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VIA FACSIMILE (202) 408-9674 AND REGULAR MAIL

Conrad C. Lautenbacher, Jr.
Vice Admiral, U.S. Navy (Ret.)
Under Secretary of Commerce for Oceans and Atmosphere
United States Department of Commerce
Washington, D.C. 20230

Dear Under Secretary Lautenbacher:

As you know, we represent Xavier William ("Bill") Proenza regarding corrective action that he seeks in order to rectify the agency's recent unlawful retaliatory actions against him, and to prevent further retaliation. The retaliation has included the agency's actions of assigning his duties to a subordinate employee, preventing him from accessing his office and placing him on administrative leave. As a career federal employee, Mr. Proenza should be protected from retaliation from whistleblowing.

The agency's recent actions violate the provisions of the Whistleblower Protection Act. These actions followed Mr. Proenza's protected disclosures to Congress and the media. The disclosures included the fact that the agency's multi-million dollar spending for a 200th anniversary celebration was excessive (which constituted gross mismanagement and a gross waste of funds), and that the agency's failure to replace an aging satellite, necessary for forecast and warnings for the high seas and accurate hurricane analysis and prediction, has presented a substantial and specific danger to public health and safety.

Following Mr. Proenza's disclosures and as retaliation for Mr. Proenza's whistleblowing, you sent a team, unannounced, to assess the National Hurricane Center, also known as the Tropical Prediction Center (NHC/TPC). The manner and timing of the assessment team's review is suspect. Mr. Proenza was not told that the team was coming, even though his deputy had been told of the arrangements in advance. The team interviewed Mr. Proenza first, but did not follow up with any additional questions to him before publishing the report which includes factually incorrect and unsupported conclusory statements criticizing his leadership. The report, dated July 13, was made public on or about July 19. To date, however, Mr. Proenza has never received a copy of the report from NOAA.

In that regard, we noted publicly that Mr. Proenza had never been given an opportunity to reply to the findings of the July 13, 2007 assessment report. Following

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our public comments, we were recently provided this opportunity to reply to the report. In order to prepare a response, we requested the underlying statements, and any other pertinent documents, upon which the report's conclusions are based. We have been informed that those underlying statements and documents, if any, will not be provided.

We also requested a copy of the "standardized set of questions used in each interview at the center" as stated on page one of the report. To date, no such set of standardized questions has been provided. The questions are said to have been developed by the team, used in each interview, and provided to each interviewee at the beginning of the interview. This statement is false; Mr. Proenza was never provided any set of questions prior to his interview. As a result, the integrity of the report and the manner in which it was conducted is questionable. The agency has also prohibited Mr. Proenza from contacting any employees at the NHC/TPC, further hindering his ability to respond to the report.

In short, the report is inaccurate and does not provide any supporting documentation for the conclusions stated. Due to the report's inadequacies, it would be improper for the agency to take any action based on the report's findings. We understand that the team did not question employees under oath and the statements were not signed under penalty of perjury. It is also our understanding that the employees' comments were simply summarized, not transcribed, by the team. We further believe that NHC/TPC employees were intimidated by NOAA management officials into speaking adversely about Mr. Proenza. These employees were well aware of the fact that upper level management had expressed their displeasure with Mr. Proenza's whistleblowing. We have also received reports that some employees were not allowed to correct their statements.

Mr. Proenza has had a lengthy and distinguished career in the federal sector. His official NOAA biography states that he is "an internationally recognized meteorologist," and more than 40 years of service with the National Weather Service (NWS). He has received numerous performance commendations and awards, including recognition from the NWS Employees' Organization as the NWS Manager of the Year in 1998 for his collaborative leadership. Since he became the Director of the NWS Southern Region, he has had nine consecutive years of outstanding performance awards. It is simply unacceptable for a career, non-political appointee, to have been treated with such disrespect as he has been with respect to the unannounced, incomplete and unsubstantiated investigation.

Although Mr. Proenza cannot at this time provide a full response to the report, without having had an opportunity to review the underlying statements or other documentation, he has addressed the report's findings generally and his responses are

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identified below with a reference to the report's comments, noting the page and line number (assigned within each page) in the order they appear in the report:

Page 1, Introduction

Line 3. This team should not be characterized as an "independent team" since it is composed of only Department of Commerce (DOC) employees. The DOC Deputy Secretary David Sampson and you, both political appointees, provided the instructions and charge for the investigative team and its team leader. The NHC/TPC is, of course, part of DOC.

