm in particular matters involving Ford Motor Company, a firm in which her husband held an equity investment until May 2023, as well as the attempt to mislead Congress and the public about such financial interests.

Background

According to a June 9, 2023, media report,

Energy Secretary Jennifer Granholm revealed Friday that she has held financial stocks as recently as May, contradicting testimony she gave to a Senate committee earlier this year.

In a letter shared with E&E News and sent to the committee, she also revealed her spouse held a previously undisclosed investment in Ford Motor Co., an automotive brand that falls squarely in her jurisdiction.

[...]

Granholm also said in the letter that her spouse previously owned stock in Ford, which has worked closely with the Biden administration and DOE to build out electric vehicles and deploy new battery technologies... "As I was not previously

⁴ <https://www.energy.gov/sites/prod/files/2015/08/f26/11-0078-I.pdf>

⁵ <https://fortune.com/2015/08/27/remember-solyndra-mistake/>



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aware of the asset, I did not report my spouse's financial interest on my two prior Public Financial Disclosure Reports, nor was it included in the other paperwork associated with my nomination.⁶

Her revelation followed, and contradicted, a previous declaration.

Granholt told the Energy and Natural Resources Committee at an April 20 budget hearing that she did not own any individual stocks, saying she was only invested in mutual funds.⁷

She later backtracked.

"I mistakenly told the Committee that I did not own any individual stocks, whereas I should have said that I did not own any conflicting stocks," Granholt wrote in her letter.

Granholt wrote that she had stocks in six companies that were deemed "non-conflicting" by agency ethics officials.⁸

Despite claiming she owned only "non-conflicting" stocks, she was also forced to admit that her husband had owned the Ford stock, which he reportedly held until May 15, 2023. Working "closely with the Biden administration and DOE to build out electric vehicles and deploy new battery technologies,"⁹ Ford Motor Company is certainly a "conflicting" stock for the Energy Secretary. As investments by Ms. Granholt's husband are imputed to her for the purposes of federal ethics laws, his ownership of Ford Motor Company stock is troublesome. Her participation in matters involving Ford Motor Company from the time of her confirmation until his divestment of Ford on May 15, 2023, constitutes a glaring violation of federal ethics laws.

Any claim that she was unaware of her husband's investment in Ford does nothing to mitigate her responsibility. Frankly, it strains credulity. Secretary Granholt is an extremely experienced and sophisticated government official who understands, or should be expected to understand, her legal and ethics obligations. She is a graduate of the University of California, Berkeley and Harvard Law School and formerly served as both attorney general and governor of Michigan.¹⁰ She has completed multiple Public Financial Disclosures (Form 278e) that include disclosure of her husband's investments. In fact, her initial Form 278e reported an investment by her husband

⁶ <https://www.eenews.net/articles/granholt-contradicts-testimony-reveals-she-did-own-stocks/>

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ <https://www.energy.gov/person/jennifer-m-granholt>



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in Ford Motor Company stock.¹¹ Consequently, any failure to report her husband's ownership of Ford stock is less likely an oversight than a case of willful neglect.

On November 1, 2021, Secretary of Energy Jennifer Granholm participated in a public relations event at John F. Kennedy International Airport (JFK Event) alongside Vice President Kamala Harris and several U.S. Senators. The purpose of the event, as evidenced by a DOE press release issued on the same day as well as related news reports, was to “tout two new climate initiatives aimed at reducing greenhouse gases.”¹² Vice President Harris highlighted the \$127 million in federal grants that were awarded to several private companies “to speed up the development of large electric trucks.”¹³ At the event, Secretary Granholm added, “We are doing it, going 400, 500, 600 miles on a charge. Because of battery technology and hydrogen fuel cell technology.”¹⁴ SuperTruck 3¹⁵ funding recipients were highlighted in the associated DOE press release¹⁶ about the JFK Event.

