

CRC In The News

Feinstein Opposes Nominee; Senator plans to vote against President Bush's choice for the 9th Circuit Court of Appeals

**Los Angeles Times
March 24, 2004
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Sen. Dianne Feinstein (D Calif.), a pivotal member of the Senate Judiciary Committee, disclosed Tuesday that she would vote against President Bush's choice of William G. Myers III for a seat on the U.S. 9th Circuit Court of Appeals a move likely to trigger a filibuster of the nomination. Howard Gantman, an aide to Feinstein, said the senator reached her decision after thoroughly reviewing Myers' record as a lawyer representing mining and cattle interests. Environmental organizations have led opposition to Myers, saying his record includes numerous attacks on federal environmental laws.

The 9th Circuit is the nation's largest federal appeals court and hears cases from California and eight other Western states. Because of the territory it covers, the court considers a disproportionate number of the country's most important environmental cases.

Gantman said Feinstein would provide a full statement of her reasons for opposing Myers when the committee next met to consider the nomination, probably later this month.

Leaders of organizations opposing Myers and Senate vote counters said Feinstein's decision made it likely that Myers would clear the Judiciary Committee on a straight party line vote with 10 Republicans voting yes and nine Democrats voting no.

"Up until now, the record has been that if all the Democrats on the Judiciary Committee vote no on a nominee, there has been a filibuster, if necessary," said Glenn Sugameli, senior legislative counsel for Earth Justice, one of the environmental groups opposing Myers' nomination.

So far, the Senate has confirmed 171 of Bush's judicial nominees. Senate Democrats have mounted successful filibusters to block confirmation of six nominees. In two of those instances, Bush granted recess appointments to the nominees, which allow them to serve as judges for the duration of the current congressional session. By contrast, nominees confirmed by the Senate gain lifetime tenure.

"I am very glad to see that Sen. Feinstein is helping to protect the environment and the rights of Indian tribes and others who depend on a fair hearing in the 9th Circuit," Sugameli said.

The nominee did not comment Tuesday.

Justice Department spokesman John Nowacki, who has been speaking on Myers' behalf, said, "With his exemplary record in public service and as an attorney in private practice, Bill Myers would make an excellent addition to the 9th Circuit."

In addition to his private law practice, Myers, 48, worked for former Sen. Alan Simpson (R Wyo.) and served as the Interior Department's top lawyer during the first two years of the current administration. He practices law in Idaho, one of the states covered by the 9th Circuit.

At a Judiciary Committee hearing Feb. 5, Feinstein and five other Democrats questioned Myers extensively. Sen. Patrick Leahy of Vermont, the ranking Democrat on the committee, said he feared that

the nominee would be "an anti environmental activist on the bench."

To support that charge, Myers' opponents have pointed to several of his statements,

In 1996, he wrote an article that described the 1995 California Desert Protection Act as an "example of legislative hubris." Feinstein, a key architect of the measure, said at the hearing that she was particularly disturbed by that statement.

Myers conceded that his remark "probably had been a poor choice of words."

In addition to the remarks about the desert protection law, opponents of the nomination have pointed to Myers' argument in one Supreme Court case that Congress does not have the power to protect wetlands, and to an article he wrote comparing federal land management policies to "the tyrannical actions of King George in levying taxes" on the American colonies.

Sugameli and Doug Kendall, an attorney for the environmental group Community Rights Counsel, said the vote on Myers would mark the first time in this administration that a nominee's stance on environmental matters had been the central issue in a confirmation battle.

"This vote is an important milestone in the effort to raise awareness of the environmental stakes in judicial nominations," Kendall said.

Virtually every major environmental organization has announced opposition to Myers. A month ago, the National Wildlife Federation, the nation's largest member supported conservation education and advocacy group, stated its opposition, marking the first time in its 68 year history it had opposed a judicial nominee.

Myers' nomination presents "an exceptional case," the organization said in a statement. "Mr. Myers has so firmly established a public record of open hostility to environmental protections as to undermine any contention that he could bring an impartial perspective to the issues of wildlife and natural resource conservation."

"Mr. Myers' record when he served as the solicitor of the Department of the Interior makes plain that he brought with him and applied the same hostility and contempt for environmental protection and conservation that he had aggressively displayed earlier in his career as a lawyer and lobbyist for the livestock grazing and mining industries," the federation said.

Earlier this month, The Times reported that, while he was the Interior Department's top lawyer, Myers had encouraged two Northern California congressmen to sponsor legislation that would have given a private firm eight acres of valuable federal land in Yuba County.

After The Times made inquiries about the legislation, the Interior Department withdrew its support of the bill.