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Ms. Melinda Loftin
Department of the Interior's Designated Agency Ethics Official
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Dear Ms. Loftin,

Public Citizen, Climate Investigations Center, and Friends of the Earth respectfully request that the Office of Ethics of the Department of the Interior determine whether former Acting Deputy Chief of Staff and Communications Director Megan Bloomgren violated 18 U.S.C. §208(a) by participating personally and substantially in particular matters in which entities with which she had arrangements or was negotiating for prospective employment had financial interests. We believe that Bloomgren may have been discussing post-government employment with the American Petroleum Institute (API) and the DCI Group at the time she participated in Department of Interior meetings regarding the offshore oil and gas extraction executive order, and meetings concerning National Monument designations, and meetings with representatives of the oil and gas industry. API and DCI Group appear to have financial interests in all these matters. Although key facts remain unknown to us, Public Citizen, Climate Investigations Center and Friends of the Earth believe that Bloomgren's participation in the matters should be investigated as potential violations of 18 U.S.C. §208 for possible referral to the Department of Justice.¹

Bloomgren's Government and Post-Government Employment

Before joining the administration, Bloomgren served as the Vice President of DCI Group, a lobbying and crisis communications firm serving the oil and gas industry. DCI Group clients include ExxonMobil and Energy Transfer Partners. In December 2016, Bloomgren was appointed to the Department of Interior transition team.² Once the new administration took office, Bloomgren became Acting Deputy Chief of Staff and Communications Director to Interior Secretary Ryan Zinke.³

¹ https://www.eenews.net/assets/2017/05/19/document_gw_07.pdf

² <http://www.politico.com/story/2016/12/trump-cabinet-picks-nomination-sherpas-232941>

³ <https://departmentofinfluence.org/person/megan-bloomgren/>

During her government service, Bloomgren was present at Senior Staff meetings where energy issues were very likely discussed, and present at a number of meetings specifically regarding energy issues. These meetings included topics like the National Monument Executive Order, oil and gas leasing on federal lands, and the offshore energy Executive Order. Bloomgren also attended meetings with Secretary Ryan Zinke and representatives of the oil and gas industry in which a variety of tax, regulatory, infrastructure, and investment issues were discussed.

In early June 2017, Bloomgren left the Department of Interior. Press reports at the time indicated that Bloomgren had made arrangements for employment with DCI Group while serving at Interior. When her departure from DOI was made public, she announced her intention to return to DCI Group, which suggests the existence of an “arrangement for employment.” E&E News reported on May 30th “[Bloomgren] plans to rejoin the DCI Group, a Republican public relations, lobbying and consulting shop, where she previously worked as a partner.”⁴

Instead of rejoining DCI Group, however, Bloomgren instead joined the American Petroleum Institute (API), the largest oil and gas lobbying group in the United States, as its Vice President of Communications. API represents hundreds of oil and gas corporations,⁵ including ExxonMobil and Shell. As Vice President of API, Bloomgren is responsible for “analyzing issues of importance to the U.S. oil and natural gas industry, and identifying communications messages, audiences, priorities and goals.”⁶

E&E News reported on June 8th that “when the API job came up, Bloomgren accepted it and ended up taking a few weeks off in between the positions.”⁷ According to Ryan Zinke’s calendar, Bloomgren was participating in DOI meetings at least until June 5th, when she joined a meeting on “Interior Appropriations Preparations.” Bloomgren was therefore actively working for the DOI within days of announcing her new position with API, suggesting she was negotiating for employment with API for an unknown period of time while working on matters that could affect API and its clients.

The chronology of Bloomgren’s employment thus indicates that during her time at DOI, she had arrangements or ongoing negotiations with at least two entities concerning her prospective employment upon leaving the government: DCI, with whom she reportedly had an arrangement that she ultimately chose not to accept, and API, with whom she had negotiations that ultimately led to her employment. It will be important for your investigation to determine when in fact Bloomgren’s employment discussions and negotiations commenced.

During the time those arrangements or negotiations were ongoing, Bloomgren was barred by 18 U.S.C. § 208(a) from participating personally and substantially in any particular matter in which she knew that DCI or API had a financial interest, absent a waiver. According to the DOI Ethics office, there are no ethics waivers for, or recusals by, Megan Bloomgren.

