

Environmental

September 11, 2009

Obama's Pick for Top DOJ Environment Post Appears Headed for Confirmation

The U.S. Senate Committee on the Judiciary held a hearing September 9 on President Obama's nomination of Ignacia S. Moreno to be the next Assistant Attorney General ("AAG") for the U.S. Department of Justice's Environment and Natural Resources Division ("ENRD"). Ms. Moreno appears to have the support of both Committee Chairman Patrick Leahy (D-VT) and Committee Ranking Member Jeff Sessions (R-AL), and the hearing otherwise proceeded smoothly and without dissent. We accordingly anticipate a Committee vote to report her nomination to the full U.S. Senate in the near future, and that she ultimately will be confirmed as a matter of course.

Ms. Moreno has over 18 years of experience in environment and natural resources law, in both the public and private sectors. President Clinton appointed her to the U.S. Department of Justice as a Special Assistant to the AAG for ENRD from 1994-95 and then as Counsel and Principal Counsel to the AAG for ENRD from 1995-2001. Ms. Moreno currently serves as Counsel, Corporate Environmental Programs at the General Electric Company, a position that has sparked some opposition from the environmentalist community that her corporate background and industry experience would temper her ability to serve as an effective enforcer. This opposition, however, appeared to hold little sway over Committee members, particularly given Senator Sessions' comment during the hearing that Ms. Moreno's experience representing a major corporation would likely give her helpful insight as AAG should she be confirmed and Senator Leahy's written remarks "that Ms. Moreno's significant experience will be put to good use if she is confirmed to return to the Justice Department."

As the AAG for ENRD, Ms. Moreno would supervise environmental litigation arising under more than 150 federal statutes, including the Clean Water Act, the Clean Air Act and the Resource Conservation and Recovery Act. The Division currently has over 6,000 active cases and has represented virtually every federal agency in courts throughout the United States and its territories and possessions. Ms. Moreno would replace senior career Deputy AAG John Cruden, who has served as the Acting AAG for ENRD since January 2009. It is expected that Cruden will stay on as the senior Deputy AAG with direct oversight of the Environmental Enforcement Section. With the recent departure of Eileen Sobek, another career Deputy AAG who had direct oversight over the Environmental Crimes and Land Acquisition Sections, Ms. Moreno will likely hire as many as three new Deputy AAGs to assist in supervising the various sections of the Division. The choice of these positions will be noteworthy, since these Deputy AAGs will oversee sections that include the Environmental Crimes Section, the Appellate Section, the Environmental Defense Section and the Natural Resources Section. Katten will continue to monitor developments in this area.

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9/11/09