Secretary Granholm's participation in the SuperTruck 3 program began long before the JFK Event. Her involvement, in fact, dated back to one of the very first announcements of the program, in April 2021, when she participated in a call with trucking industry representatives to promote the new funding opportunities.¹⁷ During this time, Secretary Granholm had a covered relationship with Ford Motor Company via her husband's stock in Ford Motor Company, which was imputed to her. Ford Motor Company received \$24,952,314 from the SuperTruck 3 program in which Secretary Granholm participated.¹⁸

Secretary Granholm also worked closely with the Biden Administration to promote Ford's electric car fleet during the time her husband continued to own stock in Ford. After the passage of the Infrastructure Investment and Jobs Act, she was quick to promote her involvement in ensuring billions of dollars were now available to the Department of Energy for numerous projects, projects that the average American understands directly benefit the Ford Motor Company.

¹¹

[https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/ADEFA0D29965A0498525866100317E6F/\\$FILE/Granholm,%20Jennifer%20M.%20%20final278.pdf](https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/ADEFA0D29965A0498525866100317E6F/$FILE/Granholm,%20Jennifer%20M.%20%20final278.pdf)

¹² <https://abc7ny.com/kamala-harris-jfk-airport-new-york-city-climate-change/11188331/>

¹³ *Id.*

¹⁴ *Id.*

¹⁵ <https://www.energy.gov/articles/doe-announces-nearly-200-million-reduce-emissions-cars-and-trucks>

¹⁶ <https://www.energy.gov/articles/doe-announces-nearly-200-million-reduce-emissions-cars-and-trucks>

¹⁷ <https://www.bulktransporter.com/equipment/trucks/article/21161584/doe-announces-supertruck-3-100m-in-funding>

¹⁸ <https://www.energy.gov/articles/doe-announces-nearly-200-million-reduce-emissions-cars-and-trucks>



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Secretary Granholm even went so far as to appear in a cringeworthy video with Transportation Secretary Pete Buttigieg produced by the Department of Energy that appears to endorse and promote a Ford product, the Mustang Mach-E. The vehicle make and model are specifically identified in the video description, and the vehicle logo prominently appears in several shots, further reinforcing its identity. While in the Ford vehicle, Secretary Granholm makes several comments that would be more appropriate in a car commercial than an official government video:

Secretary Granholm: “Tell me about your experience of driving this electric vehicle.”

Secretary Buttigieg: “It’s pretty zippy, actually.”

Secretary Granholm: “And I notice that as we’re driving, people are glancing longingly at the vehicle.”

Secretary Buttigieg: “Yeah, we’re turning some heads, right?”

Secretary Granholm: “Yeah! And it’s not just because it’s you in the car, it’s because the car is cool.”¹⁹

Thus, Secretary Granholm appears to be actively endorsing a product manufactured by a company in which she contemporaneously held a financial interest.

Secretary Granholm’s participation in the SuperTruck 3 program that awarded Ford Motor Company nearly \$25 million and her active promotion of Ford Motor Company products during a time in which her husband owned Ford Motor Company stock constitute egregious violations of her obligations under federal ethics laws.

Ethics Obligations

Upon being sworn in as the 16th Secretary of Energy on February 25, 2021,²⁰ Energy Secretary Jennifer Granholm became bound by applicable ethics laws and regulations.

Federal law prohibits Secretary Granholm from “participat[ing] personally and substantially as a Government officer . . . through decision, approval, disapproval, recommendation, the rendering of

¹⁹ <https://www.youtube.com/watch?v=K3NFGIgcMg>

²⁰ <https://www.energy.gov/person/jennifer-m-granholm>



PROTECT the PUBLIC'S TRUST

advice ... or other particular matter in which, to [her] knowledge, [she or her] spouse ... has a financial interest.”²¹ The definition of “financial interest” includes the ownership of stocks.²²

Additionally, according to federal regulations at 5 C.F.R. § 2635.702 (c)-(d), federal employees are prohibited from using their official title or official capacity to endorse specific “products, services, or enterprises” or “give rise to an appearance of use of public office or of giving preferential treatment.”²³

Relevant Legal Standards

Generally, it is understood that to participate personally means to participate directly; to participate substantially means that the employee's involvement is of significance to the matter.²⁴ This captures a wide range of activities that fall short of making decisions, such as engaging in deliberations or rendering advice.²⁵ Authoritative government sources cited below support and have elaborated on this standard.

