



July 6, 2018

Senate Majority Leader Mitch McConnell  
Senate Minority Leader Chuck Schumer  
United States Senate  
Washington, DC 20510

RE: Sierra Club Opposition to the Nomination of Justice Patrick Wyrick to the Western District of Oklahoma

Dear Majority Leader McConnell and Minority Leader Schumer:

On behalf of the Sierra Club and its over 3 million members and supporters, I write to lodge our opposition to the nomination of Justice Patrick Wyrick to the U.S. District Court for the Western District of Oklahoma. Justice Wyrick's record indicates that he holds very extreme views on matters of critical importance to our country, including but not limited to the protection of the environment and public health. Additionally, Wyrick has only been practicing law for ten years, far too short a career to warrant elevation to the federal bench.

First, regarding environmental protection, Wyrick presents a stark choice considering he believes that the U.S. Environmental Protection Agency (EPA) is not legitimate and has spent his short career trying to undermine the agency's core mission. In a speech to law school students in 2016, Wyrick stated: "I think at this point I'm in the Phil Hamburger school of the entire administrative state is unlawful. . . . I think we have all sorts of basic, fundamental, Constitutional problems with the nature of the current administrative state."<sup>1</sup> This extremist philosophy threatens the very foundation of federal environmental protection.

While Justice Wyrick disclaimed this philosophy in his recent responses to Senate questions, his track record casts serious doubt on the sincerity of his representations. Justice Wyrick is essentially a protégé of Scott Pruitt, the EPA Administrator who is plagued by ethical scandals and who is notorious for his rollbacks of environmental safeguards. While the Oklahoma Solicitor General, Wyrick worked closely with Pruitt to attack EPA rules and do favors for the oil and gas industry. Wyrick has called Pruitt a "champion of fighting regulatory overreach at both the federal and state level."<sup>2</sup>

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<sup>1</sup> George Mason video at 28:15, recording available at <https://vimeo.com/183526443>

<sup>2</sup> Wyrick, Patrick. "The Supreme Court Decision that Every Startup Should Know About." *Medium*, 28 Jul. 2015, available at <https://www.afj.org/wp-content/uploads/2018/05/Wyrick-Questionnaire-Attachments-p-2-5.pdf>

Numerous reports have documented that as Solicitor General, Wyrick sent a protest letter to the EPA that was essentially copied verbatim from talking points provided to Pruitt by Devon Energy. The Devon Energy lobbyist then e-mailed Wyrick with the following message: “Outstanding! The timing of the letter is great, given our meeting this Friday with both EPA and the White House... Please pass along Devon’s thanks to Attorney General Pruitt.”<sup>3</sup>

Wyrick stayed true to his mentor’s anti-environment crusade, filing lawsuits challenging EPA’s pollution transport rule (*EPA v. EME Homer City Generation*, 134 S. Ct. 1584 (2014)), a rule limiting toxic mercury emissions (*Michigan v. EPA*, 135 S. Ct. 2699 (2015)), and a rule setting standards for sulfur dioxide pollution (*Oklahoma v. EPA*, 134 S. Ct. 2662 (2014) (cert denied)). All of these actions underscore the threat Justice Wyrick would pose to environmental protection as a federal judge. The fact that Donald Trump has added Wyrick to his Supreme Court short list only heightens our concerns over Wyrick’s anti-environment agenda.

Justice Wyrick’s record reinforces our opposition to his nomination. In the case *Glossip v. Gross*, 135 S. Ct. 2726 (2015), Wyrick drew stern criticism from the Court for mischaracterizing the scientific evidence in his brief. U.S. Supreme Court Justice Sonia Sotomayor pointedly challenged Wyrick at argument, stating that Wyrick’s representations were “directly contradicted by the literature cited in the state’s written arguments.”<sup>4</sup> In at least two separate cases involving reproductive rights, *Pruitt v. Nova Health Sys.*, 571 U.S. 1010 (2013) (cert denied), and *Okla. Coalition for Reproductive Justice v. Cline*, 368 P.3d 1278 (Okla. 2016), Wyrick espoused positions severely limiting or blocking a woman’s right to choose. In both cases, Wyrick’s arguments were rejected by the higher courts.

Justice Patrick Wyrick’s nomination to the U.S. District Court for the Western District of Oklahoma should be rejected, because it would install an inexperienced, extreme ideologue on the federal bench. We need fair, experienced, impartial judges on the bench, if we are to regain civility and solve some of the most vexing problems our country has ever faced.

Sincerely,

A handwritten signature in black ink, appearing to read "Pat Gallagher", with a stylized flourish at the end.

Patrick Gallagher  
Legal Director

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<sup>3</sup> Lipton, Eric. “Energy Firms in Secretive Alliance With Attorneys General.” *The New York Times*, 6 Dec. 2014, <https://www.nytimes.com/2014/12/07/us/politics/energy-firms-in-secretive-alliance-with-attorneys-general.html>

<sup>4</sup> “Glossip v. Gross.” *Oyez*, 26 Jun. 2018, [www.oyez.org/cases/2014/14-7955](http://www.oyez.org/cases/2014/14-7955)