

## **NOMINATIONS: Senate Judiciary likely to consider Myers nomination this week**

**By Alex Kaplun**

The Senate Judiciary Committee this week is expected to consider the nomination of former Interior Department Solicitor William Myers to the 9th U.S. Circuit Court of Appeals, potentially launching another prolonged battle over a Bush administration judicial nominee.

Numerous environmental groups have banded together to stop Myers' nomination, arguing that his track record of representing mining and grazing interests makes him unfit to sit on a federal bench that has jurisdiction over a significant number of public lands and other environmental cases. The 9th Circuit is the country's largest court, covering nine Western states including California.

No vote has been scheduled yet, but Margarita Tapia, spokeswoman for Chairman Orrin Hatch (R-Utah), said one could take place Thursday.

Myers' opposition appeared to receive a boost last week when committee member Sen. Diane Feinstein (D-Calif.) announced that she would vote against the nomination. Feinstein has yet to provide specific reasons for her opposition, and her spokesman declined to comment on the matter further.

**Senators on the Judiciary Committee rarely come out in formal opposition to a nominee prior to a vote, said Earthjustice attorney Glenn Sugameli. Feinstein's statement of opposition paves the way for a 10 to 9 party-line vote on the nomination, Sugameli predicted.**

**"The nominees that she has opposed, she's only done that after thorough review of their record," he said. "Sen. Feinstein's announcement is a very major development that should lead to opposition from the Democrats on the committee."**

Feinstein is the only Democrat on the committee who represents a state under the 9th Circuit's jurisdiction.

A staffer for a Democratic member of the committee said several Democratic senators "have concerns" about the Myers nomination, but would not speculate on whether all nine would vote against the nomination. No Republican has ever voted against a Bush administration judicial nominee either in committee or on the floor.

In a committee hearing earlier this month, Democrats repeatedly questioned Myers on whether he would be able to be an impartial judge or if he shared the political philosophies of his former clients.

Myers left the Interior Department in October 2003 after environmentalists said he violated an ethics agreement by meeting with representatives of the grazing and mining industry, including former clients and employees of his former law firm, Holland & Hart. Myers has since returned to Holland & Hart.

Last month, Interior's inspector general and the Office of Government Ethics found that Myers did not violate ethics laws despite attending 27 meetings and events held between August 2001 and December 2002. Despite that finding, environmental groups said the inspector general report details numerous occurrences of questionable conduct, including his attendance at an Oct. 4, 2001, reception hosted by Holland & Hart at Washington's Hay Adams Hotel, where Vice President Dick Cheney swore in Myers as solicitor ([Greenwire](#), March 6).

As solicitor, Myers issued two formal opinions -- both of which met with resistance from environmentalists. The first called for Interior to grant a permit for the Glamis gold mine, which sits on lands with cultural value to the Quechan Indian tribe in Southern California. The permit had been denied under the Clinton administration.

The second opinion called for allowing grazing interests to use land on Utah's Grand Staircase-Escalante National Monument even after it had been retired by Interior.

Over the course of his career, Myers has also written several controversial statements that opponents say demonstrate his anti-environmental bent, including calling the California Desert Protection Act "legislative hubris" and comparing the government's land management policies to "the tyrannical actions of King George."

Also at play is a statement from Senate Minority Leader Tom Daschle (D-S.D.) on Friday indicating Democrats will block all White House judicial nominees until the president promises not to use recess appointments to fill vacant seats. Bush appointed Mississippi District Court Judge Charles Pickering to the 5th U.S. Circuit Court of Appeals and Alabama Attorney General William Pryor Jr. to the 11th U.S. Circuit Court of Appeals while the Senate was in recess this year. Both appointments had been blocked by Senate Democrats.

"We will be clear. We will continue to cooperate in the confirmation of federal judges, but only if the White House gives the assurance that it will no longer abuse the process and that it will once again respect our Constitution's essential system of checks and balances," said Daschle on the Senate floor.