

April 5, 2019

The Honorable Mitch McConnell
Majority Leader
United States Senate
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Chuck Schumer
Minority Leader
United States Senate
322 Hart Senate Office Building
Washington, DC 20510

Dear Majority Leader McConnell and Minority Leader Schumer:

In light of the advancement of the nomination of Barry Myers to be the Under Secretary of Commerce for Oceans and Atmosphere from the Senate Committee on Commerce, Science, and Transportation this week, without a full nomination hearing in the 116th Congress, the undersigned groups urge you to pause consideration of Mr. Myers' nomination by the full Senate.

As the former CEO of AccuWeather, Mr. Myers' nomination to the post raised questions about his ability to serve impartially.¹ AccuWeather, which is still owned and operated by members of Mr. Myers' family, profits in part off of data that is produced by the offices Mr. Myers would oversee, and unless he recuses from particular matters that will have a direct and predicable effect on the company, the agency's decision-making could be compromised. While the previous Congress gave Mr. Myers' nomination thoughtful consideration,² additional ethics questions have arisen since then that have not been adequately addressed.³

Last month, Mr. Myers notified the Designated Agency Ethics Official of the Department of Commerce that he divested his stock interest in AccuWeather through a redemption agreement.⁴ However, financial disclosure forms show that Mr. Myers received far less for these stocks than he had previously claimed they were worth.⁵

¹ Letter from Walter M. Shaub, Jr. then-Senior Director, Ethics, Campaign Legal Center, to Senators Mitch McConnell, Charles Schumer, John Thune and Bill Nelson, Jan. 5, 2018, *available at* <http://www.campaignlegalcenter.org/sites/default/files/Letter%20Regarding%20Barry%20Myers.pdf>.

² U.S. Senate Committee on Commerce, Science, & Transportation, Nomination Hearing, Nov. 29, 2017, *available at* <https://www.commerce.senate.gov/public/index.cfm/hearings?ID=6E90388F-F214-4A53-B944-47BE187B92B5>.

³ Walter M. Shaub Jr. and Gabe Lezra, "The Senate is rushing to confirm this Trump nominee despite ethics concerns," *The Washington Post*, April 2, 2019, *available at* <https://www.washingtonpost.com/outlook/2019/04/03/senate-is-rushing-confirm-this-trump-nominee-despite-ethical-concerns/>.

⁴ See letter from Barry L. Myers to David Maggi, Designated Agency Ethics Official, U.S. Dep't of Commerce (Mar. 18, 2019), *available at* [https://extapps2.oge.gov/201/Presiden.nsf/02BA989E5CE38855852583C60027EA8F/\\$FILE/Myers.%20Barry%20Lee%20%20finalEA.pdf](https://extapps2.oge.gov/201/Presiden.nsf/02BA989E5CE38855852583C60027EA8F/$FILE/Myers.%20Barry%20Lee%20%20finalEA.pdf).

⁵ Barry L. Myers, Executive Branch Personnel Public Financial Disclosure Report, Mar. 18, 2019, *available at* <https://www.documentcloud.org/documents/5784157-Myers-Barry-2019-Nominee-278e-OGE-Certified.html>.

Before the Senate moves forward with a full vote on Mr. Myers's nomination, the undersigned groups and individuals urge you to first require Mr. Myers to:

1. Add the following language to his ethics agreement: "For the duration of my appointment as Administrator, I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of AccuWeather or any affiliated company identified in my ethics agreement, dated March 18, 2019."; and
2. Provide the Senate with a written explanation of the terms of the sale of his AccuWeather shares in January 2019, a copy of the redemption agreement pursuant to which he sold those shares, a copy of any independent valuation used to establish the sale price for those shares, and a written affirmation that he has no arrangement or present intention to repurchase shares of AccuWeather after he leaves government.

If Mr. Myers is unwilling or unable to complete both the above conditions, then we urge all members of the Senate to oppose his nomination.

Sincerely,

Noah Bookbinder
Executive Director
Citizens for Responsibility and Ethics in Washington
(CREW)

Danielle Brian
Executive Director
Project on Government Oversight

Trevor Potter
President
Campaign Legal Center