



United States
Department of
Agriculture

Office of Ethics

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TO: Gail Greenman
FROM: Stuart Bender
Designated Agency Ethics Official
and
Director, USDA Office of Ethics
SUBJECT: Limited Waiver of Executive Order 13989 for Gail Greenman
DATE: April 11, 2022

Pursuant to the authority delegated under Section 3 of Executive Order 13989 (January 20, 2021), as designated by the Acting Director of the Office of Management and Budget,¹ and after consultation with the White House Counsel's Office, I hereby grant a limited waiver of the requirements of Section 1, Paragraph 3 of the Executive Order² for Ms. Gail Greenman. I have determined this waiver is necessary and it is in the public interest to grant this waiver to enable Ms. Greenman to effectively carry out her duties as the Farm Service Agency's State Executive Director for the State of Oregon in the

¹ *Waiver Authority and Making Waivers Public under Section 3 of Executive Order 13989, "Ethics Commitments by Executive Branch Personnel,"* U.S. Office of Government Ethics, Legal Advisory LA-21-04, (Feb. 18, 2021).

² Section 1, Paragraph 3 of Executive Order 13989 imposes the follow requirement upon Administration appointees who served as a federally registered lobbyist in the two years prior to their appointment:

3. Revolving Door Ban—Lobbyists and Registered Agents Entering Government. If I was registered under the Lobbying Disclosure Act, 2 U.S.C. 1601 *et seq.*, or the Foreign Agents Registration Act (FARA), 22 U.S.C. 611 *et seq.*, within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 2, I will not for a period of 2 years after the date of my appointment:

(a) participate in any particular matter on which I lobbied, or engaged in registrable activity under FARA, within the 2 years before the date of my appointment;

(b) participate in the specific issue area in which that particular matter falls; or

(c) seek or accept employment with any executive agency with respect to which I lobbied, or engaged in registrable activity under FARA, within the 2 years before the date of my appointment.

(Underling supplied).

Farm Production and Conservation (FPAC) Mission Area in the U.S. Department of Agriculture (“the Department”).

As part of her duties, Ms. Greenman is expected to advise and counsel the Administrator of the Farm Service Agency (FSA), the FPAC Under Secretary; the FPAC Deputy Under Secretary; the Chiefs of Staff to the FSA Administrator and the FPAC Under Secretary, the Office of the Secretary of Agriculture, as well as other senior Department officials on matters of national importance related to the nexus of the economy, particularly the farming economy in Oregon, Farm Bill implementation, international agricultural trade, and environmental policy-making as it relates to climate change, agricultural labor, farmland conservation, and equity. Ms. Greenman is also expected to advise and counsel the FSA Administrator and the FPAC Under Secretary, the FPAC Deputy Under Secretary, the Office of the Secretary of Agriculture, and other senior policy-making officials in the Department on cross-cutting inter-Departmental and inter-governmental matters of national importance related to the intersection of the economy (specifically, the economic sustainability of the farming and agricultural producer community), Farm Bill legislation, international agricultural trade, farmland conservation, agricultural labor, equity and environmental issues.

From 2006 until August 31, 2021, Ms. Greenman had been employed at the Oregon Farm Bureau Federation (OFBF) (a nonprofit farmer and rancher advocacy organization). From 2006 to 2011, Ms. Greenman she served at the Oregon Farm Bureau Federation as a National Affairs and Grassroots Specialist. Starting in 2011 until August 31, 2021, Ms. Greenman served as the Oregon Farm Bureau Federation’s Director of National Affairs. In this capacity, Ms. Greenman was a Federally-registered lobbyist for the Oregon Farm Bureau Federation until her departure from that organization on August 31, 2021.

