

## JUDGING THE ENVIRONMENT IN THE NEWS (JULY-DECEMBER 2012)

**U.S. appeals court nominee Robert E. Bacharach may have to be nominated again next year: Oklahoma Sen. Tom Coburn blames "inside politics" for possibility that Bacharach, who has strong bipartisan support, might not be confirmed this year** (*Oklahoman*, 12/23/12)

Attorney Glenn Sugameli, who tracks the judicial process for the Washington-based Judging the Environment Project, said it was "insane" that a nominee like Bacharach, "who is absolutely unopposed," can't get a vote. "Is there any reason not to vote on him now?" Sugameli said. "There is no reason."

**Geraci's nomination confirmed by Senate** (*Daily Record [NY]*, 12/14/12)

Six judges have been confirmed since the lame duck session began Nov. 13, according to Glenn Sugameli, senior attorney for Defenders of Wildlife and founder and director of Judging the Environment, who has been closely following the federal judiciary for more than a decade. "I think they're finally moving, at least on the District Court nominees," he said, noting Sen. Mike Lee, R-Utah, who opposed many nominations when they came before the Senate Committee on the Judiciary, has said he expects a lot of nominees to be confirmed. Sugameli said Judge Geraci has been rated very well qualified and received broad support. "There's no reason he should not have been confirmed a long time ago," he said. ... "Most of the ones that are still pending are judicial emergencies," said Sugameli. "There's no reason not to fill those seats. The obstruction has gotten to the point where it's just meaningless." Sugameli said there is also mounting pressure to get nominations confirmed with letters sent to the Senate by the federal and American bar associations and newspaper editorials throughout the country calling for action. "There's been a lot of commentary around the country saying this is an example of mindless obstruction and just vote; just do it," Sugameli said.

**Obama presented with opportunity to shape DC Circuit with new vacancy** (*SNL FERC Power Report*, 12/12/12)

"I certainly think he can have an ability to moderate the court," Glenn Sugameli, senior attorney with Defenders of Wildlife and an expert on federal judicial selection, said Dec. 7. "He has the responsibility to put four judges in the court. That could obviously change the court and influence the court for some time to come. Sugameli said that with Democrats' gains in the Senate in the November elections, Obama will have an easier road ahead filling the court's empty seats. Failure to fill all the seats in the D.C. Circuit, asserted Sugameli, can have negative consequences. With fewer active judges, securing an en banc review by the D.C. Circuit - obtained through a majority of the active judges voting for it - is harder, he said. The vacancies could undermine attempts by the EPA to get an en banc review of the D.C. Circuit's decision to toss out the Cross-State Air Pollution Rule on the grounds that the EPA overreached in how it set limits on power plant emissions."

**Letter to the editor: More skirmishes over 'confirmation wars'** (*Shreveport Times [LA]*, 12/09/12)

From Glenn Sugameli, founder and director, Judging the Environment

**Judge Frank Geraci Jr. awaits Senate confirmations** (*Democrat and Chronicle [NY]*, 12/09/12)

"Glenn Sugameli, a staff attorney for Defenders of Wildlife who also follows judicial nominations closely, said some of the pending judicial nominees are supported by home-state Republican senators in Pennsylvania, Maine and Oklahoma. "I haven't heard a single explanation from any Republican senator as to any reason why there shouldn't be immediate votes on all of these nominees, especially the ones that are unopposed," Sugameli said."

**Letter to the editor: More skirmishes over 'confirmation wars'** (*Iowa City Press-Citizen*, 12/09/12)

From Glenn Sugameli, founder and director, Judging the Environment

**Letter to the editor: More skirmishes over 'confirmation wars'** (*Des Moines Register [IA]*, 12/09/12)

Glenn Sugameli, founder and director, Judging the Environment: Marc Elcock's Iowa View "Obama Can Quell Confirmation Wars" (Dec. 4) attacks an imaginary version of "Grassley Has a Chance To Quell Confirmation Wars" (Nov. 27) that was written by professor Carl Tobias. Tobias accurately wrote that Senate Republicans have "automatically held over panel votes for seven days without convincing reasons for many nominees who were extremely capable and noncontroversial." Elcock quotes the last four words out of context. He then misreads "many nominees" as if it was "all nominees" in order to contest a straw man claim that Tobias never made, "the assertion that Obama's nominees were all noncontroversial." Elcock ignores Tobias' focus on pending judicial nominees. Will Sen. Chuck Grassley convince Senate Republicans to allow votes to confirm 17 judges? These include 14 whom Grassley and the Judiciary Committee approved on voice votes and 10 who would fill "judicial emergency" vacancies. Incredibly, Senate Minority Leader Mitch McConnell is ignoring pleas from Oklahoma, Maine, and Pennsylvania home-state Republican senators. As the Register's Aug. 7 editorial described, unopposed 10th Circuit Court of Appeals nominee Robert Bacharach has "the strong support of both home-state senators, Republicans Tom Coburn and Jim Inhofe of Oklahoma."

