HONORING LARRY WILEY ON HIS RETIREMENT FROM THE MICHIGAN STATE POLICE

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 2008

Mr. STUPAK. Madam Speaker, I rise to recognize Sgt. Larry Wiley of Grayling, Michigan. Sgt. Wiley will be retiring from the Michigan State Police on June 28, 2008. As a former Michigan State Trooper, I have a special appreciation for the service of public servants like Sgt. Wiley, and I ask that you, Madam Speaker, and the entire U.S. House of Representatives, join me in paying tribute to his 26 years of service for the Michigan State Police.

Sgt. Wiley is happily married to his wife, Patty. Together, they have raised four wonderful daughters. Law enforcement runs thick in his blood, as his brother, James Wiley, was also a member of the Michigan State Police.

Prior to joining the Michigan State Police, Sgt. Wiley served in the U.S. Air Force from 1975 to 1979. While in the Air Force, Sgt. Wiley worked as a dog handler for the security police. After his service in Texas, Illinois and the Philippines, Sgt. Wiley was honorably discharged and moved to Michigan, where he went to work for the Michigan State Police in 1982.

Since joining the department, he has served at many posts and in many functions in his 26 years, and his dedicated service is truly commendable. He was stationed in Bridgeport and Detroit before being promoted to Sergeant at his post in L'Anse in 1988. After being stationed in Negaunee, Kalkaska and Houghton Lake, Sgt. Wiley served for 10 years with the Strike Team Investigate Narcotics Group in West Branch, helping to combat the flow of illegal drugs in five surrounding counties.

Madam Speaker, the dedicated men and women who dutifully enforce the law to protect their communities rarely receive the praise they deserve. I ask that you and the entire U.S. House of Representatives join with me in congratulating Sgt. Larry Wiley on a job well done and in wishing him well in his retirement.

ON INTRODUCTION OF THE GOVERNMENT ACCOUNTABILITY OFFICE IMPROVEMENT ACT

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 2008

Mr. WAXMAN. Madam Speaker, today I am joining with 18 other committee chairs to introduce legislation to strengthen the authority of the Government Accountability Office.

GAO assists Congress in identifying waste, fraud, and abuse in federal programs and recommending ways to make government work better. Because of its vital role, GAO needs unfettered access to federal agencies. Efforts by executive branch officials to withhold information from GAO impedes Congress' ability to legislate effectively.

One key provision in the bill clarifies that Congress authorizes GAO to pursue civil actions if federal agencies or the White House improperly withhold federal records.

In litigation arising from GAO's efforts to obtain information about the operations of the Cheney energy task force, a federal district court held that the Comptroller General lacked standing to enforce GAO's right to information. This case, called Walker v. Cheney, was wrongly decided and misconstrued congressional intent regarding the role of the Comptroller General. The decision was also an improper invasion into Congress' constitutional prerogatives to determine how best to carry out its investigative responsibilities.

While I am confident that another court considering this issue would reach a different decision, passing new legislation to clarify GAO's authority is the most expedient way to restore the authority of the Comptroller General. For this reason, this bill contains express authorization from Congress to the Comptroller General to pursue litigation if documents are improperly withheld from GAO. In effect, this provision represents a legislative repudiation of the court's decision in Walker v. Cheney.

Other provisions of this important bill give GAO the express authority to interview federal employees when conducting evaluations and investigations and expand GAO's authority to administer oaths.

The bill further enhances GAO authorities by clarifying its right to important records to which it has been denied access. These include records at the Federal Drug Administration, the Centers for Medicare and Medicaid Services, and the Federal Trade Commission.

Finally, the bill creates a reporting mechanism so that Congress will be more fully informed when federal agencies do not cooperate with GAO. These reports will be important tools to improve GAO's oversight capability.

GAO provides invaluable assistance to Congress by helping Congress understand how federal agencies are performing their duties. This legislation helps ensure that GAO has the authorities it needs to carry out these crucial responsibilities.