The Oregon Farm Bureau Federation is a nonpartisan, nonprofit organization representing Oregon’s diverse agricultural community. The Oregon Farm Bureau Federation represents over 6,600 farmers and ranchers in the State of Oregon and is Oregon’s most inclusive agriculture organization. The Oregon Farm Bureau Federation’s member farmers and ranchers raise all of Oregon’s more than 225 agricultural commodities, from hops to hazelnuts³, cattle to caneberries (raspberries and blackberries), dairy products⁴ to pears⁵, to meadowfoam (used in cosmetics) to

³ Approximately 99% of the U.S. hazelnut crop is produced in Oregon, specifically the Willamette Valley of Oregon. (Source: The Arbor Day Foundation, <https://www.arborday.org/programs/hazelnuts/consortium/production.cfm>)

⁴ Oregon’s dairy farmers and their families care for approximately 126,000 dairy cows across the state in 20 of Oregon's 36 Counties. Most of Oregon’s dairy farms are owned and operated by multiple generations of family members. (Source: Oregon Dairy and Nutrition Council website at <https://odncouncil.org/on-the-farm/#:~:text=In%20Oregon%2C%20228%20dairy%20farm,been%20handed%20down%20multiple%20generations.>)

mint leaves⁶. The OFBF represent all size farms and ranches and all farming methods, including organic, conventional, and biotech farming. The OFB is part of the larger American Farm Bureau Federation (AFBF), a member-funded, independent federation of nearly 3,000 county Farm Bureaus representing farmers across the United States and Puerto Rico.⁷

When she was the Oregon Farm Bureau Federation's Director of National Affairs, Ms. Greenman was a Federally-registered lobbyist for her former employer.⁸ As noted above, Ms. Greenman had left her lobbyist position with the Oregon Farm Bureau Federation, on August 31, 2021 (over seven months ago), and went to work in a non-lobbyist position as the Executive Director of the Westside Economic Alliance. The Westside Economic Alliance is a non-profit, member-based organization that advocates for economic viability for its 104 members in the local business community on the Westside of the Portland, Oregon metropolitan region⁹. In her current position at the Westside Economic Alliance, similar to her prior position at the Oregon Farm Bureau Federation, Ms. Greenman serves as a convener and a coalition-builder, bringing together local, regional, and state government officials, legislators on both sides of the aisle, private businesses, as well as non-profit organizations to create and maintain economic prosperity for large, mid-sized, and small businesses.

⁵ Oregon ranks second for pears grown in the United States. Oregon, along with Washington State and California produces approximately 78% of the nation's pears. (Source: Noncitrus Fruits and Nuts 2020 Summary (May 2021) – USDA, National Agricultural Statistic Service at <https://downloads.usda.library.cornell.edu/usda-esmis/files/zs25x846c/sf269213r/6t054c23t/ncit0521.pdf>)

⁶ Oregon grows approximately 35% of the nation's total peppermint. (Source: Oregon Agriculture in the Classroom Foundation at: <https://oregonaitc.org/resources/oregon-resources/oregon-grown-commodities/peppermint/#:~:text=Oregon%20grows%20approximately%2035%25%20of,being%20grown%20around%20the%20state.>)

⁷ The American Farm Bureau Federation was organized over 100 years ago, on November 12, 1919, in Chicago, Illinois, by farm leaders from 34 states. (Source: American Farm Bureau Federation website at: <https://www.fb.org/about/history.>)

⁸ Ms. Greenman was a Federally-registered lobbyist at the Oregon Farm Bureau Federation (and registered under the Lobbyist Disclosure Act, 2 U.S.C. § 1601 *et seq.*), she has only lobbied on behalf of American farmers and ranchers.

⁹ As the Executive Director of the Westside Economic Alliance, Ms. Greenman is involved in local, county, and Oregon state public policy-making on a wide range of issues, including: transportation, workforce development, housing, land use regulations, urban growth boundary expansion, and infrastructure issues vital to economic development. (Source: Westside Economic Alliance website: www.westsidealliance.org.)