⁴ <https://www.eenews.net/stories/1060055283>

⁵ <http://www.api.org/membership/members>

⁶ <http://www.api.org/about/linda-rozett>

⁷ https://www.eenews.net/greenwire/stories/1060055759/climate_digest

Bloomgren's Participation in Matters Affecting API or DCI Financial Interests

There is substantial reason to believe that Bloomgren participated in a number of matters at the Department of the Interior in which API or DCI may have had financial interests. Although it has been reported that DCI represents or has represented ExxonMobil and ETP, we do not know the full list of the firm's clients; that too should be a matter for your investigation. The chronology of her employment suggests that her participation may have occurred during the pendency of her arrangements and negotiations for future employment with API and DCI. The particular matters in which Bloomgren appears to have participated included the following:

1. National Monument Executive Order.— Bloomgren participated in meetings on April 11th⁸ and 25th⁹ regarding the Executive Order on National Monument designations. The executive order directly affects financial interests of API as well as several of its members, such as Bill Barrett Corporation, EOG Resources, and Whiting Petroleum. These companies are currently drilling¹⁰ in the area around Bears Ears National Monument, and the reduction in size or elimination of that monument would have obvious affect on their financial interests. The American Petroleum Institute received compensation from its members and made substantial expenditures lobbying on various aspects of the monuments issue in 2017, which could well have been directly related to the executive order.¹¹ We do not know if DCI represents clients with interests in this matter and whether it was engaged in activity related to the executive order.

2. Offshore Oil and Gas Executive Order.—On April 25th,¹² Bloomgren participated in a meeting regarding the Executive Order on Offshore Energy Strategy, which is aimed at maximizing offshore oil and gas leasing. This order affects a large number of API members, including ExxonMobil, Shell, and Anadarko Petroleum. The American Petroleum Institute received compensation from its members and made substantial expenditures lobbying on the offshore oil and gas issues that could well have been related to the executive order during this time period.¹³ DCI has been reported to represent ExxonMobil; your investigation should determine whether its clients have an interest in

⁸ <https://www.documentcloud.org/documents/3871061-Zinke-March-and-April-Calendar.html#document/p44/a359237>

⁹ <https://www.documentcloud.org/documents/3871061-Zinke-March-and-April-Calendar.html#document/p46/a359241>

¹⁰ <https://www.desmogblog.com/2017/06/07/bears-ears-national-monument-oil-gas-trump>
<http://www.api.org/membership/members#B>

¹¹ American Petroleum Institute, lobby disclosure report, 1st quarter 2017, available at: <https://soprweb.senate.gov/index.cfm?event=getFilingDetails&filingID=2AF2FA1A-6C41-4D7E-9D34-5867A59C9AD1&filingTypeID=51>

¹² <https://www.documentcloud.org/documents/3871061-Zinke-March-and-April-Calendar.html#document/p44/a359237>

¹³ American Petroleum Institute, lobby disclosure report, 1st quarter 2017, available at: <https://soprweb.senate.gov/index.cfm?event=getFilingDetails&filingID=2AF2FA1A-6C41-4D7E-9D34-5867A59C9AD1&filingTypeID=51>

the executive order, and whether DCI has engaged in activities directly related to the executive order.

3. Meeting with Oil and Gas Executives.— Bloomgren also met directly with oil and gas executives of companies that are API members. On April 24th,¹⁴ she met with a slate of oil and gas lobbyists with the Western Energy Alliance, and oil and gas executives from BP, QEP Resources, Halliburton, and Ultra Petroleum. BP, QEP Resources, and Halliburton are currently members of API.¹⁵ Under examples of “particular matters” given by the Office of Government Ethics (OGE), such a meeting by a government official with private parties qualifies as such.¹⁶

Under 18 U.S.C. § 208, a federal employee is prohibited from participating “personally and substantially” in an official capacity in any “particular matter” in which, to her knowledge, “any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest.”

As defined in Office of Government Ethics (OGE) regulations, a “particular matter” includes matters that involve deliberation, decision, or action that is focused on the interests of either specific persons or a discrete and identifiable class of persons. 5 CFR § 2640. The term does not extend to the consideration or adoption of broad policy options that are directed to the interests of a large and diverse group of persons.

