Dear Senators McConnell, Schumer, Thune and Nelson,

Barry L. Myers, President Trump’s nominee to be Administrator of the National Oceanographic and Atmospheric Administration (“NOAA”) has an unresolved potential conflict of interest arising out of his family-owned company AccuWeather. Former Director of the Office of Government Ethics Walter M. Shaub, Jr. recently wrote you about this issue, stating that Mr. Myers’ “family affiliation and personal hand in building the company” created a “significant unaddressed and largely unregulated conflict of interest for Mr. Myers.”1 Citizens for Responsibility and Ethics in Washington (“CREW”) agrees with this assessment and respectfully requests that Mr. Myers, as a condition of his confirmation, be required to recuse from participating in particular matters of general applicability that would affect the financial interests of AccuWeather.

Mr. Myers reportedly earned more than $900,000 in 2016 as the chief executive officer of AccuWeather,2 a private weather forecaster for “media, business, government, and institutions” that was founded in 1962 by Mr. Myers’ brother Joel, who serves as its chairman and president.3

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Mr. Myers’ brother Evan is the company’s chief operating officer, and at least eleven members of his extended family are reported to have current or former ties to the company or its affiliates.

Mr. Myers also holds stock in the company worth up to $50 million. Mr. Myers stated in his ethics agreement that he would divest all his stock and vested stock options in AccuWeather, and that he would resign from his position with AccuWeather and its affiliates. His spouse also apparently agreed to resign from her salaried position with AccuWeather. However, Mr. Myers’ other family members will continue to own and run the company; their ties will not be severed. According to some reports, even if Mr. Myers sells his own shares, his brothers will continue to own more than 90 percent of the company.

The potential conflict of interest arising from his family’s ownership interest in the company is evident from Mr. Myers’ own lobbying on behalf of AccuWeather. He previously advocated for limiting the role of the National Weather Service (“NWS”), a line office that will report to Mr. Myers if he is confirmed as NOAA Administrator. According to the Washington Post, Mr. Myers has been a “determined force behind efforts to persuade Congress to curb free initiatives” by NWS that “overlap with services provided by AccuWeather and other private weather firms.” He has “pressed for AccuWeather to obtain ‘expanded access to weather-related data.’” Mr. Myers has also “opposed” efforts by NWS to expand “use of social media” to spread tornado and other severe weather alerts.

As Mr. Shaub correctly points out, “the link between NOAA’s work and AccuWeather presents a problem” because “NOAA can directly affect the interest of this closely held family company which could compete with, or try to gain privileged access to, the agency Mr. Myers would run if confirmed.” While Mr. Myers represents that he would recuse from participation in particular matters in which AccuWeather is a specific party or represents one in accordance with 5 U.S.C. § 2635.502, this recusal standard is not sufficient to curtail his involvement in

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4 Id.
9 Shaub letter, Jan. 5, 2018 (“During the confirmation hearing, Senator Brian Schatz noted that even if Mr. Myers sells his own shares, his brothers will continue to own more than 90 percent of the company.”)
12 Id.
13 Id.
14 Id.
16 Myers Ethics Agreement.
particular matters of general applicability, such as rulemaking and other policy matters, that could affect the financial interests of AccuWeather.

In carrying out its advice and consent duties, it is necessary and appropriate for the Senate to demand commitments of more comprehensive recusal in circumstances such as these where the minimum ethical standards are not adequate to address potential conflicts of interest that arise from family-owned companies. To ensure public confidence in the decision-making process at NOAA, it is necessary and appropriate to impose additional requirements on Mr. Myers as a condition of his confirmation. To this end, CREW respectfully requests that you require Mr. Myers to amend his ethics agreement to include a recusal from participating in particular matters of general applicability that would affect the financial interests of AccuWeather.

Sincerely,

Noah Bookbinder  
Executive Director