**Letter to the editor: More skirmishes over 'confirmation wars'** (*Altoona Herald-Index [IA]*, 12/09/12)

From Glenn Sugameli, founder and director, Judging the Environment

**McConnell blocking judicial nominations** (*San Jose Mercury News [CA]*, 12/08/12)

Letter to the Editor from Glenn Sugameli, Founder and director Judging the Environment: California federal courts are especially clogged because of Senate Republican filibusters that have "halted the nominations of nearly two dozen judicial appointments, causing backlogs in courts that delay justice for people and businesses across the country," ("Senate should go back to the future on filibuster reform," Editorial, Dec. 4). Senate Minority Leader Mitch McConnell, R-Ky., continues to block votes to confirm 17 judicial nominees, including 14 whom the Judiciary Committee approved on voice votes. All four pending California nominees would fill vacancies that the U.S. courts have declared to be "judicial emergencies." Last week, the Senate GOP inexplicably delayed committee votes on five nominees, including another for a California judicial emergency. Incredibly, Sen. McConnell is even ignoring pleas for votes by both home-state Republican senators from Oklahoma and both from Maine, as well as from Sens. Bob Casey, D.-Pa., and Pat Toomey, R.-Pa. New Jersey Gov. Chris Christie, a Republican, also strongly supports confirming Patty Shwartz, his state's nominee to the Third Circuit Court of Appeals.

**McConnell blocking judicial nominations** (*Contra Costa Times [CA]*, 12/08/12)

Letter to the Editor from Glenn Sugameli, Founder and director Judging the Environment

**Judicial nominees still languish in Senate** (*Baltimore Sun*, 12/07/12)

Glenn Sugameli Letter to the Editor: John Fritze's recent article on the appointment of U.S. Magistrate Paul W. Grimm to a U.S. District Court seat ("Senate confirms Towson resident Grimm for U.S. judgeship," Dec. 4) reported the key point: Senate gridlock delayed action even though Paul Grimm's February nomination was "uncontroversial — members of both parties supported him." Indeed, U.S. Sen. Barbara A. Mikulski urged swift action on other judicial nominees, 15 of whom were reported by voice vote from the Senate Judiciary Committee. Senate Republican leaders, however, are still blocking votes to confirm 17 judges. They have even ignored pleas for long-overdue votes by both home-state Republican senators from Oklahoma and both from Maine, as well as from Pennsylvania's Bob Casey, a Democrat, and Pat

Toomey, a Republican. New Jersey GOP Gov. Chris Christie also strongly supports confirming Patty Shwartz, his state's nominee to the Third Circuit Court of Appeals.

**Is Eastern District Nominee Troy Nunley Getting Closer To Senate Confirmation?** (*Eastern District Blog [CA]*, 12/06/12)

Reprints NLJ post quoting "Glenn Sugameli, who follows judicial nominations for Judging the Environment and Defenders of Wildlife"

**Senate Moving on Stalled Judicial Nominees** (*National Law Journal*, 12/06/12)

"Glenn Sugameli, who follows judicial nominations for Judging the Environment and Defenders of Wildlife, said there is still plenty of time for votes on all remaining district and circuit court nominees. "It is hard to believe that Senator [Mitch] McConnell can continue to ignore pleas for votes by both home-state Republican senators from Oklahoma and both from Maine, as well as from Senators Bob Casey (D-Pa.) and Pat Toomey (R-Pa.)," Sugameli said in an email."

**Chief Judge Sentelle to Take Senior Status** (*D.C. Circuit Review*, 11/30/12)

"[W]ith four of the D.C. Circuit's 11 seats vacant, President Obama will have an opportunity to significantly remake the court. (H/T Glenn Sugameli)"

**Courts: Judge opens door for Obama by taking senior status** (*Environment & Energy (E & E) Daily*, 11/30/12)

"Glenn Sugameli, a lawyer at Defenders of Wildlife who tracks judicial nominations, said the vacancy "demonstrates the urgency to bring the vital D.C. Circuit appeals court back to the 11-judge strength that it had when the Democratic Senate confirmed four of President George W. Bush's nominees to that court.""

**Judge Thomas nomination as a federal judge in the SD FL** (*South Florida Lawyers*, 11/15/12)

"First off, congrats to Judge Thomas for his nomination as a federal judge in the SD FL. A great pick! And here's Senator Leahy on the clogged federal judicial nomination process: ... (h/t Glenn Sugameli)"

**Judge William Thomas officially nominated to District Court** (*Southern District of Florida Blog*, 11/14/12)

David Oscar Markus: This is great news and fast. Let's hope that this is how it's going to be in the President's second term. Here is President Obama's press release: ... HT: Glenn Sugameli

**Why Courts Matter: What the 2012 Election Means for 2013 and Beyond** (*Center for American Progress*, 11/08/12)

Doug Kendall, Founder and President, Constitutional Accountability Center: "Glenn [Sugameli, Judging the Environment] does an incredible job of tracking every piece of press about this issue that's out there and putting them on his website. It is an incredible resource for the entire community that's interested in this. He really has collected a ton of editorial press."