It is not fully known what was discussed at the Interior meetings relating to the oil and gas industry. The National Monuments and Offshore Executive Orders were seemingly created by President Donald Trump in part to boost oil and gas extraction on federal lands, and they focus on particular sites as well as the interests of particular industries.¹⁷ As a result, and depending on how they facilitated or related to the executive orders, the April 11th and April 25th¹⁸ meetings regarding these issues may qualify as a “particular matter” because they were carried out in furtherance of the government’s stated policy to allow more oil and gas extraction on public lands, and were focused narrowly on the oil and gas industry as a discrete class of identifiable persons. Your investigation should clarify what was discussed and what occurred at those meetings and whether they satisfy the “particular matter” standard.

¹⁴ <https://www.documentcloud.org/documents/3871061-Zinke-March-and-April-Calendar.html#document/p45/a359240>

¹⁵ <http://www.api.org/membership/members>

¹⁶ 5 CFR 2640.103(a)(1) (Example 2). See also Memorandum Opinion for the General Counsel, Office of Government Ethics, “Financial Interests of Nonprofit Organizations,” (Jan. 11, 2006).

¹⁷ <http://www.npr.org/sections/thetwo-way/2017/04/27/525959808/trump-to-sign-executive-order-on-offshore-drilling-and-marine-sanctuaries>

¹⁸ <https://www.documentcloud.org/documents/3871061-Zinke-March-and-April-Calendar.html#document/p44/a359237>

The April 24th¹⁹ meeting with the Western Energy Alliance and oil and gas executives regarding public lands leasing also may have been a particular matter under the statute and regulations. It appears likely that public lands leasing rules specifically impacting the oil and gas industry were discussed, and it is unknown whether the participants discussed other policies focused on the interests of a discrete and identifiable group of companies.

The Interior meetings also may have involved personal and substantial participation by Bloomgren because of the extent of her involvement in planning and organizing them. Based on her position as Acting Deputy Chief of Staff, there is a reasonable basis to believe that Bloomgren had the responsibility to organize the meetings, and to oversee and participate in the selection process for prospective attendees. To the extent that Bloomgren participated in, oversaw, and engaged in planning activities for these meetings, including but not limited to developing and/or approving the invitation list, she may be viewed as having personally and substantially participated in the Interior meetings as particular matters involving specific parties that would have a direct and predictable effect on entities with which she had an arrangement for future employment. According to the DOI's Ethics Office, there are no records of recusals or waivers pertaining to Bloomgren. The failure to obtain waivers for this work may be in violation of the negotiation for future employment provision of 18 U.S.C. § 208.²⁰

Your investigation should determine whether Bloomgren had at the time of the Interior meetings an arrangement for future employment with DCI Group and was negotiating for future employment with the American Petroleum Institute.

We urge you also to investigate other activities in which Bloomgren was involved during the period of her negotiation for subsequent employment. Based on the red flags from the public record about her activities, it is entirely possible that other actions she took run afoul of 18 U.S.C. § 208.

Beyond the particular conflict of interest statute and regulations, Bloomgren's participation in the oil and gas issues during Interior meetings under these circumstances also appears to violate the guiding ethical principles for every DOI employee. The Interior's Recusal Best Practices Guidelines states: "A recusal is appropriate when a conflict of interest exists between an employee's job duties and financial interests (including interests in future employment) or certain business or personal relationships or outside activities."²¹

Conclusion

The purpose of the conflicts of interest statute is to ensure that a government employee's official conduct is directed solely to advancing the public interest and not the employee's private financial gain. If Bloomgren personally participated in matters affecting the substantial interests

¹⁹ <https://www.documentcloud.org/documents/3871061-Zinke-March-and-April-Calendar.html#document/p45/a359240>

²⁰ <https://www.doi.gov/ethics/conflicts>

²¹ <https://www.doi.gov/ethics/recusal-best-practices-for-doi-employees>

of persons with whom she had arrangements or negotiations for future employment, she may have violated these rules.

Accordingly, Public Citizen, Climate Investigations Center and Friends of the Earth request that the Department of the Interior Ethics Office investigate whether Bloomgren participated in matters in which API or DCI had financial interests at the time she had an arrangement for employment and/or was negotiating for future employment with those entities, and determine whether the matter should be referred to the Department of Justice for investigation into possible violations of 18 U.S.C. §208.

Sincerely,

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