



PROTECT the PUBLIC'S TRUST

November 12, 2021

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: Request for Investigation into Potential 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. The sordid history of large federal investments in clean energy companies dependent on political connections and their subsequent financial mismanagement¹ has undermined public confidence in these programs.² 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 U.S. Department of Energy (DOE) Secretary Jennifer Granholm in particular matters involving Proterra, a company on whose board she served until her confirmation. Specifically, the Secretary participated in a recent event during which federal grants that would directly and predictably benefit Proterra were announced and during which Proterra buses and products were prominently displayed.

Background

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

¹ <https://www.energy.gov/sites/prod/files/2015/08/f26/11-0078-1.pdf>

² <https://fortune.com/2015/08/27/remember-solyndra-mistake/>



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President Kamala Harris and several U.S. Senators. The purpose of the event, as evidenced by a Department of Energy (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.”³ 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.”⁴ 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 [referencing Proterra-developed and installed technology].”⁵

During this event, Proterra⁶-made electric buses⁷ were prominently displayed as the backdrop, implying a direct connection to the technology referenced by Vice President Harris and Secretary Granholm. During her remarks, Secretary Granholm reduced any potential confusion about the technology she was touting by pointing to the Proterra-made electric buses displayed behind her podium (image below).⁸



³ <https://abc7ny.com/kamala-harris-jfk-airport-new-york-city-climate-change/11188331/>

⁴ *Id.*

⁵ *Id.*

⁶ <https://www.proterra.com/company/>

⁷ <https://www.proterra.com/press-release/port-authority-of-new-york-new-jersey-announces-rollout-of-proterra-catalyst-e2-electric-buses-for-john-f-kennedy-international-laguardia-and-newark-liberty-international-airports/>

⁸ <https://youtu.be/ahip5tGgcHA>



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In addition to the prominent presence of Proterra buses, Proterra-connected SuperTruck 3⁹ and Low Greenhouse Gas Vehicle Technologies (LowGHG)¹⁰ funding recipients were highlighted in the associated DOE press release¹¹ about the JFK Event. The SuperTruck program began in 2009, with another round of applications in 2016. The initial two rounds of the program focused on increasing fuel efficiency of heavy-duty trucks powered by the diesel fuel traditionally used by heavy trucks. No new competitions of the program occurred during the previous Administration. Since the change of Administrations, SuperTruck 3 was reconfigured to “push the envelope even further through the electrification of the vehicle, and hydrogen and fuel cells,” as described by Secretary Granholm¹², and fund projects “aimed at electrifying freight trucking,” to help the Biden Administration achieve “net-zero carbon emissions by 2050.”¹³

Secretary Granholm is a former Director for Proterra, who recently netted more than \$1 million from her divestiture from Proterra stock options¹⁴, and the company has developed a strong public and financial relationship to multiple program recipients, effectively making them a sub-grantee. Together with her participation in the JFK Event, this appears, at minimum, to have created a public perception of ethical impropriety. At worst, Ms. Granholm’s appearance may constitute a violation of ethical obligations she is required to uphold.

Ethics Obligations

Prior to joining the Biden Administration, Secretary Granholm served on Proterra’s Board of Directors from March 30, 2017 until her Senate confirmation in 2021.¹⁵ Upon being sworn in as the 16th Secretary of Energy on February 25, 2021,¹⁶ Granholm became bound by applicable ethics laws, regulations, and the Biden Administration Ethics Pledge (the Ethics Pledge). Paragraph 2 (The Revolving Door Ban – All Appointees Entering Government) of the Ethics Pledge prohibits political appointees from participating in particular matters involving specific parties that are directly and substantially related to

⁹ <https://www.energy.gov/articles/doe-announces-nearly-200-million-reduce-emissions-cars-and-trucks>

¹⁰ https://www.energy.gov/sites/default/files/2021-10/FY21_VTO_2475_Low_GHG_selections_table-for_release.pdf