Line 23. NHC/TPC Director, Bill Proenza, was never "presented with a copy of the questions at the beginning of the interview." Furthermore, Mr. Proenza was unable to read the investigative team's charge before the beginning of the investigation. He received notification of the team's presence by a phone call from you, at the same time the surprise investigative team was entering the center to immediately meet with him.

Line 30. The use of the word "consensus" does not change the fact that the investigative team did not take sworn testimony, and did not seek a response from Mr. Proenza regarding the statements obtained to determine if there was any contrary evidence. Moreover, the team did not give Mr. Proenza the opportunity to verify allegations nor to provide any rebuttal before their investigative report was completed and dated July 13, 2007. Furthermore, the report was made public on or about July 19, 2007. Even at the time of the Science Committee Congressional Hearing on July 19, Mr. Proenza was never provided by DOC or from anyone else in his chain of command, a copy of the report.

Page 2, Findings

Line 7. The term "recent controversy" is mentioned as a purpose for the investigation and yet importantly, what immediately follows from the NHC/TPC staff (line 7-8) and their Director (line 13-20), is a statement that should put the investigative team's charges numbers 1 and 2 to rest. The report states there was no technical or operational problem or lack of preparedness at the Center that would prevent delivery of its mission.

Line 9. The report alludes to undefined causes for the need of "a more settled work environment," without even a suggestion that the investigative team's unprecedented intrusion at NHC/TPC was a major contribution leading to the staff's expressed need for "a more settled work environment."

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Line 11. The team should have included the words “and operational” right after the word “technical” in this line 11 phrase, i.e. it should read, “from a strictly technical *and operational* standpoint, the NHC/TPC is equipped to continue to provide accurate and timely information.” Remember, the NHC/TPC had already handled four tropical storms in an excellent manner, delivering all products and services and providing all necessary communications to users, partners and the media. These operations all involved Mr. Proenza working alongside the hurricane specialist staff. This operational effectiveness should have been recognized by the report.

Line 21. Here, the report makes another inaccurate statement. The addition to the staff of the four GS-13 *journey* level hurricane specialists took place *in a prior year*, 2006. Although these four positions were a new staffing resource they did NOT add to the GS-14 senior hurricane specialists, whose numbers actually dropped in 2007 from the normal six to five since one senior hurricane specialist reported in January, 2007, to active duty in the Middle East.

Line 26-32. This section states a “finding” that is not supported by any evidence, alleging that Mr. Proenza has engaged in “disruptive conduct.” The specific statements and actions that are alleged to be disruptive are not described, but appear to be Mr. Proenza’s statements and actions which were protected disclosures under the Whistleblower Protection Act. These disclosures were his statements to Congress and the media that QuikSCAT was aging and needed to be replaced and the fact that NOAA spent excessive funds on a 200th birthday celebration. More disruptive would have been a surprise failure to the aging QuikSCAT satellite. Mr. Proenza’s warnings about the need to replace the satellite are legitimate concerns of the scientific community knowledgeable about weather forecasting. Furthermore, Mr. Proenza’s advocacy is fully in line with the recently officially published NOAA satellite QuikSCAT data requirements document, “NOAA Operational Ocean Surface Vector Winds Requirements” report, which uses significant adverse impact quotes on pages 27 and 28 of the report, beginning with comments from a NHC/TPC senior hurricane specialist on the potential loss of QuikSCAT.

Those same quotes have been repeatedly shown or stated by the very same senior hurricane specialist including the powerpoint presentation he made on January 5, 2007, in a meeting which included his entire NHC chain of command: Rappaport, Proenza, Uccellini, and Johnson through Lautenbacher.

Mr. Proenza has also advocated the pooling together in a one-NOAA effort all the hurricane research resources (e.g. NOAA, AOML’s Hurricane Research Division etc.) to focus research efforts in compatible support with the forecast improvement needs of NHC/TPC operational mission. Another recommendation from Mr. Proenza was the return of all the research monies diverted by the agency from NHC’s Joint Hurricane

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Testbed, including the \$200,000 taken in fiscal year 2007 without his consent. Indeed, Mr. Proenza emailed formal requests for restoration of JHT funding, sent through the chain of command in February, but to no avail.

It is one of the highest priorities of the NHC/TPC Director to identify the needs of the nation's hurricane warning program now and into the future and communicate them well with our chain of command as well as our state/local government officials/homeland security/emergency management partners and users. Ignoring this responsibility is indeed a dereliction of duty. Yet, there cannot be a more dangerous finding in this report than to continue the expectation that the NHC/TPC director and future directors be silent on these types of advocacies since they conclude such advocacies causes disruption to the mission delivery of NHC/TPC. Advocating a "stick your head in the sand" leadership will *eventually* impair the capability of the National Hurricane Center to deliver its protection of life mission to the Nation.