**Why Courts Matter: What the 2012 Election Means for 2013 and Beyond** (*Center for American Progress*, 11/08/12)

Center for American Progress' Ian Millhiser: "I endorse everything that was said on the importance of home-state papers and the good work that Glenn [Sugameli, Judging the Environment] and others are doing to make that happen."

**SUPREME COURT: Speculation starts on retirements, nominations in Obama's second term** (*Greenwire*, 11/08/12)

"The Supreme Court is narrowly and deeply divided on constitutional and other challenges to

basic environmental laws," said Glenn Sugameli, a lawyer at Defenders of Wildlife who tracks judicial nominations.

**Why Courts Matter: What the 2012 Election Means for 2013 and Beyond** (*Center for American Progress*, 11/08/12)

Caroline Fredrickson, President, American Constitution Society: "I want to commend Glenn [Sugameli, Judging the Environment] for everything you do which is so important. People need to understand that Glenn doesn't just compile; Glenn actually makes sure these editorials happen. He writes Letters to the Editor to newspapers across the country. We saw the cumulative effect of that in terms of political impact. I'm sure my friends from Sen. Leahy's office know this well; when I was chief of staff to Sen. Maria Cantwell, what your home-state paper says really counts, so the efforts to get Editorials, to get opinion pieces, to get Letters to the Editor is one of the major things that moves senators."

**Animal protection law includes wildlife habitats [PRINT HEADLINE: Destroying a habitat can destroy an animal]** (*Examiner*, 10/07/12)

Glenn Sugameli Letter to the Editor: Re: "Scalia slams reach of Endangered Species Act," Washington Secrets, Oct. 4 A correction to Paul Bedard's column is needed to let readers know who cannot be trusted on basic facts: Bedard, Justice Scalia or both. Bedard writes that Scalia mocked "the EPA's decision to expand the act beyond the 'taking' or injuring or killing of endangered animals to protecting their habitat. The expansion led the court before Scalia joined in 1986 to OK protecting the habitat of animals ..." But this compounds error upon error. In 1995, *Bruce Babbitt v. Sweet Home* upheld an Interior Department (not EPA) rule, and Scalia wrote a dissent. The rule did not "expand the act beyond" the injuring of animals, it defined statutorily prohibited "harm" to include "significant habitat modification or degradation where it actually kills or injures wildlife." Animals, like people, can be harmed or injured by destroying the food and shelter they need to survive.

**Letter: Republicans block court nominees** (*Knoxville News Sentinel [TN]*, 10/04/12)

Glenn Sugameli: Your editorial, "Senate shouldn't tarry on TVA board nominees," urged action "during the lame-duck session." In 2010, Tennessee's U.S. senators finally overcame opposition to Jane Stranch's 6th Circuit Court of Appeals nomination. Now, Senate Republican Leader Mitch McConnell of Kentucky has blocked even unopposed trial court nominees. All 15 blockaded district court nominees had Judiciary Committee approval and support from their Republican and Democratic senators. Ten would fill judicial emergency vacancies declared by the courts. Sen. Patrick Leahy, D, Vt., stated: "Senate Republicans have not explained their unprecedented obstruction of President Obama's consensus nominees." In August, Sen. Patrick Toomey, R-Pa., insisted there was "no reason" not to confirm his state's nominees in September "by a voice vote. This could be done in a moment." Now, he is urging confirmations during the lame-duck session, when the Senate will decide if justice delayed will remain justice denied.

**Republicans block Geraci's nomination** (*Daily Record [NY]*, 09/22/12)

nominations, proposed by Senate Majority Leader Harry Reid, D-Nev. "There's still a possibility that they could agree and confirm some or all of those nominations," Glenn Sugameli, head of Judging the Environment's judicial nominations project in Washington, D.C., said Friday. "Nobody has opposed any of the 14 nominees who came through committee on voice votes." Sugameli said unless the Republicans agree to allow a vote, there would not be enough time to vote on the pending nominees before the Senate recesses until after the Nov. 6 general election. He was not optimistic action would be taken between the elections and when the 113th Congress is seated in January. "It's a total crap shoot," Sugameli said. "The idea that maybe we might get to one of these in the lame duck session is no comfort at all. The idea that you might have to wait to fill these judicial emergencies until well into next year is outrageous. This is appalling." Sugameli called McConnell's statistics "a numbers game" and said there is no reason for Republicans to object. He agreed with Reid that votes on district court nominees who have the support of their home senators and are unopposed have never been blocked before. Sugameli said there is no

reason to leave the judicial nominations hanging, "other than sheer partisan obstruction," something he said he has never seen before in all the years he has been following judicial nominations. "This still stuns me," he said. "It's a big deal because there are over 800 district judges and they're the judges who hold trials and decide issues that are critical to ordinary people, companies and others," Sugameli said. "That's where justice delayed is justice denied is especially true, at the trial court level." "There is plenty of recent precedent for confirming at least the 17 pending nominees," Sugameli said. "Something still could happen. It should happen. It always has happened. What tends to happen is that nominations, including judicial nominations, are the last thing they do before they walk out the door."