Office of Government Ethics (OGE)

To participate “personally” means to participate directly. It includes the direct and active supervision of the participation of a subordinate in the matter. To participate “substantially” means that the employee’s involvement is of significance to the matter. Participation may be substantial even though it is not determinative of the outcome of a particular matter.²⁶

Office of Government’s National Government Ethics Summit (June 25, 2020)

Personal and substantial participation:

- This is a very low bar – anything beyond ministerial involvement constitutes personal and substantial participation.
- If identifying possible conflicts through review of an individual’s financial disclosure report, the fact that they are required to file a report suggests their participation will be personal and substantial.

²¹ 18 USC § 208.

²² See 5 C.F.R. § 2635.403(c)(1).

²³ <https://www.law.cornell.edu/cfr/text/5/2635.702>

²⁴ <https://www.govinfo.gov/content/pkg/CFR-2000-title5-vol3/pdf/CFR-2000-title5-vol3-part2637.pdf>

²⁵ <https://www.govinfo.gov/content/pkg/USCODE-2012-title18/html/USCODE-2012-title18-partI-chap11-sec208.htm>

²⁶ <https://www.ecfr.gov/current/title-5/chapter-XVI/subchapter-B/part-2640/subpart-A/section-2640.103>



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- Tip: Employee's participation does not have to have a direct and predictable effect on financial interest; participation is a separate element. Inquiry is whether the particular matter has a direct and predictable effect.²⁷

Agency Ethics Guidance

Personal and substantial participation. To participate "personally" means to participate directly. It includes the direct and active supervision of the participation of a subordinate in the matter. To participate "substantially" means that the employee's involvement is of significance to the matter. Participation may be substantial even though it does not determine the outcome of a particular matter. However, it requires more than official responsibility, knowledge, perfunctory involvement, or involvement on an administrative or peripheral issue. A finding of substantiality should be based not only on the effort devoted to the matter, but also on the importance of the effort. While a series of peripheral involvements may be insubstantial, the single act of approving or participating in a critical step may be substantial. Personal and substantial participation may occur when, for example, an employee participates through decision, approval, disapproval, recommendation, investigation, or the rendering of advice in a particular matter.²⁸

Analysis

After applying the legal factors to the facts surrounding Secretary Granholm's participation in the SuperTruck 3 program – through the JFK Event and her other advancement of the program – and her promotion of Ford Motor Company and its products, it appears clear that Ms. Granholm's conduct was prohibited under the law. A full investigation is warranted to understand whether and to what extent Secretary Granholm willfully violated her legal and ethics obligations as a Cabinet official.

Secretary Granholm had a financial interest in Ford Motor Company

Secretary Granholm's husband's ownership of stock in Ford Motor Company is imputed to her per federal ethics laws. His ownership of this stock created the necessity for her to recuse from particular matters involving Ford Motor Company from her confirmation on February 25, 2021, through May 15, 2023, when he divested from the stock.

²⁷ <https://slidetodoc.com/june-25-2020-national-government-ethics-summit-money/> at slide 18.

²⁸ https://www.doi.gov/sites/doi.gov/files/uploads/se-pge_summary_mcd26_final.pdf



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Federal awards provided under the SuperTruck 3 program are particular matters involving specific parties

Grants and loans provided under the SuperTruck 3 program provided direct federal financial assistance to private companies that are selected by the agency for awards. The applicants and awardees within this program involve a very limited group of identified parties. For instance, the DOE press release and Secretary Granholm's JFK Event announced \$127 million in funding to specific recipients as part of its SuperTruck 3 initiative. All aspects of the administration of this financial assistance, including deliberations, guidance, advice, decision-making, announcements, and distribution, should be considered a particular matter involving specific parties.

Ford Motor Company is a party to the SuperTruck 3 program

Ford Motor Company received \$24,952,314 from the SuperTruck 3 program to “develop and demonstrate five hydrogen fuel cell electric Class-6 Super Duty trucks targeting cost, payload, towing, and refueling times that are equivalent to conventional gasoline trucks.”²⁹

Secretary Granholm participated personally and substantially in the particular matter

Secretary Granholm has played both a direct leadership role in the SuperTruck 3 program³⁰ and a substantive role in announcing and promoting grant awardees at the JFK Event. As the United States Office of Government Ethics has stated in various formats, the bar for determining “personal and substantial” participation is a “very low bar.” DOJ's Office of Legal Counsel has weighed in with a supportive view that such participation does not require decision-making. Regulations indicate that so long as the participation was of significance then it will exceed the “substantial” threshold.

