



Public Employees for Environmental Responsibility

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April 17, 2019

Sen. Mitch McConnell
Majority Leader
317 Russell Senate Office Building
Washington, DC 20510

Sen. Charles Schumer
Minority Leader
322 Hart Senate Office Building
Washington, D.C. 20510

Sen. Roger Wicker
Chairman
Committee on Commerce, Science, & Transportation
555 Dirksen Senate Office Building
Washington, DC 20510

Sen. Maria Cantwell
Ranking Member
Committee on Commerce, Science, & Transportation
511 Hart Senate Office Building
Washington D.C. 20510

Sen. Cory Gardner
Chairman
Commerce Subcommittee on Science, Oceans, Fisheries, and Weather
354 Russell Senate Office Building
Washington DC, 20510

Sen. Tammy Baldwin
Ranking Member
Commerce Subcommittee on Science, Oceans, Fisheries, and Weather
709 Hart Senate Office Building
Washington, D.C. 20510

Dear Senators:

I am writing you on behalf of Public Employees for Environmental Responsibility (PEER) to alert you to certain potentially materially false statements made under oath by Mr. Barry Lee Myers in his Nominee Questionnaire for his nomination to the position of Under Secretary for Oceans and Atmosphere and Administrator of the National Oceanic and Atmospheric Administration. That questionnaire was first submitted on October 24, 2017 and resubmitted after his nomination was not approved by the full Senate in substantially identical form. On page 18 of the questionnaire, the Committee asks Myers: “Have you or any business or nonprofit of which you were an officer ever been involved as a party in an administrative proceeding, criminal proceeding, or civil litigation. If so, please explain.” Myers’ one-line response reads: “AccuWeather has been involved in routine civil and administrative actions such as contract disputes and employee claims for unemployment compensation, workers compensation, and other personnel matters.” The Questionnaire is attached for your convenience.

Materially false statements are criminalized under 18 U.S.C. § 1001, which prohibits “knowingly and willfully . . . conceal[ing . . .] a material fact; mak[ing] any materially false, fictitious, or fraudulent statement or representation; or mak[ing] or us[ing] any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry.” The statute is equally applicable to “any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States.”

On Saturday, April 12, 2019, the WASHINGTON POST reported on a federal workplace investigation by the Office of Federal Contract Compliance Programs which, according to the investigative report, took place between March 21, 2017 and January 26, 2018 into AccuWeather, Inc.¹ The investigation was based on allegations by at least 25 current and former employees that the company had created a hostile work environment by subjecting employees to harassment on the basis of sex and sexual orientation, terminated employees on the basis of sex and sexual orientation, and retaliated against employees for reporting such harassment. These allegations, which were ultimately sustained, demonstrated a violation of AccuWeather’s contractor’s obligations under 41 C.F.R. §§ 60-1.4, 60-20.2, and 60-20.8, as well as Title VII of the Civil Rights Act of 1964, as amended. The investigative report is attached for your convenience.

Such an investigation held the potential to jeopardize AccuWeather’s substantial government contracting revenue streams, and thus its overall valuation, as well as its reputation, and by extension the reputation of Barry Myers and the Myers family, which holds over 90 percent of AccuWeather’s corporate equity. At all times while the investigation was conducted, Mr. Myers was the Chief Executive Officer of AccuWeather. As such it is not plausible that Myers lacked knowledge of the investigation at the time when he submitted his Nominee Questionnaire seven months after it began.

¹ See Michael Brice-Saddler, *Company led by Trump nominee was rife with harassment, including groping and kissing, report says*, WASHINGTON POST (April 12, 2019), <https://www.washingtonpost.com/politics/2019/04/13/company-led-by-trump-nominee-was-rife-with-harassment-including-groping-kissing-report-says/?noredirect=on>.

PEER requests that you contact Myers to resolve the discrepancy in his written statement to the Senate about this subject and return his nomination to committee until he can be called to testify about the OFCCP Investigation. If he is unable to do so, then his nomination should not be approved and this matter should be referred to the Department of Justice for investigation.

Thank you for your attention to this matter. Should you desire any additional information please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Timothy Whitehouse".

Timothy Whitehouse
Executive Director

Enclosures