allies to undermine environmental protections is to set policy by failing to defend against industry lawsuits or by reaching ''sweetheart'' settlements with industry.

Among the top contributors to the 2000 Bush Presidential Campaign were the very industries oil—and gas, logging, ranching and large-scale real estate development—that stand to benefit most from the weakening of federal wildlife policy. The court cases discussed above [regarding the Endangered Species Act] were virtually all filed by developers, ranchers and loggers, so it is clear that these industries have already benefited from their generosity to the campaign and their otherwise close ties with the Bush Administration. The oil and gas industry similarly has enjoyed favored treatment, even when its activities would despoil some of the most important remaining habitats of imperiled species.

Unfortunately, in the current Administration, science is often shortchanged when it gets in the way of favored corporate interests. Secretary Norton's Interior Department has repeatedly suppressed, distorted or scuttled the science, even when it comes from biologists within the Department.

Let's see if I've got this straight. The entire Bush administration is nefarious, corrupt, and bribed by corporate interests. Secretary Norton distorts science to benefit the administration's corporate contributors. But it's Bill Myers who is contemptible and ''extreme'' because he dared suggest that frivolous environmental lawsuits are increasing?

I think everyone ought to be honest about what's going on here. Groups like this, which I'm sure many Democrats would defend as ''mainstream,'' and whose bidding Senators will be doing by refusing to vote on Bill Myers, are the ones spewing contempt.

I would like to respond to some of the rhetoric about Bill Myers' record as Solicitor at the Department of the Interior, a position to which this Senate confirmed him without opposition in 2001.

I understand that Mr. Myers's opponents believe that association with the Bush/Norton Interior Department is a disqualifier for service on the Federal bench I wonder if they will mind when such a standard is applied to the detriment of officials from the Clinton/Babbitt Interior Department, or any future Democratic administration, who might be nominated to the Federal bench. Regardless, let me point out just one example of where the Bush Interior Department clearly got a policy issue right, an issue on which Bill Myers himself has been extensively criticized.

The issue was decided just last month in the case of *Southern Utah Wilderness Alliance* [124 S. Ct. 2373 (2004)]: The Bush Interior Department's position in this case, for which Bill Myers laid the legal foundation, was upheld by a unanimous Supreme Court. The Court rejected environmental activists' challenges to a land use plan that was duly issued under authority of the Federal Land Policy and Management Act. The Court endorsed the Interior Department's ''multiple use management'' concept, describing it as ''a deceptively simple term that describes the enormously complicated task of striking a balance among the many competing uses to which land can be put. . . .'' The Court also held that while a ruling in favor of the environmental activists:

might please them in the present case, it would ultimately operate to the detriment of sound environmental management. Its predictable consequence would be much vaguer plans from BLM in the future—making coordination with other agencies more difficult, and depriving the public of important information concerning the agency's long range intentions.

The fact that Bill Myers defended such policies cannot, in a rational confirmation process, disqualify him from service on the Federal bench. In fact, the endorsement of multiple use management policies by a unanimous Supreme Court in this case is compelling evidence against the absurd allegations that Bill Myers is somehow ''out of the mainstream'' with respect to public lands and environmental law.

I would also like to address a point raised earlier about some statements that Bill Myers made in articles that he wrote on behalf of his clients—cattlemen, ranchers and farmers who opposed Federal Government mismanagement of public lands.

In a July 1, 2004 article entitled ''Ronald Reagan, Sagebrush Rebel, Rest in Peace,'' William Pendley of the Mountain States Legal Foundation wrote: ''I am, former Governor Ronald Reagan proclaimed in 1980, 'a Sagebrush Rebel.' ''

Now, at his hearing, Bill Myers was attacked merely for having used this same term, in an advocacy piece he wrote for his farming and ranching clients. In fact, he was mocked at this hearing, and after it, for merely channeling the concerns of his clients, who, like Ronald Reagan, considered themselves ''Sagebrush Rebels.''