¹¹ <https://www.energy.gov/articles/doe-announces-nearly-200-million-reduce-emissions-cars-and-trucks>

¹² <https://www.bulktransporter.com/equipment/trucks/article/21161584/doe-announces-supertruck-3-100m-in-funding>

¹³ <https://www.energy.gov/articles/doe-announces-162-million-decarbonize-cars-and-trucks>

¹⁴ <https://www.politico.com/news/2021/05/26/jennifer-granholm-proterra-holdings-491007>

¹⁵ <https://www.proterra.com/press-release/former-two-term-governor-of-michigan-jennifer-granholm-joins-proterras-board/>

¹⁶ <https://www.energy.gov/person/jennifer-m-granholm>



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their former employer or former clients, including regulations and contracts. This prohibition extends for a period of two years after joining the government.¹⁷

Secretary Granholm is also bound by regulatory restrictions that include 5 C.F.R. § 2635.502(a)(2) which requires appointees to consult with ethics officials and receive approval prior to participating personally and substantially in a matter where a reasonable person with knowledge of the relevant facts would question their impartiality. Based on the language in 502(a)(2) that expands the impartiality concern to “circumstances other than those specifically described in this section,” particular matters of general applicability may present such concerns for an agency in the face of bias being at issue. Failing to consider this appearance of bias by not consulting with agency ethics officials prior to engagement may likely be a violation of an appointee’s ethics obligations.¹⁸

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.”¹⁹

Relevant Legal Standards

Both the Biden Ethics Pledge and the regulations at Section 502 prohibit officials from *participating personally and substantially in particular matters involving specific parties* where an entity with whom they have a *covered relationship* is either a *party or represents a party*. Section 502 expands the official’s obligations to those matters where a reasonable person with knowledge of the relevant facts would have cause to question the official’s impartiality. This final factor will be fact-dependent based on circumstances unique to each official’s situation.

Personal and substantial participation

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.²⁰ This captures a wide range of activities that fall short of making decisions, such

¹⁷<https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-ethics-commitments-by-executive-branch-personnel/>

¹⁸ <https://www.law.cornell.edu/cfr/text/5/2635.502>

¹⁹ <https://www.law.cornell.edu/cfr/text/5/2635.702>

²⁰ <https://www.govinfo.gov/content/pkg/CFR-2000-title5-vol3/pdf/CFR-2000-title5-vol3-part2637.pdf>



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as engaging in deliberations or rendering advice.²¹ Authoritative government sources cited in bold type immediately below support and have elaborated on this standard.

Office of Governmental Ethics: 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.²²

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.
- 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.²³

Department of Justice’s Office of Legal Counsel: Has opined that the conflict of interest law covers participation in meetings of advisory committees, which have no authority to make decisions for the government.²⁴

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,

²¹ <https://www.govinfo.gov/content/pkg/USCODE-2012-title18/html/USCODE-2012-title18-partI-chap11-sec208.htm>

²² <https://www.ecfr.gov/current/title-5/chapter-XVI/subchapter-B/part-2640/subpart-A/section-2640.103>

²³ <https://slidetodoc.com/june-25-2020-national-government-ethics-summit-money/> at slide 18.

²⁴ Office of Legal Counsel, Dep’t. of Justice, Advisory Committees-Food & Drug Admin.-Conflicts of Interest (18 U.S.C. § 208), 2 U.S. Op. Off. Legal Counsel 151, 153 (1978) (“OLC FACA opinion”), at <https://www.justice.gov/file/21621/download>.



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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.²⁵

Particular matters involving specific parties

The definition of particular matters involving specific parties is set forth in 5 C.F.R. § 2641.201(h). This same definition is relied on to form the basis for the restrictions in the Biden Ethics Pledge with a minor addition.²⁶ Specific actions such as litigation, contracts (including grants), enforcement actions, and issuance of approval or grant of rights are some of the most common particular matter involving specific parties.²⁷

Covered Relationships

Officials have a covered relationship with, among others, any person for whom the employee has, within the last year, served as ... officer, director, [or several similar roles.]²⁸ In short, this is frequently shortened to former clients and employers but covers a range of contractual or fiduciary relationships maintained by the official in the relevant time period prior to joining the government.

