to share $767,200 of a $1.2 million False Claims Act settlement with two federal employees who had long worked to curb underpayments of royalties owed to the United States by oil companies. Faced with multibillion dollar allegations of royalty rip-offs, 15 oil companies have reached settlements with the Department of Justice totaling $438 million.

The Department of Justice is investigating whether the payments by POGO were inappropriate or illegal actions. Despite that review, the Resources Committee Majority has duplicated DOJ's effort and issued dozens of subpoenas, held multiple hearings, and consumed nearly two years and many tens of thousands of dollars searching for additional evidence of wrongdoing by POGO and its associates while proclaiming their alleged guilt.

And what about the oil companies who have paid $438 million in settlement for cheating the American people—and especially children whose schools utilize royalty payments—out of the money they are owed? The Committee Majority has let the oil company misconduct go scot free:

ZERO—Hearings on oil royalty underpayments;

ZERO—Investigations of oil royalty underpayments;

ZERO—Subpoenas issued to oil companies.

ZERO—Condemnation of oil company royalty rip-offs.

To bring the full power of the committee down upon three individuals who have worked to curb oil company fraud without any effort to address billions of dollars in fraudulent underpayments is a blatant misuse of the Committee's resources and the Congress' time. For the House to further condemn these individuals because they declined on advice of counsel to respond to questions which were not pertinent in an abusive investigation which was not conducted in compliance with House rules, is beneath the standard Congress should use when employing the weighty hand of criminal contempt.

If the Majority insists on further discussion and votes on the Contempt resolution, we strongly advise you to vote ''No'' and protect private citizens and whistleblowers from such misuse of Congress' prosecutorial authority.

Sincerely,

George Miller, Edward Markey, Earl Blumenauer, Peter DeFazio, Bob Filner, Carolyn Maloney, Robert Underwood, Jay Inslee, Janice Schakowsky.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, October 31, 2000.

THE POGO INVESTIGATION: CONTEMPT FOR INDIVIDUAL RIGHTS AND THE HOUSE RULES

DEAR COLLEAGUE: The Committee on Resources' Majority is asking you to vote for a resolution which charges three citizens with the statutory crime of contempt of Congress. Those three individuals, associated with the Project on Government Oversight (POGO), would be subject to criminal prosecution and up to one year in prison. The contempt resolution, which will come up again on the floor tonight, is a substitute for much broader charges of contempt reported by the committee.

Before you vote to send three people you've never ever seen to jail, consider whether you can rely on a rogue committee investigation that has abused the rights of witnesses and Members and failed to adhere to the House rules. In applying the criminal contempt statutes, the Supreme Court has required that a committee strictly follow its own rules and those of the House. *Yellin* v. *United States*, 374 U.S. 109 (1962). Yet the conduct of the Committee on Resources' investigation related to the pending contempt resolution is so egregious that it would dishonor the House to subject it to judicial review Among the many procedural deficiencies are the following:

(1) Failure to conduct the investigation within the jurisdiction of the committee under House Rule X, Clause 1. The Majority has not maintained a consistent purpose for its investigation within the scope of the committee's authority as delegated by the House. The Supreme Court has held that a clear line of authority for the committee and the ''connective reasoning'' to its questions is necessary to prove pertinency in statutory contempt. *Gojack* v. *United States*, 384 U.S. 702 (1966). Instead, the Majority has constantly shifted their explanations of what they are investigating and why. For example, on March 6, 2000, Chairman Young wrote to POGO's attorney to explain that broad subpoenas were necessary ''to begin weighing the merits of those conflicting statements'' made in civil litigation. How a probe of potential perjury in a lawsuit relates to the committee's legislative jurisdiction over oil royalty management laws and policies was not clear at the time to witnesses—who declined to answer questions which were not pertinent—and remains unclear to Democratic Members.

