

CRC In The News

Groups Fight Nominee for 9th Circuit

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WASHINGTON - For much of his professional career, William G. Myers III has been a lawyer and lobbyist for mining, grazing and cattle interests and a severe critic of environmentalists.

Now, Myers, 48, has been nominated by President Bush to the San Francisco based U.S. 9th Circuit Court of Appeals, which reviews federal court decisions from nine western states, including California, and considers more significant environmental cases than any other federal appeals court.

Myers, an attorney in Boise, Idaho, faces a tough confirmation battle as nearly 100 environmental, tribal, civil rights, labor and women's organizations have mounted a major campaign to defeat him in the Senate. Myers' first hearing will be today in the Senate Judiciary Committee.

The Coalition for a Fair and Independent Judiciary has called Myers "an ideologue who would use his position on the court to promote his personal agenda of attacking safeguards for tribal rights and the environment in order to favor" the industries he has represented.

Jackie Johnson, spokeswoman for the National Congress of American Indians, which represents about 250 tribes, said this is the first time the organization has formally opposed a judicial nominee during the Bush administration. Johnson criticized Myers' role as the Interior Department's chief lawyer during the first two years of the Bush administration.

"Myers was the architect of a rollback of protections for sacred native sites on public lands that are central to the free exercise of religion for many Native American people," she said.

Myers did not return a call seeking comment. Justice Department spokesman John Nowacki offered praise of the nominee. "Bill Myers is a qualified, experienced attorney who would be an excellent addition to the 9th Circuit," Nowacki said.

"The left," Nowacki said, "has shown time and again that it will go all out to block as many of this president's nominees as it can and that it is willing to level any accusation, no matter how baseless, to justify its obstruction campaign."

President Bush and his aides have frequently attacked Democrats for their opposition to some of the president's most controversial judicial nominees including use of the filibuster to block six nominees. The Senate has confirmed 171 of Bush's nominees.

Opposition to Myers stems from actions he took as a private attorney in the 1990s and as the Interior Department's top lawyer from 2001 to 2003. From 1993 to 1997, Myers was executive director of the Public Lands Council, a trade group advancing the interests of ranchers who graze cattle and sheep on public lands, and served as director of federal lands for the National Cattlemen's Beef Assn. From 1997 to 2001, as an attorney at Holland & Hart in Boise, he represented grazing and mining interests and was corporate counsel to the Cattlemen Advocating Through Litigation Fund, the litigation wing of the Public Lands Council.

Myers, a Virginia native who studied law at the University of Denver and worked as an aide to former

Sen. Alan K. Simpson (R Wyoming) from 1985 to 1989 and later in the Justice and Energy departments, also has supporters. Simpson, Dick Thornburgh and William P. Barr, attorneys general during the Ronald Reagan and George H.W. Bush administrations, and Idaho's former Democratic Gov. Cecil D. Andrus sent letters to Judiciary Committee Chairman Orrin Hatch (R Utah), praising Myers.

"I have observed Bill closely for nearly 20 years," Simpson wrote. "I can wholeheartedly vouch for his legal competence and his integrity." Barr praised Myers as "fair minded, careful and balanced." Andrus said that, "while Mr. Myers as been an effective advocate in the past for specific public policy positions with which I may have personally disagreed, he also possesses the ability to act fairly on matters of law that will come before him on the court."

Idaho's senior senator, Larry E. Craig, a Republican member of the Judiciary Committee, is playing a major role in the confirmation effort, saying that Myers would "bring a welcome breath of fresh air and common sense that has been lacking in the 9th Circuit."

The court has often angered Republicans with its rulings, particularly decisions that people in the Northwest consider insufficiently sensitive to the needs of industry. Rep. Michael K. Simpson (R Idaho) recently introduced a bill that would split the 9th Circuit into two courts.

In contrast to the brief, general letters of support, several organizations, including People for the American Way, a liberal advocacy group, and two environmental law organizations Community Rights Counsel and Earthjustice have issued detailed reports criticizing Myers' actions and views.

Buck Parker, executive director of Earthjustice, and David Bookbinder, a staff attorney for the Sierra Club, said that, "on environmental issues, he has the clearest and worst record," and that this was particularly worrisome in a circuit that has 485 million acres of public lands.

"He is one of the worst nominees we have seen from this administration," said Nan Aron, President of the Alliance for Justice, whose organization has played a key role in opposing several Bush nominees.

While acknowledging that the American Bar Assn.'s judicial screening committee had given Myers a "qualified" rating, Aron emphasized that Myers had not garnered even one "well qualified" rating from the 15 members of the committee and that more than a third of its members had judged him "not qualified."

Last year, critics said, Myers reversed a legal opinion rendered by his predecessor in the Interior Department, paving the way for a Canadian company to build a 1,600 acre open pit gold mine in Imperial County, Calif., that an independent federal agency said would be so damaging that "the Quechan tribe's ability to practice their sacred traditions as a living part of their community life would be lost."

During the Clinton administration, Interior Secretary Bruce Babbitt refused to approve the Glamis mine project, relying on his chief lawyer John Leshy, who said the project had to be stopped to prevent "unnecessary or undue degradation of public lands."

"In order to reverse his predecessor's opinion, Myers resorted to interpreting the word "or" in a statute to mean its exact opposite "and" said Glenn Sugameli, an attorney for Earthjustice. Late last year, U.S. District Judge Henry Kennedy Jr. in Washington, D.C., ruled that Myers had violated three separate rules of statutory interpretation. And, the judge said, Myers had "misconstrued the clear mandate" of the Federal Lands Policy Management Act, which "by its plain terms, vests the secretary of the Interior with the authority and indeed the obligation to disapprove" mines that "would unduly harm or degrade the public land."

Both of California's senators have opposed the project, noting that it would produce only one ounce of

gold for every 280 tons of rock disturbed, according to the company's own studies.

Critics also say that, while Myers was at the Interior Department, he attempted to reverse grazing regulations established by Babbitt that were upheld 9 to 0 by the U.S. Supreme Court a case in which Myers was on the losing side.

Myers' opponents say many of his public statements show hostility toward environmental protections. For example, they point to a 2002 speech he made to the National Cattlemen's Assn., while serving as the Interior Department's solicitor. In it, he said: "The biggest disaster now facing ranchers is not nature ... but a flood of regulations designed to turn the West into little more than a theme park."

In a 1996 article, Myers compared federal management of public lands with "the tyrannical actions of King George in levying taxes" on American colonists.

In another article a year earlier, he blasted the 1994 California Desert Protection Act, which created two national parks and carved out millions of acres of federally protected wilderness areas in Southern and eastern California, as "an example of legislative hubris."