



October 12, 2017

Hon. John Thune
Chairman, Committee on Commerce,
Science and Transportation
SD-511 Dirksen Senate Office Building
Washington, DC 20510

Hon. Bill Nelson
Ranking Member, Committee on Commerce,
Science and Transportation
SH-716 Hart Senate Office Building
Washington, Dc 20510

RE: *Nomination for Under Secretary of Commerce
For Oceans and Atmosphere (NOAA Administrator)*

Dear Chairman Thune and Ranking Member Nelson:

We are writing to express our opposition to the nomination of Mr. Barry Myers, an attorney and CEO of AccuWeather, Inc., as NOAA Administrator. As you know, this position has traditionally been filled by a pre-eminent scientist, and by that standard alone, Mr. Myers is wholly unqualified for the job.

In addition to his lack of scientific qualifications and his absence of any background in oceans, research, fisheries, environmental satellites, which constitute a majority of NOAA's programs and budget, Mr. Myers' nomination would present a host of conflicts of interests. As NOAA Administrator, he would be in a position to fundamentally alter the nature of weather services that NOAA provides the nation, to the benefit of his family-owned business.

According to the Washington Post, "Barry Myers, the CEO of AccuWeather, which has long held a narrow interpretation of the NWS mission with respect to the services it should provide."¹ This would be a fundamental policy shift, as the NWS

¹ Jason Samenow, *Storm brewing over National Weather Service television studio*, WASH. POST (April 28, 2015), https://www.washingtonpost.com/news/capital-weather-gang/wp/2015/04/28/storm-brewing-over-national-weather-service-television-studio/?utm_term=.bcee1c1d39f6

has spent the past several years re-tooling its operations in order to provide increased “decision support services” to the American public.

In 2005, at AccuWeather’s behest, Senator Santorum introduced legislation that would have prohibited the National Weather Service from providing any product or service that “is *or could be* provided by” a private sector weather company (such as AccuWeather), other than severe weather warnings. Instead of issuing its routine forecasts and data sets to the public, the Act would have required that those products be disseminated “through a set of data portals designed for volume access by commercial providers of products or services” instead.² In other words, the NWS would have been prohibited from providing routine forecasts, products and services, other than a severe weather warning, to the general public or emergency managers or the media, but would have been required to provide these products to “commercial providers” so that they could market, for a profit, a taxpayer funded and government produced service.³ Congress thought so little of this proposed legislation that it did not receive a single sponsor. However, should Mr. Myers be approved as NOAA Administrator, he will be able to order the National Weather Service to do precisely what his company was unable to accomplish through legislation.

This was not the only example in which Mr. Myer’s company sought to capitalize on the National Weather Service. In 2005, it was caught using the URL name “nationalweatherservice.org” – which brought visitors to the AccuWeather website instead. AccuWeather was forced to cease using this deceptive domain name.⁴ It was also recently revealed that under Myer’s leadership, AccuWeather’s mobile application had been secretly sending its user’s location information to a third-party company that markets location data for advertising purposes.⁵ A CEO whose company engages in such deceptive practices should not be entrusted with

² See, Section 2 of National Weather Service Duties Act of 2005, S. 786.

³ For an in depth explanation of the impact of the bill, see Timothy Noah, *Santorum’s Mighty Wind: The Accuweather Protection Act of 2005*, SLATE, (Aug 2, 2005); http://www.slate.com/articles/news_and_politics/chatterbox/2005/08/santorums_mighty_wind.html; Vince Stricherz, *Plan to privatize most forecasting would cripple weather service, expert says*, UNIVERSITY OF WASHINGTON TODAY (May 16, 2005), <http://www.washington.edu/news/2005/05/16/plan-to-privatize-most-forecasting-would-cripple-weather-service-expert-says/>

⁴ Timothy Noah, *Santorum’s Mighty Wind, Part 2: If you can’t lick ‘em, spoof ‘em*, SLATE, (Sept. 27, 2005), http://www.slate.com/articles/news_and_politics/chatterbox/2005/09/santorums_mighty_wind_part_2.html

⁵ <https://hackernoon.com/advisory-accuweather-ios-app-sends-location-information-to-data-monetization-firm-83327c6a4870>

the responsibility to head such an important Federal agency, whose work is only worthwhile to the American public to the extent it can be trusted.

Mr. Myer's appointment as NOAA Administrator would present a host of additional ethics and conflicts issues. For example, in 2015 Mr. Myers announced that his company has formed a joint venture with a commercial weather media company *owned by the China Meteorological Administration*, to provide forecasts in China. This joint venture is the only company sanctioned by the Meteorological Law of China to distribute the China Meteorological Administration's weather information and forecasts via AccuWeather. ⁶ He is literally in business with the Chinese government.

In addition to AccuWeather, the Myers' family also owns "The Weather Prophets Fund, LLC," a weather-based hedge fund. In an article describing this venture, Joel Myers, founder of AccuWeather, was quoted as explaining how weather based hedge funds could profit from inside information that his brother would be in a position to supply:

For example, an investment manager could benefit from knowing just five minutes ahead of time that the National Weather Service in Silver Spring, Md., is about to reclassify a Category 3 storm into a more powerful Category 4 storm, he said. That could cause a spike in the price of natural gas futures on which the manager could capitalize, Mr. Myers said. ⁷

The employees of the National Weather Service and of the other NOAA line offices represented by NWSEO hope that the Committee will carefully scrutinize this sordid record and ultimately reject this nomination.

Sincerely yours,

Richard J. Hirn

Richard J. Hirn
General Counsel and Legislative Director

⁶ Lauren Dodillet, *JV Brings Accuweather Tech to China*, CHINA BUSINESS REVIEW, (May 28, 2015), <http://www.chinabusinessreview.com/jv-brings-accuweather-tech-to-china/>

⁷ David Hoffman, *Weather Forecasting Gaining Respect in Hurricanes' Wake*, INVESTMENT NEWS, (Oct. 3, 2005), <http://www.investmentnews.com/article/20051003/SUB/510030723/weather-forecasting-gaining-respect-in-hurricanes-wake>