

From: "Leitch, David G."
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Casper, Wyoming newspaper on Myers.

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From: P6/b6
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The Star - Tribune

Myers' judicial nod turns controversial

By TED MONOSON Washington bureau

WASHINGTON -- Ranchers and environmentalists are facing off over the nomination of a former aide to retired Wyoming U.S. Sen. Alan Simpson to serve on the Ninth Circuit Court of Appeals.

Ranchers say that William G. Myers III, a 47-year-old Idaho native who is currently the Interior Department's top lawyer, would bring knowledge of the West and respect for ranchers' rights to the Ninth Circuit.

Critics of the Ninth Circuit, which is based in San Francisco, say that it produces many liberal decisions that are out of step with the law and the interests of the West.

"It's a very liberal court and environmentalists don't want to see him on it," National Cattlemen's Beef Association (NCBA) lobbyist Chandler Keys said. "If he gets confirmed, he's not going to have a bunch of soul mates. He will be drinking coffee by himself."

Before his appointment as Interior Department solicitor in July 2001, Myers was executive director of the Public Lands Council and director of federal lands for the Cattlemen.

The Public Lands Council represents the NCBA as well as the American Sheep Industry Association, the American Farm Bureau Federation and the Association of National Grasslands. Myers also served as a lawyer for the Denver-based firm Holland and Hart LLP doing work for the livestock industry that some environmentalists say makes him unfit to serve as a judge.

"He obviously comes in with a clear ideology," said National Parks Conservation Association Northern Rockies Office Senior Director Tony Jewett. "His history has been in defending commodity uses, not public uses of federal lands. His confirmation would be another nail in the administration's attempt to hand over the public lands to private industry." Jewett and other environmentalists are particularly concerned about Myers' opposition to grazing regulations that were put in place when Bruce Babbitt led the Interior Department during the Clinton administration.

The 1995 regulations eliminated rules that permitted only ranchers to own grazing permits and gave the federal government ownership of range improvements, like fencing and stockwater wells. Before the change, grazing permit holders owned the range improvements. Myers also opposed the re-introduction of wolves to Yellowstone National Park and President Clinton's prohibition on building roads in parts of the National Forest system.

Myers' critics say that as the Interior Department's top lawyer, he has continued to look after the interests of ranchers and other industries that use federal lands, while seeking to limit environmental regulations.

The Associated Press reported that Myers told a Winnemucca, Nev., gathering of the Nevada Cattlemen's Association on Nov. 15, 2002, "It has gotten to the point where you can hardly dig a post hole without having to do an environmental analysis." Myers supporters say that his decisions would be based on the law and not on his personal opinions.

"In my dealings with him he has never been hesitant to point out that your emotions may be here, but reality is over there," said Jim Magagna, executive vice president of the Wyoming Stock Growers Association. "It wasn't what we always wanted to hear, but it was the correct legal opinion." Magagna said that many of Myers' opinions that concern environmentalists are the positions of the organizations that he worked for and it was his job to express those opinions.

Myers began his career in government as a legislative counsel for former Republican Wyoming Sen. Alan K. Simpson.

The former senator does not share environmentalists' concerns about Myers position on public lands issues and said that his former aide would be a good addition to the Ninth Circuit.

"He'd be terrific and lord knows they need him," Simpson said. "That is the goofiest court in America."

Simpson noted that a large number of the Ninth Circuit's decisions have been overturned by the Supreme Court. The court was sharply criticized by both Democrats and Republicans for ruling that the word "God" should be removed from the Pledge of Allegiance.

"The frustration with the Ninth Circuit is that there are states in it that are not California," Simpson said. "It needs somebody who understands the West and knows about commodities and grazing." The addition of judges like Myers is necessary to rein in the environmentalists who control the court, according to Simpson.

"I always wonder about the enviros and their opposition to commodities," Simpson said. "If they have their way instead of having cattle pooping on the prairie, they would have subdivisions and people pooping on the prairie."

"He'll never satisfy the tree huggers," Simpson said. "They'd love to eat him alive."

Tom France, the director of the Missoula-based Northern Rockies office of the National Wildlife Federation, said that he expects Myers to be confirmed. France does not object to his nomination.

"He has different opinions on policies than I do, but I don't think that makes him unfit to serve on the federal bench," France said.

The Ninth Circuit has jurisdiction over cases in Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington, the U.S. Territory of Guam, and the Commonwealth of the Northern Mariana Island. The court has decided many issues that also have an impact on Wyoming.

The Tenth Circuit, which is based in Denver, has jurisdiction over Colorado, Kansas, Oklahoma, New Mexico, Utah and Wyoming.

President Bush nominated Myers on May 15. The Senate Judiciary Committee has not scheduled a hearing for him yet. Senate Democrats and Republicans have been at loggerheads over several of the administration's judicial nominees. It is unclear if there will be significant disagreement over Myers' nomination.

As Interior Department solicitor, Myers is in charge of more than 300 lawyers at the National Park Service, Fish and Wildlife Service, Bureau of Land Management and Bureau of Indian Affairs.

Magagna said that he was optimistic that many of the Western Democrats who represent large numbers of ranchers would support Myers' nomination.