**GLENN SUGAMELI: U.S. Senate should honor the Constitution [& act on judicial nominees]** (*Patriot Ledger [MA], 09/21/12*)

While The Patriot Ledger's Sept. 17 OUR OPINION aptly urged "Honor Constitution Day by exercising your rights," U.S. Senators should honor the day by exercising their constitutional duties. Before the Senate recesses this week, it must provide 17 pending district (trial) court nominees "the Advice and Consent of the Senate," as required by the Constitution's Article 2, Section 2. Empty judgeships mean justice delayed is justice denied. The Judiciary Committee approved all 17 with support from their Republican and Democratic home-state senators. Twelve would fill U.S. Courts-declared judicial emergency vacancies. Sen. Mike Lee, R-Utah, reportedly "expects the district court nominees to be approved this month." Sen. Patrick Toomey, R-Pa., held a news conference to insist there is "no reason" not to confirm two Pennsylvania federal district court judges in September "by a voice vote. This could be done in a moment."

**Geraci's nomination blocked by Republican senator** (*Daily Record [NY], 09/21/12*)

"Glenn Sugameli, head of Judging the Environment's judicial nominations project in Washington, D.C., said there is still a possibility the Senate could agree to confirm some or all of the nominees before it recesses until after Election Day, Nov. 6."

**The Public Pulse, Sept. 20: Senate needs to approve judges** (*Omaha World-Herald [NE], 09/20/12*)

Glenn Sugameli: In his Sept. 17 Midlands Voices essay, "Constitution still relevant, unique," Michael B. Godfrey explains how the U.S. Constitution created a functional national government, unlike the prior Articles of Confederation, which had "neither an executive nor a judicial branch." Unfortunately, high numbers of judicial vacancies mean justice delayed is justice denied, as Carol Bloch and Jan Schneiderman discussed in an Aug. 30 Midlands Voices essay, "Judicial vacancies adversely affect Midlanders." Before recessing, the U.S. Senate has a duty to provide 17 pending District (trial) Court nominees "the Advice and Consent of the Senate," required by the Constitution's Article II, Section 2. The Judiciary Committee approved all 17 with support from their Republican and Democratic home-state senators. Twelve would fill declared judicial emergency vacancies in U.S. courts. Sen. Mike Lee, R-Utah, reportedly expects the District Court nominees to be approved this month. Sen. Patrick Toomey, R-Pa., held a press conference to insist there is no reason not to confirm two Pennsylvania federal District Court judges in September "by a voice vote. This could be done in a moment." Since 2001, I have headed the Judging the Environment project on judicial nominations.

**Confirming judges** (*Fort Worth Star-Telegram [TX], 09/18/12*)

Letter to the Editor by Glenn Sugameli, staff attorney, Judging the Environment, Defenders of Wildlife: he Monday editorial, "On Constitution Day: Celebrated but challenged," demonstrated the need to protect "the right to vote ... because electing members of our representative government is the core function of citizenship." Before recessing this week, the U.S. Senate must in turn exercise its core function in our representative government to vote on nominees for our third branch of government, the federal judiciary. Senators must provide 17 pending district court nominees "the Advice and Consent of the Senate," as required by the Constitution's Article 2, Section 2. Empty judgeships mean justice delayed is justice denied. The Judiciary Committee approved all 17 with support from their Republican and Democratic home-state senators. Twelve

would fill U.S. courts-declared judicial emergency vacancies. Utah Republican Sen. Mike Lee reportedly "expects the district court nominees to be approved this month." Republican Sen. Patrick Toomey of Pennsylvania held a news conference to insist there is "no reason" not to confirm two Pennsylvania federal district court judges in September by a voice vote.

**Court Vacancies Mire Appeals** (*Congressional Quarterly*, 09/17/12)

"The D.C. Circuit agreed to just one en banc review in each of its last two terms. "The vacancies really do have an impact," says Glenn Sugameli, a staff attorney for Defenders of Wildlife, an environmental advocacy group in Washington."

**Frank Geraci Jr.'s federal court nomination enters crucial phase** (*Democrat and Chronicle [NY]* , 09/12/12)

"Glenn Sugameli, a staff attorney for Defenders of Wildlife who closely follows judicial nominations, said Tuesday he's heard Republicans and Democrats are working on a package of nominations that could be approved prior to the next recess. If that doesn't happen, Republicans such as Toomey could be hurt by appearing politically ineffective within their own caucus, Sugameli said."