Involving a Covered Entity

Whether a covered entity is a party or represents a party is addressed in the Pledge and regulations. The Biden Ethics Pledge uses the term “directly and substantially related to the former employer” and then defines the term in Sec. 2(m) as “matters in which the appointee’s former employer...is a party or represents a party.” Federal ethics regulations at Section 502 have a similar standard, referencing instances where a covered entity “is or represents a party.”

²⁵ https://www.doi.gov/sites/doi.gov/files/uploads/se-pge_summary_mcd26_final.pdf

²⁶ “...except that it shall also include any meeting or other communication relating to the performance of one’s official duties with a former employer or former client, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties.” Sec 2 (j).

²⁷

[https://www.oge.gov/web/OGE.nsf/0/3FAD0A7A60592E48852585B6005A1BD4/\\$FILE/HO_Eisner_Nettlesome.pdf](https://www.oge.gov/web/OGE.nsf/0/3FAD0A7A60592E48852585B6005A1BD4/$FILE/HO_Eisner_Nettlesome.pdf)

²⁸ 5 CFR § 2635.502(b)(1)(iv). See also Biden Ethics Pledge Sec. 2(k) which includes “Director” in its definition of “Former Employers.”



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Analysis

After applying the legal factors to the facts surrounding Secretary Granholm's recent participation in the JFK Event, it is likely that her conduct was prohibited under the law or, at the very least, contributed to the appearance of giving improper and preferential treatment to her former employer. Her actions also leave the public with the impression that Secretary Granholm has used her official position to endorse her former employer's products. A full investigation is warranted to understand whether and to what extent Secretary Granholm has violated her legal and ethics obligations as a Cabinet official.

Granholm has a covered relationship with Proterra

Prior to joining the Biden Administration, Secretary Granholm served on Proterra's Board of Directors from March 30, 2017 until her Senate confirmation in 2021.²⁹ Under both the Biden Ethics Pledge and the ethics regulations, Proterra is considered a "former employer" and a "covered relationship."

Federal awards provided under the SuperTruck 3 and LowGHG programs are particular matters involving specific parties

Grants and loans provided under the SuperTruck 3 and LowGHG programs provide 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 \$199 million in funding to specific recipients, including five manufacturers set to receive \$128 million 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.

Proterra should be considered a party to the federal awards distributed at the JFK Event

At least three of the five SuperTruck 3 grantees highlighted in the DOE press release and announced at the JFK Event have direct financial connections and public relationships with Proterra.³⁰ Those recipients include Daimler Trucks North America, LLC (\$25,791,669); Ford Motor Company (\$24,952,314), and General Motors, LLC

²⁹ <https://www.proterra.com/press-release/former-two-term-governor-of-michigan-jennifer-granholm-joins-proterras-board/>

³⁰ <https://www.energy.gov/articles/doe-announces-nearly-200-million-reduce-emissions-cars-and-trucks>



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(\$26,061,726). In total, \$76,805,709 of the “nearly \$200 million” in awards funding research, development, and demonstration projects to “reduce emissions from cars and trucks” went to heavy vehicle manufacturers connected to Proterra. When fully appreciated, these relationships make Proterra a direct and predictable beneficiary (i.e., subgrantee) and party to the decision that awarded federal financial assistance to the selected manufacturers.

