



PROTECT the PUBLIC'S TRUST

October 27, 2021

Henry J. Kerner
Special Counsel
Office of Special Counsel
1730 M Street, N.W., Suite 218
Washington, DC 20036

Re: Hatch Act violation by Energy Secretary Jennifer Granholm

Dear Mr. Kerner,

Protect the Public's Trust (PPT) operates as a non-profit organization dedicated to promoting compliance in government and restoring the public's trust in government officials. PPT respectfully requests that you investigate whether Energy Secretary Jennifer Granholm violated the Hatch Act¹ during an appearance and speech at a campaign event for candidate for Virginia governor Terry McAuliffe. These actions were directed at the success of a candidate in a partisan political race. Ms. Granholm, by highlighting recent actions taken in her official capacity as Secretary of Energy and other activities, indicate she was using her "official authority or influence for the purpose of interfering with or affecting the result of an election."

Background

Since her appointment as U.S. Secretary of Energy² on February 25, 2021³, Jennifer Granholm has become the public face of the government's energy policy. The Cabinet member is a frequent guest on news shows⁴, makes regular public appearances at energy-related events⁵, and has been interviewed by both traditional and non-traditional outlets, including the fashion publication Marie Claire⁶ earlier this month.

¹ 5 U.S.C. § 7323 et al.

² <https://www.energy.gov/person/jennifer-m-granholm>

³ <https://www.energy.gov/articles/jennifer-m-granholm-sworn-16th-secretary-energy>

⁴ <https://www.cbsnews.com/video/energy-secretary-jennifer-granholm-on-the-takeout-1012021/>

⁵ <https://www.suffolknewsherald.com/2021/10/25/first-wind-turbine-blade-facility-coming-to-hampton-roads/>

⁶ <https://www.marieclaire.com/politics/a37897483/senator-jennifer-granholm-emily-tisch-sussman-instagram/>



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As one of only two gubernatorial races this year, Virginia's neck and neck race⁷ has captured considerable attention in both local and national media outlets. Democratic candidate Terry McAuliffe, favored by Sec. Granholm, publicly espoused energy policies that differ markedly from his Republican counterpart, Glenn Youngkin, in a September 28, 2021, debate televised on NBC.⁸

On October 25, Sec. Granholm appeared in her official capacity at Virginia's Portsmouth Marine Terminal to announce a wind turbine facility to be built nearby (Turbine Event).⁹ Later that day, she delivered a campaign speech on behalf of McAuliffe at the Fairfax County Democratic Committee's "Fairfax Meet and Greet with Jennifer Granholm"¹⁰ event (FCDC Event) in Fairfax, Virginia.

During the FCDC Event, Granholm reportedly referenced her work at the Department, discussing issues that fall under the auspices of DOE as well as specifically mentioning the Turbine Event held earlier that day, referred to President Biden as "my boss," and drew stark comparisons between Virginia's gubernatorial candidates that favored Terry McAuliffe.¹¹

In a tweet containing video from the FCDC Event¹², Katherine White, co-founder of a Network NOVA, tagged Sec. Granholm's official, government account¹³, not Granholm's personal account.¹⁴ Network NOVA¹⁵ is a political group whose self-described purpose is "to take back our democracy by electing progressive candidates and holding them accountable once they are in office."

Legal Standard

The Hatch Act prohibits a government employee from "us[ing] his official authority or influence for the purpose of interfering with or affecting the result of an election."¹⁶

⁷ <https://thehill.com/homenews/campaign/578241-mcauliffe-youngkin-dead-even-poll>

⁸ <https://www.nbcwashington.com/news/local/va-gov-debate-mcauliffe-and-youngkin-on-clean-energy/2815812/>

⁹ <https://twitter.com/SecGranholm/status/1452679532482158599>

¹⁰ https://www.fairfaxdemocrats.org/event/fairfax-meet-and-greet-with-jennifer-granholm/?instance_id=9149

¹¹ <https://subscriber.politicopro.com/article/eenews/2021/10/26/citing-clean-energy-granholm-stumps-for-mcauliffe-in-va-282397>

¹² <https://twitter.com/kittydoor12/status/1452803256866934784?s=20>

¹³ <https://twitter.com/SecGranholm>

¹⁴ <https://twitter.com/JenGranholm>

¹⁵ <https://networknova.org/about/>

¹⁶ 5 U.S. Code § 7323(a)(1).