However, because Ms. Greenman was previously a Federally-registered lobbyist within the past two-years, Section 1, Paragraph 3 of Executive Order 13989 would apply unless this provision was waived. Absent this waiver, Ms. Greenman would be restricted for two years following her appointment from participating in any particular matter on which she lobbied for the Oregon Farm Bureau Federation in the two years before her appointment, and from participating in the specific issue areas in which those particular matters fall. Managing an ongoing recusal for Ms. Greenman will impact several of the U.S. Department of Agriculture's important missions. The successful accomplishment of these missions relies on extensive, open, and ongoing collaborative communications within the Department, including between the FSA Administrator, the FPAC Under Secretary, the FPAC Deputy Under Secretary, the Office of the Secretary of Agriculture, and other senior Department officials. Without this waiver, the adjustments that would be necessary to maintain Ms. Greenman's recusal are anticipated to result in serious limitations and inefficiencies in the Department.

Background

As noted above, Ms. Greenman has served, for 15 years at the Oregon Farm Bureau Federation (from 2006 to August 2021), rising to become its Director of National Affairs. The Oregon Farm Bureau Federation is a nonprofit organization that seeks to assist its approximately 6,600 member farmers and ranchers in agricultural communities across the State of Oregon. When she served as its Director of National Affairs, Ms. Greenman was directing the Oregon Farm Bureau Federation's advocacy of American farmers and ranchers, with a focus on the economic sustainability of the diverse farming and ranching communities across the State of Oregon. Over the past 15 years, Ms. Greenman has gained a unique expertise in understanding the challenges that agricultural producers confront having spoken to well over 1,000 farmers, ranchers, and producers individually, in Oregon Farm Bureau county and state meetings, American Farm Bureau Federation meetings, and statewide agriculture coalition meetings where she learned the viewpoints of farmers and agricultural producers and the economic struggles they face. Through this direct communication with members of the farming community, Ms. Greenman has gained a deep knowledge and appreciation of farmers' and ranchers' perspectives on leading agricultural, economic and environmental issues.

Additionally, Ms. Greenman has well-honed her expertise in agricultural policy, becoming a regular at agricultural conferences where she participated on expert panels discussing significant policy issues such as trends in food safety, labor reform, immigration, transportation, natural resources and farm water usage policies. Ms. Greenman has also been a subject matter expert presenting at a number of continuing legal education training events related to agricultural topics including the Farm Bill, hemp cultivation, and water reallocation. During her tenure at the Oregon Farm Bureau Federation, Ms. Greenman combined her outreach to farmers and ranchers with her extensive public policy research and analysis of Federal agricultural programs. It was this finely honed expertise which led Ms. Greenman to develop collaborative, inclusive approaches and bi-partisan Congressional outreach to further the economic viability and sustainability of Oregon's agricultural production sector.

Notably, starting in 2006 -- during her tenure at the Oregon Farm Bureau Federation -- Ms. Greenman worked, in a bipartisan fashion, with Members of Congress on efforts to represent the interests of farmers and ranchers in the passage of three Farm Bills (2008, 2014, and 2018). In the 2018 Farm Bill, Ms. Greenman represented the interests of producers on issues such as specialty crops,¹⁰ including USDA's Specialty Crop Block Grant Program, conservation programs such as USDA's Conservation Stewardship Program (CSP), and USDA's Environmental Quality Incentives Program (EQIP), as well as the historic legalization of hemp as a regulated commodity.¹¹ Ms. Greenman's experiences involving hemp as a regulated commodity will be especially important to USDA due to Oregon state having had several years of prior experience with hemp, prior to the 2018 Farm Bill, due to its earlier state laws regarding hemp.¹² Due to her expertise, Ms. Greenman was selected by the American Farm Bureau Federation as one of 16 Farm Bureau participants from across the nation to participate in the American Farm Bureau Federation's 2018 farm bill working group. As a member of this working group, Ms. Greenman, for over two years, was part of a small sub-group examining specialty crop and conservation farm bill programs. As a result of her ability to listen, understand, and synthesize the needs of farmers and producers on a wide range of important agricultural challenges, Ms. Greenman became proficient at exchanging views on legislation with Members of Congress and their staffs on both sides of the aisle to achieve common ground on major issues facing American agriculture.