The business relationships of these entities with Proterra have been known publicly for years. As a former Board member, Ms. Granholm would also have had intimate knowledge of the deep relationship between the awardees and her former firm. For instance, in September 2018, while Secretary Granholm served on the Board of Proterra, the company announced it had received a funding infusion of \$155 million from investors led by Daimler. The deal prompted a member of the Board of Daimler AG to declare, “We expect the cooperation with Proterra to deliver additional impetus for the development of heavy-duty commercial vehicles with electric drive.”³¹ With the investment by Daimler, **Proterra gained exclusive partnerships** to provide batteries and drivetrains for Daimler divisions, including Thomas Built Buses and Freightliner Custom Chassis, Daimler’s commercial truck division.³²

In January 2021, while Granholm continued to hold her position on the Board of Proterra, the company announced a deal to go public. As part of the merger involved with the special purpose acquisition company (SPAC), Daimler joined a group of investors that invested an additional \$415 million in Proterra.³³ In a press release announcing the merger, **Daimler is listed as a “strategic partner”** and one of the existing shareholders who **would own “more than 60 percent of the pro forma company at close.”**³⁴ In discussing the SPAC, Proterra’s CEO described electrifying Class-8 vehicles as an aspirational goal for the newly-public firm.³⁵ Not coincidentally, the SuperTruck 3 award to Daimler (the “strategic partner” of Proterra) is to “develop and demonstrate two 2 Class-8 fuel cell trucks.”³⁶

³¹ <https://www.forbes.com/sites/alanohnsman/2020/02/28/electric-busmaker-proterra-using-its-silicon-valley-tech-to-make-green-freightliner-trucks/?sh=6a5b82f9351c>

³² <https://www.standardindustries.com/proterra-set-to-take-heavy-duty-electric-vehicle-business-public-via-spac-transaction/>

³³ <https://www.msn.com/en-us/money/companies/ev-tech-company-proterra-to-go-public-through-arlight-spac/ar-BB1cGDQA>

³⁴ https://www.sec.gov/Archives/edgar/data/1820630/000121390021001584/ea133141ex99-1_arlight.htm

³⁵ <https://www.freightwaves.com/news/bus-and-battery-maker-proterra-exits-spac-with-640m-payout>

³⁶ <https://www.energy.gov/articles/doe-announces-nearly-200-million-reduce-emissions-cars-and-trucks>



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Daimler is not the only investor in Proterra to have received an award from the SuperTruck 3 grant. General Motors is slated to receive more than \$26 million from the program. GM Ventures made a \$6 million investment in Proterra in 2011.³⁷

In November 2020, the president of Ford's Americas and International Markets Group declared, "At the moment, [Ford] do[es] not have any plans to go into heavy-duty with battery-electric vehicles."³⁸ Yet just a few months later, Ford reversed course and decided to do precisely that, submitting a successful proposal that could gain the company nearly \$25 million from SuperTruck 3 to develop and demonstrate five hydrogen fuel cell electric Class-6 Super Duty trucks."³⁹

This summer, Proterra announced a collaboration with ROUSH CleanTech and another company in which Proterra will provide battery technology for Class 6 trucks employing Ford F-650 chassis.⁴⁰ This agreement and the development of technology for the collaboration would appear to give Proterra a leg up in any new development of Ford's Class 6 electric vehicles.

Taken together, these corporate relationships, financial investments, and exclusive partnerships represent a clear dependence on Proterra for the very technology for which Secretary Granholm's Department of Energy has decided to provide nearly \$80 million. In fact, Proterra should almost certainly have been viewed as a sub-grantee to such federal awards while Daimler's significant investments in Proterra should have made it a covered relationship for Secretary Granholm. On a related note, as part of an investigation, further inquiry into the extent and timeline of Ms. Granholm's participation may be warranted based on previously-held financial positions.⁴¹

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https://media.gm.com/media/us/en/gm/news.detail.html/content/Pages/news/us/en/2011/Jun/0613_gmv_proterra.html

³⁸ <https://www.motor1.com/news/452311/no-electric-ford-super-duty/>

³⁹ <https://www.energy.gov/articles/doe-announces-nearly-200-million-reduce-emissions-cars-and-trucks>

⁴⁰ <https://www.proterra.com/press-release/proterra-to-power-roush-truck/>

⁴¹ In an analysis under 18 U.S.C. § 208, these facts would likely support the finding of a "direct and predictable" benefit being provided to a disqualifying financial interest (both Proterra and Ford) in the event Ms. Granholm is determined to have been involved in any manner with the grant programs prior to her respective divestments.



