



U.S. OFFICE OF SPECIAL COUNSEL
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May 23, 2018

The Honorable Scott Pruitt
Administrator, U.S. Environmental Protection Agency
c/o Mr. Kevin S. Minoli
Principal Deputy General Counsel
and Designated Agency Ethics Official

Sent via E-mail to: minoli.kevin@epa.gov

Re: OSC File No. HA-18-3433

Dear Administrator Pruitt:

The U.S. Office of Special Counsel (OSC) has completed its investigation into allegations that you violated the Hatch Act. Specifically, it was alleged that you, or someone acting at your direction, posted a partisan political message on the official EPA Twitter account, @EPA. For the reasons explained below, we are closing our file without further action.

The Hatch Act restricts certain political activities of federal executive branch officers and employees, except for the President and the Vice President. 5 U.S.C. §§ 7321-7326. Thus, you and all EPA employees are covered by the Hatch Act. The Hatch Act prohibits covered individuals from using their official authority or influence for the purpose of interfering with or affecting the result of an election. 5 U.S.C. § 7323(a)(1). Under this provision, an employee may not engage in political activity while acting in an official capacity or use his official position to advance or oppose political parties or candidates for partisan political office. In addition, the Hatch Act prohibits federal employees from engaging in political activity while on duty or in the federal workplace. 5 U.S.C. § 7324(a)(1). Political activity means activity directed at the success or failure of a political party, candidate for partisan political office, or partisan political group. 5 C.F.R. § 734.101.

We understand that on April 12, 2018, the U.S. Senate voted to confirm President Donald Trump's nominee for the position of Deputy EPA Administrator, Andrew Wheeler. The vote occurred despite requests from some Democratic Senators for more time to consider Wheeler's qualifications. At 6:00 a.m. on Friday, April 13, 2018, the following tweet appeared on the official EPA Twitter account: "The Senate does its duty: Andrew Wheeler confirmed by Senate as deputy administrator of @EPA. The Democrats couldn't block the confirmation of environmental policy expert and former EPA staffer under both a Republican and a Democrat president." According to the information we received, you did not compose the tweet or direct anyone at EPA to post it.

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The definition of political activity has been understood to cover activities related to advancing or harming the electoral prospects of a political party or candidate for partisan political office. The tweet at issue does not give rise to a Hatch Act violation because, without more, it was not aimed at the electoral success or defeat of a political party or candidate for partisan political office. Accordingly, OSC has concluded that no EPA employee violated the Hatch Act.

Please contact OSC attorney Carolyn Martorana at (202) 804-7085 if you have any additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Galindo-Marrone". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

Ana Galindo-Marrone
Chief, Hatch Act Unit