Ms. Greenman's expertise with the Farm Bill is unique and of particular importance to USDA. The Farm Bill, updated on a four-year cycle, a massive piece of Federal legislation that effectively sets the food and agricultural policies for the nation for a period of approximately four years. The Farm Bill provides economic certainty and stability for farmers, ranchers, and commodity producers, food industry employers, and the entire agriculture sector of the American economy. Simply put, the Farm Bill provides the laws and implements the policies that enable American growers to harvest the food that feeds the nation, and the world. Ms. Greenman's expertise and past experience representing the views of Oregon's farmers and ranchers to Members of the House and Senate places her in a unique position to assist USDA leadership in

¹⁰ Specialty crops are defined as fruits and vegetables, tree nuts, dried fruits, and horticulture and nursery crops, including floriculture (flowers). (Source: https://www.ams.usda.gov/sites/default/files/media/USDA_Specialty_Crop_Definition.pdf)

¹¹ Hemp consists of all non-seed parts and varieties of the Cannabis plant, whether growing or not, that contain an average tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry weight basis. The Agriculture Improvement Act of 2018 (the 2018 Farm Bill) authorized the production of hemp and removed hemp and hemp seeds from the Drug Enforcement Administration's (DEA) schedule of Controlled Substances. It also directed USDA to issue regulations and guidance to implement a program to create a consistent regulatory framework around production of hemp as a regulated commodity throughout the United States. (Source: <https://www.usda.gov/topics/hemp>).

¹² The Oregon Legalized Marijuana Initiative, Measure 91 was on the November 4, 2014, statewide ballot in Oregon as an initiated state statute, where it was approved.

working successfully with Congress on the myriad issues involved in the upcoming Farm Bill legislative process. The upcoming Farm Bill will be one of the most important pieces of legislation in maintaining a stable and continuous food supply and is essential to the economic well-being of the nation.

In addition to her expertise with regard to Federal Farm Bill legislation, Ms. Greenman's possess a unique expertise with regard to environmental disasters that effect farmers, ranchers and forests. In 2020, over a period of nine months, Ms. Greenman assisted Oregon's farmers and ranchers as they experienced historic and unprecedented weather events in one year. Oregon experienced freezing winter ice storms that damaged crops, summertime heat domes that had a deleterious effect on crops and livestock, excessive drought, and state-wide wildfires. During each of these crises, Ms. Greenman saw how USDA's Farm Service Agency's disaster programs worked and her experience in working with farmers and ranchers led her to see the practical applications of FSA's natural disaster programs and for how these programs could be improved and enhanced to better assist the practical and essential on-the-ground needs of farmers and ranchers. During this time period, Ms. Greenman worked with her state's Congressional delegation, in a bi-partisan fashion to represent farmer and rancher interests and to express their views as to the many benefits of FSA's disaster programs and identifying which programs could be adjusted to work better at sustaining farming and ranching communities. In addition, Ms. Greenman's prior work with the Oregon Farm Bureau Federation, on disaster recovery and other issues, allowed her to communicate directly with FSA's Oregon offices, providing her with a greater understanding of how FSA assists farmers and producers in the state.

Moreover, during her 15 years at the Oregon Farm Bureau Federation, Ms. Greenman also gained an expertise in the areas of agricultural exports and international trade. Ms. Greenman actively worked to ensure that various free trade agreements and USDA trade programs, including the Agriculture Trade Promotion Program benefited Oregon agriculture in marketing Oregon's fruits, vegetables, and other agricultural products in expanded trade with Asian and other overseas markets. Ms. Greenman's multi-faceted experiences in working on agricultural trade, working with Congress on important agriculture-focused legislation, combined with her unique experiences in working with farmers on a variety of issues, including environmental disaster relief, the Farm Bill, water allocation, farm labor, equity, and environment concerns will strengthen the Department of Agriculture's ability to implement legislative mandates and further collaborative communications with Congress.