**Senate Confirms District Court Nominee, Showing Trial Judges Can Still Advance** (*Congressional Quarterly*, 09/10/12)

"There's no reason why they couldn't confirm [all pending nominees] in an hour," said Glenn Sugameli, a staff attorney with Defenders of Wildlife, an environmental advocacy organization. "You can do these all in voice vote."

**JUDICIARY: Vacancies shouldn't wait on election** (*News Tribune [WA]* , 09/07/12)

Glenn Sugameli Letter to the Editor: Re: "Federal court vacancies will likely wait on the election" ([www.thenewstribune.com](http://www.thenewstribune.com), 9-6). Despite this report, the Senate may very well confirm delayed consensus nominees this month. There is still plenty of time. For example, on Sept. 26, 2008, the Democratic Senate confirmed 10 U.S. District Court judge appointments by President George W. Bush. The Judiciary Committee approved 18 currently pending District Court nominees with support from every Republican and Democratic home-state senator. Judiciary Committee Republicans supported 17 of these nominees. Twelve would reduce U.S. courts-declared judicial emergency vacancies that delay and deny justice. Republican Sen. Patrick Toomey of Pennsylvania even traveled to an empty courthouse and held a news conference to insist there is no reason not to confirm two Pennsylvania federal District Court judges in September. He is correct; only senseless partisan obstruction by Senate Republicans could still prevent confirming all the committee-approved nominees.

**G. Sugameli: Even more bad news for 'breathers'** (*Sun Journal [ME]* , 09/04/12)

Glenn Sugameli Letter to the Editor: Maine's U.S. senators joined a filibuster that may undermine the Sun Journal's conclusion in the aptly headlined editorial "Court ruling more bad news for breathers" (Aug. 26): that "The EPA can appeal the decision to the full District of Columbia Court of Appeals and it should do so as quickly as possible." The editorial also noted "that two Bush-era appointees to the court voted to postpone the (Clean Air Act) regulations, while the Clinton appointee blasted the decision as an 'absurdity' unsupported by the factual record." Three of the four George W. Bush judges the Senate confirmed to the D.C. Circuit continue on the court, including a member of the panel majority who filled the court's 11th seat. Now, however, the court has three vacancies, so that five of the eight active judges would have to vote to review the 2-1 panel decision. Maine GOP Sens. Olympia Snowe and Susan Collins voted last December to filibuster President Barack Obama's nomination of Caitlin Halligan to the D.C. Circuit's ninth seat. A Washington Post editorial opined: "It is a disgrace to the party that Lisa Murkowski of Alaska was the only Republican to endorse an up-or-down vote."

**The missing judge** (*Concord Monitor [NH]*, 08/31/12)

Glenn Sugameli Letter to the Editor: "But for one thing, the conclusion of the Monitor's Aug. 24 editorial, "Court ruling keeps the poison coming," that the Environmental Protection Agency "should appeal the panel's decision to the full nine-member court," would be correct. Last December, however, Republican senators, including New Hampshire's Kelly Ayotte, filibustered Caitlin Halligan, President Obama's nominee to fill the D.C. Circuit's ninth seat. As a result, the court still has three vacancies and only eight active judges. An appeal to the full court would require that five judges vote to review the 2-1 panel decision that overturned safeguards against air pollution from upwind states. The editorial noted that "Judge Brett Kavanaugh wrote (the majority) opinion joined by Judge Thomas Griffith. Both men were appointed by President George W. Bush; the dissenting judge was appointed by President Bill Clinton." Three of the four Bush judges the Senate confirmed to the D.C. Circuit continue on the court, including a member of the panel majority who filled the court's 11th seat."

**Oregon still waiting for judicial nomination: White House says vetting process for seat is ongoing** (*Statesman Journal [OR]*, 08/11/12)

Article extensively quotes Glenn Sugameli, head of Judging the Environment's Judicial Nomination Project, part of the environmental nonprofit Defenders of Wildlife.

**Letter to the editor: GOP partisanship delays filling judgeships** (*Des Moines Register [IA]*, 08/09/12)

Glenn Sugameli: The Register editorial "Judges Remain Hostages in the Senate" (Aug. 7) aptly describes how federal judicial vacancies delay and deny justice, and how Senate Republican obstruction even extends to district court (trial) judges and filibustering unopposed 10th Circuit Court of Appeals nominee Robert Bacharach, who "had the strong support of both home-state senators, Republicans Tom Coburn and Jim Inhofe of Oklahoma." Senators unanimously agreed, however, to a Sept. 10 confirmation vote for President Barack Obama's nomination of Stephanie Rose as a U.S. district judge for the Southern District of Iowa. Senate GOP leaders including Iowa Sen. Chuck Grassley confined the current shutdown to circuit court of appeals nominees. In the last presidential election year, the Democratic Senate confirmed 10 President George W. Bush district judges on Sept. 26, 2008. All Democratic and Republican home-state senators support the 18 currently pending district court nominees. Sen. Grassley and other Judiciary Committee Republicans approved 15 on voice votes, including 11 of the 12 who would reduce the record number of U.S. Court-declared judicial emergency vacancies. Only senseless GOP partisan obstruction has delayed, and could still prevent, their confirmation.