BOGUS WITHDRAWAL RESOLUTION

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 2008

Mr. YOUNG of Alaska. Madam Speaker, on June 25, 2008, the Committee on Natural Resources adopted a resolution directing the Secretary of the Interior to make an emergency withdrawal of more than one million acres of land in Arizona from the operation of the mining laws, jeopardizing significant reserves of critical high-grade sources of uranium for clean-burning nuclear power plants. The Committee passed this resolution without a quorum present in violation of House and Committee rules, as documented by the 20–2 roll call vote on the motion to adopt. In addition, the Republicans had vacated the markup in protest of what is an unconstitutional measure, and so this vote reflects only those of Democratic members. The resolution therefore clearly does not reflect the views of the Committee on Natural Resources.

The majority marked up the resolution even though the use of this authority under section 204(e) of the Federal Land Policy Management Act is clearly unconstitutional. This view is supported by an informal opinion of the Justice Department issued in 1983 as well as a recent analysis by the Congressional Research Service. I reproduce the Justice Memorandum below and have appended the conclusion of the CRS American Law Division.

There is no emergency. If there was, the Secretary of the Interior would use his own power to make an emergency withdrawal. The reality is that the majority could not pass actual legislation locking up these millions of acres of public lands from resource development—in an area where there are already many mining claims.

This resolution is a toothless act of political theater. I hope that Interior Secretary Kempthorne gives it all the deference it deserves—none.

Subject: Legislative Veto Provision Contained in §204(e) of FLPMA.

Date: September 12, 1983.

From: Name: Ralph W. Tarr, Office Symbol: OLC.

Statement: This memorandum memorializes the oral advice I recently conveyed to the Solicitor's Office of the Interior Department concerning conclusions we reached as to the legislative veto provision contained in §204(e) of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. §1714(e). That section provides in pertinent part that the Committee on Interior and Insular Affairs of either House of Congress (subsequently designated as the Committee on Energy and Natural Resources in the Senate) may notify the Secretary of the Interior (''Secretary'') that an emergency situation exists and direct the Secretary to withdraw certain public lands from disposition under laws pertaining to mineral leasing.

Previous litigation under this provision followed a Resolution of May 21, 1981, by the House Committee, directed to the Secretary, for the withdrawal of certain lands in the Bob Marshall, Great Bear, and Scapegoat Wilderness Areas. This Office determined, and the Department subsequently took the position in that litigation, that §204(e) was unconstitutional insofar as it authorized a Committee of either House to direct the Secretary to take an action which would change the status of public lands. It was our view that the provision, as legislative action, violated the Bicameralism and Presentment Clauses, Art. I, §1, and Art. I, §7, cl. 2 and 3, and, as executive action, violated principles of separation of powers and the Incompatibility Clause, Art. I, §6. See generally Memorandum in Support of Federal Defendants' Cross-Motion to Dismiss and/or for Summary Judgment and in Response to Memorandum in Support of Plaintiffs' Motions for Summary Judgment in *Pacific Legal Foundation* v. *Watt*, Civil No. 81–141BLG, and *Mountain States Legal Foundation* v. *Watt*, Civil No. 81–168–BLG (D. Mont.)

The Department's Memorandum submitted to the court at that time also concluded that the portion of §204(e), which provided for the committee veto was severable from the Secretary's leasing authority, which is contained in entirely different and earlier statutes, and from the Secretary's authority under §204(e) to withdraw lands on his own initiative. Section 707 of FLPMA, 43 U.S.C. §1701 note, provides that if any provision or its application of the Act is held invalid, the remainder of the Act and its application shall not be affected. See, e.g., *Champlin Refining Co.* v. *Corporation Commission of Oklahoma*, 286 U.S. 210 (1932), quoted with approval in *Buckley* v. *Valeo*, 424 U.S. 1, 108–109 (1976).

In the court decision which resulted, the district court upheld §204(e) against the separation of powers challenge, on the ground