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Political activity is defined as “activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group.”¹⁷

A political rally (or “meet and greet”) held by the official committee of a county political party for the benefit of a candidate of that party for state office clearly meets the definition of “political activity.” According to the Act, a federal employee delivering an address in support of a candidate at that rally would not be permitted to do so if using her official title, appearing in her official capacity or employing federal resources.

Analysis

Sec. Granholm spoke in her official capacity as a Cabinet member at the FCDC Event

Employees are considered “on duty” when they are ... [r]epresenting any agency or instrumentality of the United States Government in an official capacity.”¹⁸ While speaking at the FCDC Event, Sec. Granholm was speaking as a government employee in her official capacity as the United States Secretary of Energy on matters directly related to her professional duties.

Granholm purportedly claimed she was not speaking in her official capacity at the event, but the reported content of her message and the perception of those attending demonstrate the opposite. The purpose driving Sec. Granholm’s appearance at a nakedly partisan event just 8 days ahead of a consequential gubernatorial race in which the candidates are tied, suggests otherwise.

During the FCDC Event, Granholm reportedly referenced her appearance in her official capacity at the Turbine Event just hours before, saying, “I just came from an announcement that Virginia is going to be the hub in the Atlantic because of the leadership when Terry [McAuliffe] was governor.”

Tying the Turbine Event to the Virginia gubernatorial election, Granholm reportedly said, “We know that when Terry [McAuliffe] was governor, we saw a 65% increase in solar power in this state. . .”

In an additional reference to her official duties, she warned attendees that clean energy jobs in Virginia could hinge on them “keep[ing] the commonwealth blue.”¹⁹

¹⁷ 5 C.F.R. §734.101

¹⁸ 5 C.F.R. §734.101

¹⁹ <https://subscriber.politicopro.com/article/eenews/2021/10/26/citing-clean-energy-granholm-stumps-for-mcauliffe-in-va-282397>



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Sec. Granholm's intended message was crystal clear—she was speaking in her official capacity as the United States Secretary of Energy, while encouraging attendees to vote for Terry McAuliffe in the gubernatorial election the next week.

Attendees heard that message loud and clear. Even politically savvy attendees like Katherine White, co-founder of Network NOVA, understood they were being addressed by Sec. Granholm in her official capacity. Ms. White, when tweeting about the event, tagged Sec. Granholm's official Twitter account rather than her personal account.

Conclusion

The Hatch Act is intended to protect the public's trust in its federal officials by prohibiting them from using their official capacity to engage in partisan political activity. This prohibition remains in place even while the official is off duty. Secretary Granholm clearly participated in a partisan political event and made statements promoting one candidate over another while creating the perception that she was speaking in her official capacity. While she may claim otherwise, the reaction of attendees certainly indicates that her participation created confusion in the minds of even experienced political operatives that Ms. Granholm was speaking in her official capacity. When considered in light of a recent interview in which she has been alleged to have committed a separate Hatch Act violation, even after acknowledging she was subject to its provisions,²⁰ Ms. Granholm appears to be engaged in a pattern of such apparent infractions.

By using her official position to influence the result of an election through activity directed toward the success of a candidate for partisan political office, Jennifer Granholm appears to have violated the Hatch Act. We urge OSC to commence an immediate investigation into the conduct described in this letter.

Sincerely,

Michael Chamberlain
Director
Protect the Public's Trust
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²⁰ <https://freebeacon.com/biden-administration/bidens-energy-secretary-violated-hatch-act-watchdog-says/>