



Senate Renews Partisan Fight Over Appeals Court Nominee

By J.R. Pegg

WASHINGTON, DC, July 20, 2004 (ENS) - Senate Republicans tried to rally support on Monday for the appointment of former Interior Department Solicitor William Myers to the 9th Circuit Court of Appeals, saying he would bring balance to one of the nation's most liberal courts.

But it is unlikely they will get the 60 votes needed to overcome Democrats' opposition to the longtime mining and cattle industry lobbyist, who critics contend is an extreme anti-environmental ideologue.

A vote on Myers' nomination is set for today and both Democrats and Republicans are seeking political gain from the dispute over one of the Bush administration's most controversial judicial nominees.

Republicans say the Democrats are unfairly blocking the administration's nominees - Democrats contend the White House has nominated several individuals who are too ideological to sit on the federal bench.

Democrats have successfully blocked six of the President's judicial nominees and approved 198 nominees.

The issue has become one of the most politically divisive in Washington.

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Senator Patrick Leahy of Vermont, the ranking Democrat on the Senate Judiciary Committee, said Myers "epitomizes the anti-environmental tilt of so many Bush nominees."

Judicial nominee William Myers.
(Photo courtesy [Bush administration](#))



"He should not be confirmed," Leahy said.

Republicans say Myers is a well qualified, mainstream conservative fit to serve on the federal bench, and on Monday they frequently put the dispute as a battle between regional interests and values.

"There is all this needlessly harsh rhetoric about Bill being a radical," said Senator Mike Enzi, a Wyoming Republican, who called Myers a "typical Westerner."

"He is someone who has lived and worked with the people of the West," Enzi said. "He knows their dreams and shares their values."

Nominated by President George W. Bush in May 2003, Myers was approved by the Senate Judiciary Committee in April. The committee voted 10-9 along party lines to send his nomination to the full Senate.

Senate confirmation of judicial nominees requires a simple majority, but Senate Republicans need 60 votes to end a Democratic filibuster of Myers' nomination and force a vote on the 49 year old Idaho lawyer.

Myers' environmental record is central to the debate over his qualifications and independence in part because of the key role the 9th Circuit Court of Appeals plays in environmental issues.

The court hears cases from Alaska and the American West, where environmental law concerning 485 million acres of public lands is decided.

Judges on this bench are appointed for life - this level

of the judiciary is superseded only by the U.S. Supreme Court and often provides the final decision on legal challenges to environmental rules and regulations.

Seldom does an environmental rule or regulation move forward without a lawsuit by environmental groups or by affected industries.

Enzi said Myers would help balance a court that is "made up of judges who are most sympathetic to radical interests ... not the ranchers and miners who have made up the backbone of the Western economy."

Critics say Myers is too keen to represent the interests of ranchers and miners above all else. More than 180 conservation groups, Native American tribes, and other



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organizations actively oppose his nomination to the 9th Circuit.

Myers has been a frequent legal counsel and lobbyist for grazing interests.
(Photo courtesy Forest)

Opponents fear his past tenure as a lawyer and lobbyist for the National Cattlemen's Beef Association, the Public Lands Council and a host of mining companies in part makes him hostile to environmental protection.

Legal positions Myers has taken on behalf of these clients are of deep concern to conservationists and tribal groups. The Idaho lawyer has compared the management of public lands in the United States to King George's "tyrannical" rule over the American colonies and has said there is "no constitutional basis" for federal authority to protect wetlands under the Clean Water Act.

In addition, critics note that not a single member of the American Bar Association's committee that rates federal judicial nominees found him "well qualified"

and more than a third rated him "unqualified."

Myers' work as the Interior Department's top lawyer has also come under scrutiny. He served as the agency's solicitor from 2001 through May 2003, before leaving to return to his former law firm, Holland & Hart.

During his time at the agency Myers wrote a controversial legal opinion in an attempt to make it easier for companies to mine on public lands - parts of which have been rejected by a federal court - and encouraged legislation to privatize public lands without public compensation.

"As his opinions as Interior solicitor demonstrate, Myers sees nothing wrong with using his public office to advance his personal agenda, which matches that of the mining and beef industries who employed him for most of his career," said Glenn Sugameli, senior legislative counsel for the environmental law firm Earthjustice. "Worse, he is willing to twist the law to reach the result he would like to see."

Sugameli called Myers "the most anti-environmental judicial nominee that we have ever seen."

Supporters say critics unfairly take issue with Myers' record at the Interior Department for representing policy positions they do not like and add there is no evidence Myers will advocate for the interests he has spent much of his life defending.

"The law will be his client," Idaho Republican Larry Craig told Senate colleagues, some of whom he accused of applying an unfair litmus test to Myers' qualifications.

Senate Republicans and President George W. Bush say Democrats are unfairly blocking his judicial nominees. (Photo courtesy [White House](#))

"The substance of their test is this - if you have represented farmers, ranchers, miners, and frankly anyone else who advocates a balanced, multiple use policy on public and private lands in the West - the radical left environmental groups have decreed that you do not even



merit a vote in the U.S. Senate," Craig said. "And the Democrats in the Senate are playing that game ... senators should be ashamed to enforce such an edict from those liberal interest groups."