Significant investment of federal tax dollars into new technology with mixed public support can become a major political issue inside an agency. To inoculate funding recipients as well as leadership from future criticism, agencies often attempt to develop elaborate public relations campaigns to reassure the public of the virtues of its funding decisions. This may include a major event where the Vice President and sitting Members of Congress give speeches and the companies and technology being funded are highlighted. The JFK Event took substantial planning. It required staging a public event with multiple buses and heavy vehicles as backdrop, coordinating press releases, posting social media commentary, timing a funding announcement, and ensuring the presence of leaders from major private companies receiving nearly \$200

²⁹ <https://www.energy.gov/articles/doe-announces-nearly-200-million-reduce-emissions-cars-and-trucks>

³⁰ <https://www.bulktransporter.com/equipment/trucks/article/21161584/doe-announces-supertruck-3-100m-in-funding>



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million. This effort required substantial planning and preparation that likely involved agency leadership at the highest levels.

To view the JFK Event as merely a press event or peripheral to the funding decision would remove the context, relevance to the underlying funding decision, and the effort put into staging such an event. Further, given Secretary Granholm's leadership role in the reconfiguration of the SuperTruck 3 program since joining the Department, it is a natural for her to have played a public role in selling its funding decisions. Whether Secretary Granholm was involved in the actual funding decisions is almost irrelevant when considering her overarching presence during the program's resurgence, her previous employment relationships, and her leadership on the President's Task Force, under whose mandate the funding derives its renewed origin.

The facts surrounding Secretary Granholm's participation in the JFK Event certainly give the appearance of her stamp of approval for the funding decisions and leave the impression that the grant process was conducted under her supervision and leadership.

Secretary Granholm's appearance in a video featuring and touting a Ford product constitutes an endorsement

Ms. Granholm participated in a video with Transportation Secretary Buttigieg in which she made several comments plugging the Ford Mustang Mach-E and its features. The video looks more like a commercial for the Ford product than an informational government production. The Inspector General's office should commence an immediate investigation into whether Jennifer Granholm violated her obligations under 5 C.F.R. § 702.

Conclusion

Protect the Public's Trust's mission includes restoring citizens' confidence in its government officials. To achieve that mission, PPT shines a light on conduct that weakens public trust and furthers the impression of a double standard.

Green energy programs have become an important tool for policymakers and federal officials. However, as with any large federal financial assistance program, a portion of the American public has become increasingly skeptical of the possibility for waste, fraud, and abuse in the administration of these programs. With potentially hundreds of billions of additional dollars set to flow to the Department of Energy for similar programs over the next several years, protecting the public's faith in the oversight and integrity of these programs is crucial.

Senior government officials' actions, particularly those at the Cabinet level, that undermine public trust and flout the spirit, if not the letter, of the law should not be tolerated. In some circumstances, giving the benefit of the doubt to sophisticated public servants may be a difficult



PROTECT the PUBLIC'S TRUST

but appropriate course to follow. Asking for this same benefit to be given a second time, or in Secretary Granholm's circumstances multiple times, is indefensible.

Secretary Granholm is an extremely sophisticated government official who understands her legal and ethical obligations. She is obligated to have knowledge of and disclose her husband's investments, prior to exercising her immense federal authority. Perhaps most egregiously, Secretary Granholm and her husband held many interests and even represented a substantial number of clients in the energy and automobile sectors before her return to government service. She also became the subject of congressional scrutiny after delaying her divestment of Proterra early on in her tenure. Knowing that her financial relationships were the source of public concern and already impugning her integrity, it is remarkable that Ms. Granholm continued to play fast and loose with the rules by failing to divest and disclose conflicting investments for more than two years into her tenure.

Secretary Granholm's participation in matters involving Ford Motor Company while her husband owned stock in the company represents a blatant violation of her ethics obligations. We ask that the Inspector General commence an immediate and thorough investigation into Energy Secretary Jennifer Granholm's participation in matters involving Ford Motor Company during the time her husband owned stock in the company and any related violations that have been committed as a result of her actions.

Sincerely,

Michael Chamberlain
Director
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