



United States Department of State

Washington, D.C. 20520

September 19, 2016

Waiver Pursuant to Section 3 of Executive Order 13490

Pursuant to the authority delegated under Section 3 of Executive Order 13490 "Ethics Commitments by Executive Branch Personnel" (January 21, 2009), and after consulting with the Office of the Counsel to the President, I hereby certify, for the reasons stated below, that it is in the public interest for Ms. Karen Florini to receive a waiver of the requirements of paragraph 2 of the Ethics Pledge in her role as co-chair of the Oil-Gas Methane Partnership (OGMP) with respect to particular matters involving her former employer, the Environmental Defense Fund (EDF). Ms. Florini left her position as Managing Director of the International Climate Program at EDF in early April 2015, just before beginning her duties on April 6, 2015 as Deputy Special Envoy for Climate Change at the U.S. Department of State.

Background

Executive Order 13490, "Ethics Commitments by Executive Branch Personnel," Section 1 (Ethics Pledge), requires all covered political appointees to abide by certain commitments. Paragraph 2 of the Ethics Pledge provides that a covered appointee may not for a period of two years from the date of her appointment participate in any particular matter involving specific parties that is directly and substantially related to her former employer. For purposes of applying this restriction, the term "particular matter" has been interpreted to include "any meeting or other communication relating to the performance of one's duties with a former employer." DO-09-011, OGE Memorandum to Designated Agency Ethics Officials, March 26, 2009.

A waiver of the restriction contained in paragraph 2 of the Ethics Pledge may be granted upon a certification either that the literal application of the restriction is inconsistent with the purposes of the restriction or that it is in the public interest to grant the waiver. E.O. 13490, Sec. 3(a). The waiver authority was vested in the Director of the Office of Management and Budget who determined, after consultation with Counsel to the President, that the appropriate designee of such authority is the Designated Agency Ethics Official of each executive agency. *See* DO-09-008, OGE Memorandum to Designated Agency Ethics Officials, February 23, 2009.

Analysis

Ms. Florini became Deputy Special Envoy for Climate Change on April 6, 2015. In this capacity, she is responsible for chairing a number of experts' groups on environmental issues, including management of black carbon and methane. In particular, she recently became co-chair of the OGMP in the context of the Climate and Clean Air Coalition, which was co-founded by the United States in 2011. EDF is the only non-governmental organization (NGO) in the OGMP,

which otherwise consists of governments and representatives of industry. Ms. Florini was closely involved with the OGMP while employed by EDF, prior to joining the Department. The other co-chair of the group is a member of industry and none of the other government members of the OGMP is able to co-chair the OGMP due to a lack of resources. It is in the public interest for Ms. Florini to be able to provide government leadership for the OGMP and, in that capacity, to be able to communicate readily with all members of the Partnership, including EDF, in order to guide the work of the OGMP.

Neither the Special Envoy for Climate Change nor the alternate Deputy Special Envoy for Climate Change is able to lead the work of the OGMP due to their other responsibilities, including implementation of the Paris Agreement of 2015. Moreover, Ms. Florini's overlapping responsibilities on other high-level groups dealing with methane and climate issues makes her uniquely qualified to help lead the OGMP.

In order to achieve the Department's policy goals with respect to climate change, it is important to have a senior official with deep expertise in this area in a leadership position in the OGMP. Ms. Florini was selected for her current position precisely because she provides such expertise. Delegating the co-chair responsibilities of the OGMP to other employees for purposes of individual meetings or communications with EDF in order to comply with the Pledge would inhibit the Department's ability to carry out its mission. In particular, the OGMP is under consideration to be featured at this year's climate negotiations in November, making it especially important to enable Ms. Florini to fulfill all the duties of the OGMP co-chair.

#### Determination and Waiver

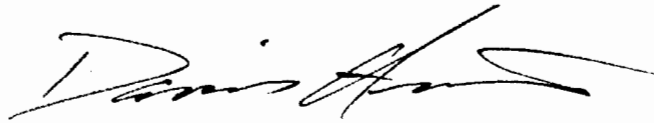
Based upon these facts, I have determined that, with respect to particular matters in which Ms. Florini would participate personally and substantially that might involve EDF, it is in the public interest for her to receive a waiver of Paragraph 2 of the Ethics Pledge.

Reasons include:

- Ms. Florini does not have a continuing relationship with EDF, having received a cash payout from the termination of EDF's deferred compensation plan in April 2015 and holding no 401(k) or other retirement plan with EDF;
- In many cases, the decisions made by the Deputy Special Envoy for Climate Change impact not just the members of the OGMP, but numerous climate change stakeholders, and the direct impact of a potential decision on EDF is reduced;
- As Deputy Special Envoy for Climate Change, Ms. Florini will make decisions in consultation with the Special Envoy for Climate Change and the other Deputy Special Envoy for Climate Change, and the likelihood that Ms. Florini's sole discretion would be the determining factor is reduced;
- Ms. Florini's ability to work on matters involving the OGMP is of particular importance to the Office of the Special Envoy for Climate Change and to the Department due to her

expertise in environmental and climate change matters in the context of OGMP's possible role in climate negotiations scheduled for November. It would be difficult to assign another employee to this matter and a detriment to the Department to lose Ms. Florini's expertise on these issues.

Accordingly, I grant this waiver with the understanding that Ms. Florini will comply with the remaining provisions of the Ethics Pledge and with all preexisting government ethics rules.

A handwritten signature in black ink, appearing to read "David P. Huitema". The signature is fluid and cursive, with a large initial "D" and "H".

David P. Huitema

Assistant Legal Adviser  
Alternate Designated Agency Ethics Official  
U.S. Department of State