Having been born in Georgetown and raised in the suburbs of Washington, DC., Ms. Greenman developed an early awareness and passion for public policy to improve the lives of others. Prior to working at the Oregon Farm Bureau Federation, Ms. Greenman spent 17 years working in the area of federal education policy and served as the Director of Government Affairs for the National Association of Federally Impacted Schools and as a policy consultant for the National Council for Impacted Schools. In those positions Ms. Greenman focused on K-12 education across the United States and developed an understanding of the unique educational needs of Native American children living on Tribal lands, as well as children living in federally owned

subsidized housing. For her work on the educational needs of Tribal and military communities, Ms. Greenman received an Award of Recognition from the National Indian Impacted Schools Association in 2006 and an Award of Recognition from the Military Impacted Schools Association, also in 2006. She also received an Award of Recognition from the Ganado Unified School District in 2003. The perspectives and understanding that Ms. Greenman gained during this 17 year period of the daunting challenges and struggles facing Tribal communities will become essential to the U.S. Department of Agriculture as it seek to restore equity to Tribal communities and Native American farmers and ranchers.

Through her work in these positions, Ms. Greenman has demonstrated a unique expertise in the areas of agricultural production, economic sustainability for farmers, environmental issues, climate-related disaster relief programs, and equity issues, along with her expertise in successfully working collaboratively with Congress and various agricultural stakeholders. Ms. Greenman's last presentation, in her capacity as Oregon Farm Bureau's Director of National Affairs, focused on the importance of environmental justice. In view of the national economic stress caused to the American food supply chain by climate change and by the COVID-19 pandemic, the Department of Agriculture has an urgent need for the unique combination of areas of overlapping expertise that Ms. Greenman possesses about agricultural farm production and environmental issues. Moreover, in view of the ever changing effects of climate change and extreme weather conditions across the nation, the Department has an urgent need for the expertise that Ms. Greenman possesses about policy-making, equity and the effects of USDA disaster relief programs for farming communities.

As part of her efforts working for the Oregon Farm Bureau Federation, Ms. Greenman registered as a federal lobbyist, and engaged in lobbying activities for this non-profit organization. During the past two years, Ms. Greenman primarily lobbied Congress on a broad variety of agricultural, economic, and environmental issues. While Ms. Greenman has previously lobbied the Department of Agriculture in late 2019, the focus of her lobbying activities concerned hemp as a farm crop. Moreover, during her entire professional career, Ms. Greenman did not lobby on behalf of any paying clients, and she did not receive any contributions on behalf of any political action committees. Indeed, Ms. Greenman was not paid any additional fees beyond her Oregon Farm Bureau Federation salary for her lobbying activities.

Analysis

In accordance with Section 3 of Executive Order, it is in the public interest to grant Ms. Greenman a limited waiver of the of the requirements of Section 1, Paragraph 3 of the Executive Order to enable her to effectively carry out her duties as the FSA State Executive Director in the State of Oregon for the FPAC Mission Area in the U.S. Department of Agriculture.

In making this assessment, I have considered the factors set forth in Section 3 of the Executive Order, which include: (i) the government's need for the individual's services, including the existence of special circumstances related to national security, the economy, public health, or the

environment; (ii) the uniqueness of the individual's qualifications to meet the government's needs; (iii) the scope and nature of the individual's prior lobbying activities, including whether such activities were de minimis or rendered on behalf of a nonprofit organization; and (iv) the extent to which the purposes of the restriction may be satisfied through other limitations on the individual's services.