Mr. Pendley's article goes on:

When Ronald Reagan was sworn in, he became the first president since the birth of the modern environmental movement a decade before to have seen, first hand, the impact of excessive federal environmental regulation on the ability of state governments to perform their constitutional functions; of local governments to sustain healthy economies; and of private citizens to use their own property. . . . Reagan thought federal agencies in the West should be ''good neighbors.'' Therefore, Reagan returned control of western water rights to the states, where they had been from the time gold was panned in California until Jimmy Carter took office. Reagan sought to ensure that Western states received the lands that they had been guaranteed when they entered the Union. Reagan responded to the desire of western governors that the people of their states be made a part of the environmental equation by being included in federal land use planning.

I would also like to note that Reagan criticized ''excessive'' regulation, not any regulation at all—neither Bill Myers nor anyone else thinks there is no role for the Federal Government in environmental regulation. And Bill Myers emphasized this at his hearing, in response to very hostile questioning by Democratic Senators:

A centralized government—i.e. Congress—has an important role to play in environmental protection. And the Clean Water Act, the Clean Air Act—there are probably 70 environmental statutes that give evidence to that truth.

But the Reagan approach, which is also the Bush Interior Department's approach, which Bill Myers did his best to defend, is inimical to the environmental activist groups that oppose Mr. Myers' nomination. Any attempt to give the people who actually make their living on and around Western lands a stake in how those lands are regulated is violently opposed by these groups. And then these groups label their enemies ''enemies of the environment,'' or ''friends of polluters.'' It is unfortunate that such labels are uncritically accepted by some Senators, and because these liberal groups have similarly labeled Bill Myers, he won't get the up or down vote he deserves.

RECESS

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:32 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. ALEXANDER).

EXECUTIVE SESSION

NOMINATION OF WILLIAM GERRY MYERS III TO BE A UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT—Continued

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 603, William Gerry Myers III of Idaho, to be U.S. circuit judge for the Ninth Circuit.

Bill Frist, Orrin Hatch, Christopher Bond, Chuck Hagel, Ted Stevens, John Cornyn, Wayne Allard, Lindsey Graham, Sam Brownback, Gordon Smith, Lisa Murkowski, Lamar Alexander, Robert Bennett, Elizabeth Dole, Don Nickles, James Inhofe, and Conrad Burns.

The PRESIDING OFFICER. By unanimous consent the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of William Gerry Myers III to be U.S. circuit judge for the Ninth Circuit shall be brought to a close?

The yeas are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 53, nays 44, as follows:

[Rollcall Vote No. 158 Ex.]

YEAS—53

Alexander	DeWine	McConnell
Allard	Dole	Murkowski
Allen	Domenici	Nelson (NE)
Bennett	Ensign	Nickles
Biden	Enzi	Roberts
Bond	Fitzgerald	Santorum
Brownback	Frist	Sessions
Bunning	Graham (SC)	Shelby
Burns	Grassley	Smith
Campbell	Gregg	Snowe
Chafee	Hagel	Specter
Chambliss	Hatch	Stevens
Cochran	Hutchison	Sununu
Coleman	Inhofe	Talent
Collins	Kyl	Thomas
Cornyn	Lott	Voinovich
Craig	Lugar	Warner
Crapo	McCain	

NAYS—44

Akaka	Dorgan	Levin
Baucus	Durbin	Lieberman
Bayh	Feingold	Lincoln
Bingaman	Feinstein	Mikulski
Boxer	Graham (FL)	Murray
Breaux	Harkin	Nelson (FL)
Byrd	Hollings	Pryor
Cantwell	Inouye	Reed
Carper	Jeffords	Reid
Clinton	Johnson	Rockefeller
Conrad	Kennedy	Sarbanes
Corzine	Kohl	Schumer
Daschle	Landrieu	Stabenow
Dayton	Lautenberg	Wyden
Dodd	Leahy	

NOT VOTING—3

Edwards	Kerry	Miller

The PRESIDING OFFICER. On this question, the yeas are 53, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. MCCONNELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATION SESSION

UNITED STATES-MOROCCO FREE TRADE AGREEMENT IMPLEMENTATION ACT

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate now resume legislative session and that the Senate proceed to the consideration of S. 2677, the Morocco free-trade legislation, as provided under the statute.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. We, of course, have no objection to this request. Senator BAUCUS will be the manager on our side. At some subsequent time, we will make a decision as to how much of the 10 hours we will use. We will report that through our manager to the chairman of the committee at the earliest possible time.