(2) Failure to follow House Rule XI, Clause 2(k) applicable to investigative hearing procedures. It was not until June 27, 2000—over a year after subpoenas were issued—that Chairman Young authorized Subcommittee Chairman Cubin to ''begin an investigation to complement the oversight inquiry underway.'' This is a meaningless effort to draw a distinction between ''oversight'' and an ''investigation'' when no such distinction exists for purposes of House Rule XI, Clause 2. Accordingly, over the protests of Democratic Members, the Majority failed to follow House Rues applicable to the rights of witnesses in Subcommittee hearings held May 4, and May 18, 2000. These flaws range from the failure to provide witnesses with the committee and House Rules prior to their testimony, to the failure to go into executive session.

(3) Failure to allow Members to question witnesses under House Rule XI, Clause 2(j). On multiple occasions, the Subcommittee Chair prevented Democratic Members from exercising their rights to question witnesses, either under the five-minute rule or time allocated to the Minority under clause 2(j)(B).

(4) Failure to have a proper quorum under committee Rule 3(d). The Committee rules require a quorum of members, yet no such quorum was present during the hearings at the times of votes on sustaining the Subcommittee Chairman's rulings on whether questions were ''pertinent.''

(5) Failure to allow subpoenaed witnesses to make an opening statement under committee Rule 4(b). This rules states, ''Each witness shall limit his or her oral presentation to a five-minute summary of the written statement, unless the Chairman, in conjunction with the Ranking Minority Member, extends this time period.'' In contravention of this rule and longstanding committee practice, the Chair refused to grant hearing witnesses the opportunity to make opening statements. Democratic objections were overruled.

(6) Failure to hold a hearing on the contempt issues. It is fundamentally unfair not to allow the parties charged with contempt an opportunity to explain their legal arguments for declining to answer questions or supply specific documents in contention. The Chair repeatedly refused the efforts of Democratic Members to recognize legal counsel to address the Subcommittee on these issues. The failure to provide due process in a hearing to those accused of violating a criminal statute further weakens the Majority's case.

(7) Failure to fully inform Members of the committee. At the July 19th committee markup of the contempt resolution, the Majority failed to provide Members with the language of the contempt statutes. They cited no judicial standards or precedents of the House for applying those criminal statutes in a contempt proceeding. They did not adequately explain or refute the legal rationale that the subpoenaed parties, based on advice from counsel, had asserted when they declined to answer specific questions which were not pertinent to the investigation. And they neglected to explain to Members that the witnesses had appeared at hearings and produced thousands of pages of documents in compliance with multiple subpoenas.

No matter what wrongdoing may be alleged, all citizens of the United States have the right to expect that they be given fair treatment and due process in compliance with the rules. The real threat to the integrity of the House of Representatives stems from the abusive and irresponsible manner in which the Committee on Resources investigation was conducted. To subject this record to judicial review—in what would be the first contempt of Congress referral since 1983—could threaten to undermine the powers of the House to conduct legitimate oversight and investigations in the future.

By offering a substitute for the original resolution, the sponsors have tacitly acknowledged that the broad contempt charges of contempt reported by the committee were unsustainable. Especially when considered in the context of the myriad procedural deficiencies in this investigation, this latest change of direction ought to give Members ample reason to vote ''NO'' on the contempt charges.

Sincerely,

GEORGE MILLER,
Senior Democratic Member.

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POSTPONING CONSIDERATION OF COMMITTEE ON RESOURCES CONTEMPT RESOLUTION

(Mr. YOUNG of Alaska asked and was given permission to address the House for 1 minute.)

Mr. YOUNG of Alaska. Mr. Speaker, as many of my colleagues know, we were going to take up the contempt report following this vote. We have decided not to do that until a later time. It is not because of the issue. It is because of the number of people that saw fit to leave this body on both sides of the aisle to return to their homes. It will be considered next time.

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REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 2796, WATER RESOURCES DEVELOPMENT ACT OF 2000

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 106–1022) on the resolution (H. Res. 665) waiving points of order against the conference report to accompany the Senate bill (S. 2796) to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the