**Letter to the editor: GOP partisanship delays filling judgeships** (*Altoona Herald-Index [IA]*, 08/09/12)

From Glenn Sugameli, Staff Attorney, Judging the Environment, Defenders of Wildlife re: Des Moines Register Editorial

**Letter to the editor: GOP partisanship delays filling judgeships** (*Indianapolis Star [IN]*, 08/09/12)

From Glenn Sugameli, Staff Attorney, Judging the Environment, Defenders of Wildlife re: Des Moines Register Editorial

**Letter to the editor: GOP partisanship delays filling judgeships** (*Indianola Record-Herald [IA]*, 08/08/12)

From Glenn Sugameli, Staff Attorney, Judging the Environment, Defenders of Wildlife re: Des Moines Register Editorial

**Oregon waiting months for judicial nomination from White House** (*Gannett News Service* , 08/02/12)

"There are many reasons the nomination process may be delayed "beyond which they are busy",

said Glenn Sugameli, head of Judging the Environment's Judicial Nomination Project, part of the environmental non-profit, Defenders of Wildlife. "It's also possible they looked at one person and then there was a snag," he said. Sugameli said the vetting process has become more stringent and lengthier in recent years -- in large part to save embarrassing candidates getting through. ... "There really is a vacancy crisis," said Sugameli. "It's pretty amazing how long it's been and how sustained it's been."... Sugameli said candidates who have their names submitted are realizing in the current climate they may be pending for two years and increasingly withdraw themselves because there is too much uncertainty or they want to avoid an at times degrading procedure. "The process has really got so dysfunctional, so nasty, so uncertain" that it's discouraging people from subjecting themselves to the process, he said."

#### **Superficial Change on the Federal Bench?** (*California Lawyer*, 08/01/12)

Lawrence Hurley: "The White House has instead adopted what Glenn Sugameli, a lawyer for the environmental group Defenders of Wildlife who tracks judicial nominations, calls a "careful approach." But Sugameli acknowledges that the administration's recent confirmations are "a major accomplishment" that has changed the face of the judiciary from one that is predominantly old, white, and male. ...To Sugameli of Defenders of Wildlife, Republicans' initial resistance to Watford, a man liberals perceive as a mainstream candidate, just seems bizarre. Watford, he groans, is "a corporate lawyer, for God's sake." "

#### **Senators' efforts, allies boost Kayatta's prospects** (*Portland Press Herald [ME]* , 07/30/12)

Glenn Sugameli, Letter to the Editor: "Since 2001, I have tracked judicial nominations for the Judging the Environment project of the group Defenders of Wildlife. Unbroken precedent and recent events bolster the letter from U.S. Sens. Olympia J. Snowe and Susan Collins saying they are "very hopeful" they will "gather the votes needed to confirm" judicial nominee William Kayatta this year ("Election-year politics mar nomination," July 20). Election-year politics have never blocked consensus nominees like Kayatta, whom the Judiciary Committee approved in an April 19 voice vote to fill Maine's only seat on the six-judge 1st Circuit Court of Appeals. Likely allies include Oklahoma's very conservative home-state Republican senators. They strongly support Robert Bacharach, another stalled consensus nominee who was also approved in a committee voice vote. Sen. Tom Coburn, R-Okla., called the blockade "stupid," and said that Bacharach would make a great 10th Circuit nominee for a Republican president. Other expected supporters include those who joined Maine's senators to provide the 60 votes that Arizona Republican Sens. Jon Kyl and John McCain needed June 11 to end a filibuster of their home-state judge, Andrew Hurwitz."

#### **UPDATE: Oklahoma Judge's Fate Could Come Down to Republican Sens. Coburn, Inhofe** (*Oklahoman*, 07/30/12)

"Carl Tobias, a law professor at the University of Richmond, and Glenn Sugameli, an attorney of the Judging the Environment project, told The Oklahoman last week that they expect Republican senators from Maine, Alaska and Massachusetts to vote to help Bacharach. That would be four. They also speculated that the two Arizona Republicans could go along and that Sen. Richard Lugar, of Indiana, and Lamar Alexander, of Tennessee, might join the other Republicans. ... UPDATE: Roll Call, the Capitol Hill newspaper, is reporting that both of Maine's senators will vote to advance Bacharach's nomination. ... Sugameli, attorney with the Judging the Environment project, said Monday that Sens. Orrin Hatch, R-Utah, and Lindsey Graham, R-South Carolina, are potential votes for breaking the filibuster."