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Granholm participated personally and substantially in the particular matter

Secretary Granholm has played both a direct leadership role in the SuperTruck 3⁴² and LowGHG programs⁴³ 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 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

⁴² Secretary Granholm’s participation in the SuperTruck 3 program dates back to one of its first announcements in April when she participated in a call with the trucking industry representatives to promote the new funding opportunities. *See* <https://www.bulktransporter.com/equipment/trucks/article/21161584/doe-announces-supertruck-3-100m-in-funding>

⁴³ On January 27, 2021, President Joe Biden issued an “Executive Order on Tackling the Climate Crisis at Home and Abroad.” Section 203 of the executive order establishes the National Climate Task Force (“Task Force”), which includes a number of Cabinet officials and the Secretary of Energy. Among the goals spelled out in the “whole-of-government effort” was to “reach[] net-zero emissions economy-wide by no later than 2050.” To help achieve the Biden Administration’s climate goals, including “getting to net-zero carbon emissions by 2050,” the U.S. Department of Energy under Secretary Granholm opened a grant competition for the SuperTruck program. The SuperTruck program began in 2009 with an emphasis on increasing fuel efficiency of commercial trucks using traditional diesel engines. The latest iteration of the program (SuperTruck 3) was designed to award funds to projects to electrify commercial trucks.



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reconfiguration of the SuperTruck 3 program since joining the Department,⁴⁴ 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. Whether this is the case or her participation exceeds this threshold warrants investigation in any event.

A reasonable person with knowledge of the relevant facts would question whether Proterra received preferential treatment based on Granholm's participation in the JFK Event

In the public's eye, Secretary Granholm's relationship with Proterra is well-established. Granholm was sworn in as Secretary of Energy in February 2021, but retained at least \$1.6 million worth of Proterra stock options until late May.⁴⁵ Members of Congress including Senate Committee on Energy and Natural Resources ranking member Sen. John Barrasso (R-Wyo.)⁴⁶ and Subcommittee on Environment Ranking Member Rep. Ralph Norman (R-S.C.)⁴⁷ sought additional transparency on Granholm's ties to Proterra in April and May, respectively.

In his request for the OIG's review, Ranking Member Barrasso stated:

"I am concerned about this and other potential conflicts of interest between Secretary Granholm's significant investment in Proterra, Inc. and any activities she may have directly or indirectly participated in within the Biden Administration to promote electric vehicles (including electric buses), batteries, and charging infrastructure. . . I request that your office determine the facts surrounding any potential conflicts of interest in connection to this matter. . ."

⁴⁴ See supra note 42 and 43.

⁴⁵ <https://www.politico.com/news/2021/05/26/jennifer-granholm-proterra-holdings-491007>

⁴⁶ <https://www.energy.senate.gov/services/files/21DAAD0D-E18A-4FEE-816C-0D81362E3981>

⁴⁷ <https://republicans-oversight.house.gov/wp-content/uploads/2021/05/Letter-to-DOE-on-Proterra.pdf>



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Rep. Norman's letter, dated May 12, 2021 (prior to Granholm's divestiture from Proterra), said, in part:

“As the Secretary of Energy, it also appears that you are involved with decisions and issues that directly conflict with your ownership of Proterra, Inc. While you claim to have been uninvolved with President Biden's virtual visit to Proterra, Inc., you have spent much of your time as Secretary of DOE actively pushing a public relations campaign to endorse electric vehicles, batteries and charging infrastructure. I want to ensure that you are taking your ethics requirements seriously, and not using your position to profit financially.”