The PRESIDING OFFICER. Without objection, the requests are agreed to.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2677) to implement the United States-Morocco Free Trade Agreement.

Mr. GRASSLEY. Mr. President, I thank the distinguished assistant minority leader for his approval of going ahead on this issue. I thank every Senator on the other side because any Senator on the other side or, for that matter, this side can object to any legislation coming up. Trade legislation is a little more controversial than it used to be. We have had great cooperation from the Democrats in the bipartisan manner it takes to get business done in the Senate on three very important trade agreements, including now this one, the United States-Morocco Free Trade Agreement. Last week we did the United States-Australia Free Trade Agreement, and prior to that the extension and reauthorization of the African Growth and Opportunity Act, which was passed just prior to our previous recess for the Fourth of July.

So often in this body the antagonism gets highlighted between Republican and Democrats. I wish to thank all the minority Members for allowing me to move ahead with this legislation.

Obviously, since I presented this legislation, I support this bill, S. 2677. It is legislation that implements the United States-Morocco Free Trade Agreement. I happen to believe this agreement marks a solid win for America, and when it comes to trade legislation, when we talk about a solid win, that is in economic terms and that creates jobs in America because America produces, in most instances, more than we can consume, particularly in agriculture but in other areas as well.

The United States is 5 percent of the world's population. So if anybody thinks we should not accept goods from overseas and then other countries not let us export, understand that 5 percent of the people of this world, the Americans, when we produce much more than we consume—and in agriculture that is 40 percent—what they would be saying is that we ought to shut down part of productive America. Obviously, if we shut down part of productive America, we lose jobs. So if we are going to keep enhancing our economy, to increase our standard of living—and that is related to increased productivity—then, obviously, we have to look to the 95 percent of the people of the world who are outside the United States as a market.

Other countries, obviously, look to the world for a market. So it is a very competitive market. But the extent to which we reduce trade barriers—and this Morocco agreement is one example of reducing barriers to trade—then we let the marketplace make a decision on where goods go, what goods cost, and the quality of goods. For the most part, consumers of those respective countries, including America, make a determination as to what they want to pay and the quality of product they want. But the marketplace is going to be making that decision.

When we have barriers to trade that are set up by governments, then political leaders are making those decisions. Or if it is not political leaders, it is government employees making those decisions. Quite frankly, when government makes decisions, you do not reap the benefits of the efficiency of the marketplace and the efficiency of productivity of the respective workers of the respective countries that you do if the marketplace is making those decisions.

Willing buyer, willing seller, setting price, setting quality, setting time of transaction is better than 535 Members of Congress making that decision. All one has to do is look at Russia today. It is much more productive than it was when bureaucrats in Moscow were deciding how many acres of wheat to plant and when to combine those acres, the mature crop. A third of it was left in the field because when 5 o'clock came, they went home. When the American farmer goes out to harvest crops, he stays there until he gets it done, particularly something that is time sensitive, such as the maturing crop of wheat or soybeans. But not the Russian farmer under the Soviet system of command and control. Russia was not exporting grain. Today, Russia is exporting grain. We have to go back to the new economic program of the late 1920s for that to have happened, or you have to go back to the days of the czar for that to have happened in Russia.

So the marketplace is the best place to make these decisions, and agreements leveling the playing field, such as this Morocco agreement, are examples of the United States looking to the rest of the world to sell the surplus we manufacture, the surplus we produce, the excess—if you do not want to call it surplus, it is excess—of what we can consume here.

When this agreement is implemented, more than 95 percent of bilateral trade will become duty free immediately. According to the Office of the U.S. Trade Representative, this is the best market access package of any U.S. free-trade agreement with a developing country. This will bring important new opportunities for America's manufacturing sector. The agreement will also benefit our service providers with new market opportunities, particularly in key sectors such as engineering, telecommunications, banking, and insurance. U.S. intellectual property rights owners will obtain the benefits of