#### **Oklahoma Sen. Tom Coburn considers voting against his party to help an Oklahoman get confirmed to federal appeals court** (*Oklahoman*, 07/28/12)

Sen. Tom Coburn said Friday that he hadn't decided whether he would vote against his party's leadership Monday to help an Oklahoman get confirmed to federal appeals court. Coburn, R-Muskogee, strongly supports U.S. Magistrate Judge Robert E. Bacharach's nomination for the 10th U.S. Circuit Court of Appeals. And he said in June the custom of blocking judicial nominations in the last few months of a presidential election year is "stupid." In an interview

Friday, Coburn said Bacharach is "just a stellar candidate and he ought to get through." But he said he would weigh over the weekend whether to do that over his party's objections. "I want to do the right thing," he said. "I haven't decided what that is yet." ... Attorney Glenn Sugameli, who tracks the judicial process for the Washington-based Judging the Environment Project, said the custom of blocking votes in presidential election years has never applied to noncontroversial nominees like Bacharach.

**[Sen.] Graham support** (*Herald [Rock Hill, SC], 07/24/12*)

Glenn Sugameli Letter to the Editor: "Efforts by Senate Minority Leader Mitch McConnell (R-Ky.) to block all nominees to U.S. Courts of Appeals are even more unprecedented and unjustifiable than explained in Opinions: "Reject the 'Thurmond Rule'" (Los Angeles Times Editorial, July 13). The so-called "Thurmond Rule" Sen. McConnell is claiming to invoke has never prevented Floor votes on Committee-approved consensus, noncontroversial nominations. Those at issue include an unopposed Federal Circuit nominee and two others who are strongly supported by their Oklahoma and Maine home-state Republican senators. Sen. Tom Coburn (R-OK) said McConnell's action was "stupid," and that Robert Bacharach would make a great Tenth Circuit nominee for a Republican president. Maine GOP Sens. Olympia Snowe and Susan Collins stated that they would support a cloture motion to end any filibuster of First Circuit nominee William Kayatta, Jr. Previously, Sen. Lindsey Graham (R-SC) and others in the bi-partisan "Gang of 14" defused filibusters and approved President George W. Bush's controversial Circuit Court nominees. Now, Sen. Graham could help confirm consensus nominees by joining with GOP senators who voted for South Carolina-based trial and appellate court judges whom President Obama nominated with Sen. Graham's strong support.

**Non-Controversial Judicial Nominee Stalemate Worsens, Turning Conventionality Upside Down** (*Moderate Voice, 07/23/12*)

Scott Crass: Glenn Sugameli of "Judging the Environment" cited to the "Tribune" 10 nominees confirmed via consent in September of 2008, adding that "clearly there can be, should be and has been Senate action in presidential years to confirm consensus nominees well into September."

**Conservative Ex-Judge Urges Vote on Appellate Nominee** (*Gavel Grab [Justice at Stake blog], 07/23/12*)

Peter Hardin: In a sidebar, the Salt Lake Tribune quoted Glenn Sugameli, an attorney and judicial analyst for Defenders of Wildlife, as saying it would be simple for the Senate to act quickly on the dozen or so federal judicial nominees who have won unanimous approval by the Senate Judiciary Committee. "There are plenty of examples in the past when there were votes on a bunch of people at the same time," he said.

**Inaction on judges affecting Utah: Courts » Stalling by Congress affects even nominees with bipartisan support.** (*Salt Lake Tribune [UT], 07/22/12*)

"You are in a situation now where it really is unprecedented in the extent of the obstruction," said Glenn Sugameli, staff attorney with Judging the Environment, which keeps watch on federal judicial nominations. "It makes no sense. It is even hard to figure out what the motive is at this time, other than to deny confirmations. I think they are clearly trying to leave a lot of these seats open for a different president to fill." ... The judicial vacancy crisis Glenn Sugameli, a staff attorney whoever oversees a federal judicial nomination project for Judging the Environment, said the Senate could easily act "tomorrow" on the dozen or so federal bench nominees with unanimous support from its Judiciary Committee. "There are plenty of examples in the past when there were votes on a bunch of people at the same time," he said. The Senate acted on 10 district court nominees during a single vote in September 2008, for instance — including some who had committee hearings days earlier. "Clearly there can be, should be and has been Senate action in presidential years to confirm consensus nominees well into September," he said.