After the announcement of Granholm's divestiture from Proterra, PPT expressed concerns about remaining unanswered questions⁴⁸. Among the questions PPT identified were:

- Will Granholm be involved in any deliberations, decisions, or actions at DOE that could benefit Proterra?
- Will [Granholm] continue to lead Administration initiatives that could potentially result in financial benefits for Proterra?

Secretary Granholm's participation in the JFK Event and the respective federal awards highlighted in this complaint suggest these concerns were well-founded and likely shared by the public-at-large. In fact, it would have been reasonable to assume that, following the controversial nature of Granholm's delayed divestment and the President's tour of the Proterra facility, Ms. Granholm would not have attempted to participate in any matter that may again raise the appearance of ethical impropriety.

Granholm's appearance in front of Proterra buses while announcing funding for its business partners gives the appearance of endorsement

In light of the public scrutiny Secretary Granholm has received for her financial interests in Proterra and the Biden Administration's public praise for the company through statements and a Presidential tour of their facility, the JFK Event was highly surprising. At best, the decision to place herself on a podium in front of Proterra-made buses at a major public event alongside the Vice President demonstrates poor judgment. At worst, Secretary Granholm has decided to ignore a prudent approach to ethics compliance. The

⁴⁸ <https://www.protectpublictrust.org/granholm-announcement-leaves-many-ethics-questions-unanswered/>



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Secretary has a legal obligation to ensure that “the performance of [her] official duties does not give rise to an appearance ... of giving preferential treatment.”⁴⁹

Ms. Granholm’s participation in the JFK Event, her gesturing toward the Proterra buses, and the many contributing facts articulated in this complaint suggest 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 but appropriate course to follow. Asking for this same benefit to be given a second time is indefensible.

Secretary Granholm is an extremely sophisticated government official who understands her legal and ethics obligations. Her actions surrounding the delayed divestment of her substantial financial interests in Proterra as it was arguably being simultaneously boosted by the Biden Administration raised several red flags. Despite this public scrutiny, Secretary Granholm still decided it was appropriate to participate in a major public event where she would announce nearly \$80 million of taxpayer funds for Proterra-connected grant recipients. Adding to this the fact that Proterra buses were prominently displayed behind her podium, her participation appears to represent a conscious, flagrant affront to her ethics obligations.

⁴⁹ 5 C.F.R. § 2635.702(d).



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Given the above-cited facts, in the spirit of restoring the public's trust in the Department of Energy and Secretary Jennifer Granholm, we ask for an immediate investigation into the following questions:

- Did Secretary Granholm consult with a Designated Agency Ethics Official (DAEO) prior to her participation in or planning for the JFK Event?
- If the DAEO did permit participation by Ms. Granholm, was any undue influence or political pressure leveraged to reach a determination that she could participate in the matter?
- Did Secretary Granholm's participation in the JFK Event constitute an endorsement of Proterra?
- Did Secretary Granholm's participation in the JFK Event constitute a violation of ethical standards to which she is bound, including but not limited to the Biden Ethics Pledge, the impartiality regulations, or other laws governing abuse of office?
- Should Daimler AG and its subsidiaries be considered covered relationships given the significant financial investment it has made into Proterra and the exclusive partnership deals it has made with the company?
- Was Secretary Granholm involved in the decision-making process leading to the approval of SuperTruck 3 and LowGHG grantees? If so, to what extent and when did this involvement begin? Did it overlap with any of her disqualifying financial interests in Proterra, Ford or other companies?
- Was Secretary Granholm appropriately and completely walled off from the DOE's SuperTruck 3 and LowGHG decision-making process and to what extent did her public comments and participation highlighting the program impact ultimate funding decisions?

Sincerely,

Michael Chamberlain
Director
Protect the Public's Trust
Michael@protectpublictrust.org