Line 33. Here the team mentions the concern of an employee that the NHC/TPC Director will "retaliate" against him/her "for voicing their views." We are profoundly disappointed the investigative team would include such an unfounded threat in its nationally distributed report and the implication that Mr. Proenza would retaliate. This allegation is totally unsubstantiated and has no basis in the NHC's director's history, and there is no reason to give this fear any credibility. During his years of public service, Mr. Proenza has never been found to have retaliated against a subordinate and, in fact, has been recognized by NOAA for his exceptional management skills. Mr. Proenza has a long time reputation as a dedicated and courageous public servant who has been professionally honored many times and has received continuous performance awards for service to the nation. Ironically, the only one experiencing retaliation for voicing his views is Mr. Proenza.

Line 35. The report claims that the team witnessed "first-hand the impact of the director's conduct." It does not elaborate or provide a single example to support such a conclusion, and we are unable to provide any reply to this unfounded allegation as a result.

Page 3, findings, continued

Line 1-4. The report states that mistrust was caused by the Director's statements about the limited lifetime of the QuikSCAT satellite. Indeed, it is undisputed that the QuikSCAT has a limited lifespan, according to NOAA, OAR, AOML and NESDIS scientists and NASA. In addition NHC/TPC staff has stated explicitly, in many communications and emails of the impact on forecasts *should it fail*. The NOAA official report also notes the possible adverse impacts from the potential failure of the aging

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satellite. It is the responsibility of the Director, NHC/TPC to assess such operational matters, now and/or in the future and report his concerns.

The report does not identify who believed that the nation's preparedness message was compromised. In any event, the recognition of the state of the nation's hurricane warning program is the Director's responsibility to communicate and to plan for the future support of the program. The nation is better served by being repeatedly told its National Hurricane Center has never been more ready to serve the American people in a hurricane season. Nevertheless, along with that message of NHC preparedness is the responsibility to be honest with the American people on the future needs. Mr. Proenza absolutely did nothing wrong by doing just that. If there is a legitimate difference of opinion, there is still no justification for recommending reassignment of Mr. Proenza from the Director position. To reassign Mr. Proenza would discourage other government employees and managers from sharing the truth.

Line 11. The report claims that Mr. Proenza lacked integrity in his conduct with NHC/TPC employees, intentionally misrepresenting their technical views. The underlying paragraph, however, does not provide any detail as to these alleged misrepresentations, or support for the claim that views were misrepresented. Notwithstanding the report's lack of support for such an allegation, please be aware that Mr. Proenza has cited to NOAA official reports when stating his views, or noting the views of other NOAA employees.

Line 13-18. Although the senior hurricane specialist who claims he was quoted out of context by Mr. Proenza is not named, Mr. Proenza has never misrepresented the views of any of his staff. In addition, Mr. Proenza did not quote anyone out of context. He did, however, refer all interested persons to the officially published document by NOAA in which they could read for themselves the assessment provided by one senior hurricane specialist. That report is the NOAA document cited above, and the senior specialist's comments are found on page 27. In addition, the many other quotes found in that official NOAA report document the adverse impact should QuikSCAT fail (see also page 28 of the same NOAA report). There simply can be no confusion by referencing the official NOAA requirements document and reading his quotes *in context*. It appears that the senior hurricane specialist may have been pressured by others to change his views – but the fact remains that Mr. Proenza truthfully represented the findings of his staffers as reflected in their official reports.

Line 22-25. There was absolutely no doubt, having been on the floor with the assigned forecasters that the NHC/TPC had an excellent handle on the storms and was not in any way strapped with difficult decisions or insufficient time for both tropical storm Barbara and Barry. Mr. Proenza did not just act on his own judgment but consulted with the hurricane specialists when the decision was made to display the data provided by

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QuikSCAT. If indeed any hesitation had been conveyed, Mr. Proenza would have agreed not to show the data.

Line 26-32. The suggestion in the report, that Mr. Proenza improperly held media interviews on the forecast operations floor, is incorrect. To the contrary, *all* media briefings were being scheduled for Mr. Proenza and set up by the two NOAA public affairs officers, Mr. Romano (who accompanied the investigative team) and Mr. Feltgen. The media was handled in the typical operations briefing area unless the media received NOAA public affairs approval to run "B-role" elsewhere in the office. NOAA public affairs instructed Mr. Proenza to not evade any question being asked about the presence of the investigative team. When the investigation was brought up, the matter was handled in an upfront but low key manner with restatements that NHC/TPC was as prepared and ready as ever to deliver our mission.

