

SENATE: Kagan confirmed for Supreme Court (08/05/2010)

By Gabriel Nelson, E&E reporter

The Senate voted this afternoon to confirm Solicitor General Elena Kagan to the Supreme Court, replacing retired Justice John Paul Stevens on the bench after a quick and uneventful debate on the Senate floor.

Kagan was confirmed by a 63-37 tally, receiving five fewer votes than Justice Sonia Sotomayor did last summer. Onlookers have chalked up the final vote to election-year politics, since Kagan drew significantly less criticism than Sotomayor did during confirmation hearings.

As expected, Kagan garnered the support of five Republicans -- Maine Sens. Susan Collins and Olympia Snowe, South Carolina Sen. Lindsey Graham, Indiana Sen. Richard Lugar and New Hampshire Sen. Judd Gregg. Nebraska Sen. Ben Nelson was the only Democrat to vote against her.

Liberal and conservative court-watchers have agreed that Kagan's confirmation is unlikely to tilt the balance of the court, including on environmental issues, because Stevens consistently voted with what is described as the court's liberal wing ([E&E Daily](#), July 2).

Regardless, Kagan was backed by some of the nation's largest environmental advocacy groups, 45 of which sent a letter urging the Senate to approve her nomination. The letter, which was written and circulated by Defenders of Wildlife, pointed to her statements during confirmation hearings that Congress has broad authority to pass environmental laws and that the Supreme Court should give them deference.

"The court is narrowly and deeply split on critical constitutional and statutory environmental protection issues," the [letter](#) said. "Kagan's record and her Supreme Court confirmation hearing testimony demonstrate an essential understanding of the importance of fair Court decisions that uphold, enforce and correctly interpret laws that protect people, wildlife, and the environment."

Once she joins the court, Kagan could weigh in on any number of hot-button environmental cases, potentially including the litigation surrounding the Gulf of Mexico oil spill and the legal challenges to federal greenhouse gas regulations.

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