

4 white flags fly in courts fight

By David G. Savage and Henry Weinstein

In a move that could mark the end of President Bush's conservative realignment of the federal courts, four of his most controversial judicial nominees were withdrawn Tuesday, bowing to the Democratic takeover of the Senate.

The four were stalled last year when Republicans controlled the Senate, and they had little chance of winning confirmation this year.

They included a top legal advisor to ousted Defense Secretary Donald H. Rumsfeld and a former mining industry lawyer who had angered environmentalists.

A week after the November elections, Bush surprised and angered Democrats by announcing he would press ahead with these nominations.

On Tuesday, the White House issued a list of 33 proposed judges, but without the disputed four.

Three of them had submitted letters asking their names be withdrawn, while the White House itself gave up trying to win a promotion for U.S. District Judge Terrence W. Boyle of North Carolina, who had drawn strong opposition because of rulings that rejected civil rights claims.

The other failed nominees include William J. Haynes II of Virginia, the Pentagon's top lawyer; Michael Wallace of Mississippi, who was given an "unqualified" rating by the American Bar Assn.; and William G. Myers III of Idaho, who was accused of favoring the mining and cattle industries when he worked in the Interior Department.

"The president's main focus now is to address this issue by moving forward in the 110th Congress with a new slate of highly qualified nominees," said Emily Lawrimore, a White House spokeswoman. "He believes each of them deserves an up-or-down vote as soon as possible."

Sen. Patrick J. Leahy (D-Vt.), the new chairman of the Judiciary Committee, called the announcement "a welcome beginning" and "an opportunity for a fresh start."

Since taking office in 2001, Bush has appointed 255 judges to the federal courts, including two new justices on the Supreme Court.

Despite Bush's overall record of success, a few nominees were stalled by wavering Republicans and solid Democratic opposition.

Haynes, the Pentagon's general counsel, was criticized for his role in approving harsh interrogation techniques for detainees in the war on terrorism.

Myers, who was nominated to the San Francisco-based U.S. 9th Circuit Court of Appeals, was opposed by virtually every major environmental organization in the country, as well as civil rights, women's, labor and American Indian organizations. These opponents feared he would bring a pro-industry bias to the court that hears appeals from a vast area of the West that includes three-fourths of the nation's public lands.

In a 1996 article, Myers compared federal management of public lands with "the tyrannical actions of King George in levying taxes" on American colonists. He also criticized the 1994 California Desert Protection Act, which created two national parks and carved out millions of acres of protected wilderness in the southern and eastern parts of the state as "an example of legislative hubris."

Sen. Dianne Feinstein (D-Calif.), who played a major role in securing the act's passage, took particular umbrage at that remark and grilled Myers about it during a Senate Judiciary Committee hearing, at which Myers admitted he had never been to the California desert.

His supporters said Myers' conservatism would help bring balance to a court that is often criticized as too liberal.

The final blow to Myers' chances came recently when Leahy said newly disclosed information raised serious questions over whether Myers testified truthfully when he told senators that he never met Jack Abramoff, the lobbyist who later pleaded guilty to conspiracy and wire fraud and is serving 70 months in prison.

On Tuesday, environmentalists hailed the news of Myers' withdrawal. "For the first time ever, a nominee for a lifetime federal judgeship has been forced to withdraw because his anti-environmental record generated bipartisan opposition," said lawyers for Earthjustice.

Some conservative activists said they hoped Bush would not back down from further fights.

"These nominees were all treated unfairly. The Democrats' unprecedented level of obstructionism has led some of them to conclude it is futile to go on," said Edward Whelan, president of the Ethics and Public Policy Center in Washington. "But there is no such thing as a consensus nominee. The Democrats are interested in entrenching liberal judicial activism, and the president should not acquiesce to that."
Southland nominees

President Bush on Tuesday nominated five Southern California Superior Court judges to be federal judges in the central district based in Los Angeles. They are:

- Valerie L. Baker, 57, a judge in Los Angeles.
- Philip S. Gutierrez, 47, a judge in Los Angeles.

- James E. Rogan, 49, a former congressman who is a judge in Orange County. He was first nominated in November.

- Otis D. Wright II, 62, a judge in Los Angeles.

- George H. Wu, 56, a judge in Los Angeles.

Source: Los Angeles Times