Line 33-35. Here, the report finds that a negative work environment has been exacerbated by Mr. Proenza, but fails to recognize that it was the team's presence that caused such an exacerbation. Many of the staff told Mr. Proenza that the team disrupted the office. Indeed, it was the extraordinarily disruptive and unprecedented investigative environment that created the frenzy of the employees' concerns for their careers.

Line 36-40. The report describes a discussion Mr. Proenza had with one of the employees at the time of the investigation. The team did not question Mr. Proenza about this matter before publishing its conclusions, and the report's description of this employee discussion is simply incorrect. The report does not provide names and dates of the described discussion, but it appears to have occurred on July 2. The impact of the surprise investigative team delayed many tasks that Mr. Proenza needed to accomplish on that date, so he remained working in the office well into the evening. Rick Knabb was the assigned hurricane specialist on duty on the operations floor that evening. When Mr. Proenza sought him out to discuss the tropical weather status, he was not on the operations floor and Mr. Proenza went to his office. When Mr. Proenza saw him, he asked quite innocently, "how did it go?" Mr. Knabb started to answer and then he said he did not want to talk about it. Mr. Proenza then commented, "Oh, of course, well I appreciate your contributions," thanked him and left his area. The next day, Mr. Knabb thanked Mr. Proenza for the nice way he had handled his response. If Mr. Proenza had an opportunity to review the team's report, he would have shared this information with the team, which could have verified what actually occurred. Instead, without seeking Mr. Proenza's explanation of the discussion, the team simply concluded that the discussion had been inappropriate.

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Page 4, findings, continued

Line 3-5. Mr. Proenza was never told that he could not talk about the day's events and the assessment team with his senior manager. The fact that the team concludes that he should not have discussed the assessment provides evidence that the team was conducting a "witch-hunt," targeting Mr. Proenza. In fact, one NHC/TPC senior manager told Mr. Proenza that he was given advance knowledge of the investigation by Mr. Proenza's first line supervisor in Washington, Louis Uccellini, and had been instructed not to tell Mr. Proenza of the surprise investigation. For the record, Mr. Uccellini was the higher management official that directly threatened Mr. Proenza during a phone call on the afternoon of Friday, April 13, 2007, about his remarks on the QuikSCAT satellite, the NHC research budget that NOAA allowed to be diverted from the JHT program, and NOAA's waste of funds. Mr. Uccellini very sternly told Mr. Proenza, "I'm warning you Proenza...you have NOAA, DOC, OMB and the White House pissed off."

Line 9-35. Mr. Proenza agrees with the team's findings that there is potential degradation to NHC/TPC's future capabilities if the ocean surface vector winds information from QuikSCAT is lost and if the next generation satellite instrument to replace it is not created. Mr. Proenza also agrees with the report's additional observation regarding the need to replace QuikSCAT. The report underscores the legitimacy of Mr. Proenza's statements about the need to replace the aging satellite and provides credibility for his advocacy on this important matter. The report erroneously concludes, however, that his disclosures about the need to replace this satellite constituted unacceptable "disruption." It is, quite simply, the duty of the NHC/TPC Director to bring such matters to the attention of Congress and the public.

Page 5, findings, continued

Line 4-9. Mr. Proenza has consistently advocated for more direct representation of NHC/TPC's needs to higher management as opposed to going through the multi-layer structure separating NHC from the top NWS, OAR and NOAA leadership. His advocacy led to the March through May start-up work with the NOAA Hurricane Summit and the resulting Hurricane Project Team that is advocated here in the findings. While Mr. Proenza agrees with the assessment report on these points, the team failed to attribute any of these improved communications to him.

Line 18-21. Mr. Proenza disagrees with this latest FY2007 diversion of the JHT research funding being taken away from NHC/TPC. Furthermore, in a one-on-one discussion with you in your Washington office on May 21, you told Mr. Proenza that he had requested NWS Director, DL Johnson, to return the funds to NHC/TPC. That was never realized at NHC.

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Line 36-39. Mr. Proenza did more than ever before to recognize the imperative of the TAFB mission delivery to the protection of life on the high seas and to the success of the National Hurricane Center's total mission. Indeed, he led NHC/TPC to more strongly recognize the integral role of TAFB as vital day-to-day support for the national hurricane warning program. Furthermore, Mr. Proenza strongly supported the eventual approval and beginning of the synchronizing of all TAFB products and services with the Ocean Prediction Center in Washington, DC. In addition, Mr. Proenza facilitated the exploration by the TAFB staff of the use of more effective graphic product tools with the intent to share these advantages with the other high seas forecast and warning offices. Here again, however, the investigative team failed to recognize the positive contributions made by Mr. Proenza in this area. In particular, the report should have recognized Mr. Proenza's leadership and initiative to resolve these longstanding problems he found upon taking his NHC/TPC Director assignment.