Here these factors demonstrate that it is in the public interest to grant a limited waiver to Ms. Greenman. The government has a critical need for Ms. Greenman's services as FSA State Executive Director in Oregon for the FPAC Mission Area in the Department of Agriculture. This position impacts several of the Department's important national agricultural, economic sustainability, and environmental conservation missions. Ms. Greenman is also uniquely qualified to meet the government's needs. She has vital expertise in a wide array of farm issues and extensive experience with Native American and other socially disadvantaged communities. Additionally, Ms. Greenman's prior lobbying activities were rendered on behalf of a nonprofit organization. Ms. Greenman did not lobby on behalf of any paying clients, and she primarily worked with Congress on agricultural issues. With Congress focusing on the Farm Bill this year, USDA has an urgent need for Ms. Greenman's expertise on the nexus between agricultural policy-making in Washington, DC and the needs of local farmers and producers in her state of Oregon. Moreover, Ms. Greenman's expertise in working with Native American communities will assist USDA in addressing historical inequities that impact Indigenous Peoples and other groups. In addition, throughout her career, Ms. Greenman has engaged in urban, suburban and rural communities, all of which will be vital to USDA in that their work and impact spans all communities throughout Oregon and the country. Finally, the adjustments that would be necessary to maintain other limitations on Ms. Greenman's services are anticipated to result in serious limitations and inefficiencies in the Department, and she would be unable to capably perform the duties of the position.

Simply put, this waiver is supported by the government's critical need, Ms. Greenman's specialized experience, the deleterious impact of other limitations, and the fact that Ms. Greenman only conducted lobbying activity for a non-profit organization.

Conclusion

The significant public interest in the ability of the Department of Agriculture to accomplish its critical mission in the area of economic sustainability and vitality for farmers and producers, agricultural trade, climate change, environmental policy-making, equity and enhancing agricultural disaster relief programs requires that Ms. Greenman be able to fully advise and counsel the FSA Administrator, the FPAC Under Secretary, the FPAC Deputy Under Secretary, the Office of the Secretary of Agriculture, and other senior officials on farm economic sustainability, environmental issues and agricultural production matters of national importance. Due to the scope of Section 1, paragraph 3, of the Executive Order, a broad application of this prohibition would be detrimental to the Department of Agriculture. Without a waiver, Ms. Greenman would be precluded from engaging with the FSA Administrator and the FPAC Under Secretary, the FPAC Deputy Under Secretary, the Office of the Secretary of Agriculture, and other senior officials within the Department, senior officials with other Executive Branch

agencies, and members of the national agricultural community on a broad range of economic, Farm Bill implementation, environmental, farmland conservation, agricultural labor, and equity matters. Furthermore, Ms. Greenman's prior lobbying activity on economic and environmental matters for farmers, ranchers, and producers for the non-profit Oregon Farm Bureau Federation is not the type of business-oriented prior client relationship that the Executive Order intended to reach in protecting the public trust.

For the foregoing reasons, I grant Ms. Greenman a limited waiver of the restrictions in Section 1, paragraph 3 of the Executive Order to enable her to effectively carry out her duties as FSA State Executive Director in the State of Oregon for the FPAC Mission Area in the U.S. Department of Agriculture and to advise the FSA Administrator, the FPAC Under Secretary, the FPAC Deputy Under Secretary, the Office of the Secretary of Agriculture, as well as the Department's other senior policy-making officials.

Pursuant to this waiver, Ms. Greenman may participate in any particular matter on which she lobbied for the Oregon Farm Bureau Federation within the two years before her appointment, and in the specific issue areas in which those particular matters fall. This waiver does not otherwise affect Ms. Greenman's obligation to comply with all other applicable government ethics rules and provisions of the Executive Order. Specifically, **this waiver is a limited waiver** in that it does **not** permit Ms. Greenman to participate in any party-specific matters directly affecting the financial interests of the Oregon Farm Bureau Federation, including but not limited to cooperative agreements, contracts, grants, loans, litigation, disputes, audits, claims, or applications for contracts, loans or grants.

CC: Dana Remus, Counsel to the President, Office of the White House Counsel