**Geraci nomination sent to full Senate** (*Daily Record [NY]*, 07/20/12)

Glenn Sugameli, head of the environmental community's Judging the Environment project on federal judicial nominations, said he believes Judge Geraci will be confirmed; it is just a question of when. "He could be confirmed next week, but unfortunately, I'm also pretty sure that he won't be," Sugameli said, noting that when it does, the Senate has been voting on nominees in the order received from the Judiciary Committee, so there are at least a dozen nominees ahead of Judge Geraci. "I think probably sometime in mid- to late September is most likely," Sugameli said. ... Sugameli called Lee's negative vote a token protest he has been registering against all Obama nominees since the president's recess appointments in January. "Lee's vote does not reflect any opposition on the merits and the same thing when it comes to the floor," Sugameli said. He added that Republicans are trying to blame the White House for not nominating people to some of the slots but that, as Sen. Orrin Hatch, R-Utah, said four years ago, the fact that the Senate does not have nominees for a few seats is no excuse for not voting on the ones it does have. Sugameli said there were 20 judicial emergencies when Obama took office and the fact that that has increased by more than 50 percent, and that there are 77 vacancies, is scandalous. "Whenever there is a vacancy at all, especially when there is a judicial emergency, it really means cases involving people and companies are not heard in a timely manner," he added. "Justice delayed is justice denied. It's an old saying, but it's true. Every day of delay is absolutely unnecessary." Sugameli said even Republican senators are calling for movement on the judicial nominations. ... He thinks some of that is behind stalling approval of judicial nominees, which he attributed to a lack of understanding of the importance of filling the vacancies and a desire to keep the positions open until after the election in hopes of filling the seats with right wing judges.

**G. Sugameli: Confirmation blockade unprecedented** (*Sun Journal [ME]* , 07/19/12)

Glenn Sugameli, Letter to the Editor: "The Sun Journal editorial "Withholding confirmation" (July 14) eloquently explained how defendants and plaintiffs will suffer from the June 13 decision by U.S. Senate Minority Leader Mitch McConnell, R-Ky., to block every appeals court nominee. That even applies to consensus nominees whom the Judiciary Committee had previously approved: Maine's William Kayatta for the First Circuit, Richard Taranto for the Federal Circuit, and Robert Bacharach, a Tenth Circuit nominee who is strongly supported by his very conservative Oklahoma home state Republican senators. Election-year slowdowns have never prevented floor votes on consensus nominees like these. Unfortunately, the editorial missed that critical difference when it calls McConnell's unprecedented across-the-board blockade a "routine move to block judicial appointments, which is seen in both parties . . ." Indeed, Sen. Tom Coburn, R-Okla., said McConnell's action was "stupid," and that Bacharach would make a great Tenth Circuit nominee for a Republican president. Maine GOP Sens. Olympia Snowe and Susan Collins said they would vote to end any filibuster of Kayatta's nomination to fill Maine's only seat on the six-judge appeals court. They could succeed by working with Oklahoma's senators and others, including those who provided the 60 votes Arizona Republican Sens. Jon Kyl and John McCain needed on June 11 to end a filibuster of their home-state judge Andrew Hurwitz."

**Unjustified opinions** (*Lake Wylie Pilot [SC]*, 07/17/12)

"Efforts by Senate Minority Leader Mitch McConnell (R-Ky.) to block all nominees to U.S. Courts of Appeals are even more unprecedented and unjustifiable than explained in Opinions: "Reject the 'Thurmond Rule'" ( Los Angeles Times Editorial, July 13). The so-called "Thurmond Rule" Sen. McConnell is claiming to invoke has never prevented Floor votes on Committee-approved consensus, noncontroversial nominations. Those at issue include an unopposed Federal Circuit nominee and two others who are strongly supported by their Oklahoma and Maine Republican senators. Sen. Tom Coburn (R-OK) said McConnell's action was "stupid," and that Robert Bacharach would make a great Tenth Circuit nominee for a Republican president. Maine GOP Sens. Olympia Snowe and Susan Collins stated that they would support a cloture motion to end any filibuster of First Circuit nominee William Kayatta, Jr. Previously, Sen. Lindsey Graham (R-SC) and others in the bi-partisan "Gang of 14" defused filibusters and approved President George W. Bush's controversial Circuit Court nominees. Now, Sen. Graham could help confirm consensus

nominees by joining with GOP senators who voted for South Carolina-based trial and appellate court judges whom President Obama nominated with Sen. Graham's strong support." Letter to the Editor, from GLENN SUGAMELI, Judging the Environment, Defenders of Wildlife

**The Other Health Case: D.C. Circuit Judges Reject Challenges to EPA Rules on Greenhouse Gases.** (*American Constitution Society Blog, 07/06/12*)

Glenn Sugameli Guest Post: "This importance of the issues in *Coalition for Responsible Regulation v. Environmental Protection Agency* is augmented by synergistic factors. These include: (1) the court that decided them; (2) the judges who joined the unsigned per curiam opinion; (3) the high likelihood that their ruling is the final judicial word; (4) the very strong language the judges used; and (5) the decision's impact in confirming the scientific facts of climate change."