Page 6, findings, continued

Line 1-6. It is impossible to respond to this finding as it simply refers generally to purported supervision problems without providing any supporting or specific information. This finding also again references the "disruption" in the office, presumably referring to Mr. Proenza's protected whistleblowing disclosures.

Line 14. The investigative team finds yet another way to criticize Mr. Proenza by stating he "exacerbated" an existing issue. The report acknowledges that the assessment team was unable to determine the facts regarding treatment and inclusion of TAFB staff. The report failed to note that Mr. Proenza actually was praised repeatedly by the TAFB staff for his work to expand acceptance of TAFB as a critical part of the National Hurricane center mission delivery. The report provides no basis for its conclusion that morale has been negatively affected. Indeed, in a rare concession to the lack of objective evidence gathered by the team, the report admits that it was unable to determine whether "reality matched [the] perceptions." With all due respect, this finding should be applied to the entirety of the report.

Page 7, findings, continued

Line 1-7. The finding here recommends that tighter linkages between NHC/TPC and the research community would be beneficial. The report fails to note Mr. Proenza's accomplishments in this area. One of the major initiatives and accomplishments of Mr. Proenza in his seven months as NHC/TPC Director was in actively seeking much tighter linkages for NHC/TPC with the NOAA research arm, the Oceanic and Atmospheric Research (OAR) and its AOML office which heads the Hurricane Research Division just 15 miles from NHC. The investigative team's negligence in not recognizing Mr. Proenza for this effort is a very strong indicator of the prejudicial objective of the team to

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purposely find little merit with his management. *In fact, Mr. Proenza received an award for his efforts to bring the research and operations into a functional one-NOAA concept.*

Line 9-12. It was clearly established from the very beginning by Mr. Proenza that the day-to-day operations would continue to be delegated to the NHC/TPC Deputy Director as was done by the previous Director, since the Director must frequently travel during the time period outside of the active part of the hurricane season. Frequent phone contacts were convenient and encouraged between the two positions. Nevertheless, here again, the bias of the investigative team is displayed by attributing "more frustration" of managers and administrative staff to the NHC/TPC Director without allowing the Director to address any of these findings before they were published and distributed nationally, further damaging Mr. Proenza's reputation.

Page 8, findings, continued

Line 10-12. Here the investigators fail to mention the period of time that predicting rapid intensification has had limited progress. For 30 years, this has been and continues to be the biggest challenge to hurricane forecasting. Indeed the NHC leadership, the staff and the research community is committed to this task. But, it will take much tighter working linkages and pooling of resources to begin the scientific strategy that will lead to truly significant improvements. It will take significant resources to make headway to achieving the higher resolution scale of inner-core understanding of hurricane dynamics, better models incorporating this better science of the hurricane dynamics, much greater density of data and the computing power that handles it all.

Page 9-11, Recommendations

As noted earlier, there is no support cited for the conclusions reached or the recommendation that Mr. Proenza should be reassigned from his position as Director of the NHC/TPC. In fact, many of the report's recommendations for future improvements were the very recommendations Mr. Proenza made. Apparently his recommendations for change may have alienated some staff members. But agents of change often ruffle some feathers, and a true leader should be encouraged by upper management to lead the way toward a better-equipped hurricane center. It was Mr. Proenza's willingness to voice his concerns to upper management and Congress that demonstrates his outstanding leadership abilities. If indeed staff was resisting change, upper management should have supported Mr. Proenza in his valid and valiant efforts to effect change rather than fomented dissent. Notably, Mr. Proenza's recommendations for replacing QuikSCAT and for other funding priorities have been backed by the scientific community most knowledgeable about the need for accurate hurricane forecasting.

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Mr. Proenza should not be reassigned from his position. The assessment report identified neither any functional problems in executing the mission nor lack of center preparedness. The only disruption to operations has been the disruption caused by NOAA management and the improper manner in which the assessment was conducted. Upper management should recognize Mr. Proenza's critical role in bringing important and valid issues to the attention of the Agency and should support him rather than retaliate against him.

We look forward to meeting with you at the earliest convenience to discuss the assessment report and the recommendations it makes, so that you will have a more objective review of the operations at the NHC/TPC and Mr. Proenza's exceptional leadership. Please contact us if you need additional information or have any questions.

Sincerely,



Jessica L. Parks*

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