

educational events that benefit everyone in her hometown of Anderson, South Carolina.

Mr. Speaker, it is my great privilege to stand here and honor Margaret Fretwell with my deepest thanks for her continued service and contributions to her local community. It is my hope that those that have been touched by her generosity will remember her example and use it in their own lives.

9/11 RECOMMENDATIONS  
IMPLEMENTATION ACT

SPEECH OF

**HON. SAM FARR**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 10) to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes:

Mr. FARR. Mr. Chairman, I rise in opposition to the Ose amendment.

My friend and colleague from California has indicated that Navy facilities in San Diego are at risk if his amendment is not passed.

I have a Navy facility in my district so I can appreciate his concern. In fact, after September 11th, the Navy constructed a force protection barrier around their facility in Monterey.

But, I disagree with my colleague over his efforts to exempt the construction of portions of a 14-mile immigration barrier south of San Diego from most of the Nation's environmental laws.

A society is judged by how it reacts to adversity, and after 9/11 this Chamber and this country were galvanized into action in the wake of that tragic day.

There is not a single member in this Chamber that isn't willing to fight terrorism or to protect our country and its citizens. Let's get that straight.

The amendment we have before us now is more about immigration control than it is about national security. P.L. 104-208 authorized the construction of fencing and road improvements in the border area near San Diego, CA.

In short, the border improvements were pursued, planned, and construction started before 9/11.

So, we know there will be improvements to the barriers at the border. I don't question the importance of completing the fence—that's not what this is about.

What this amendment is about is ignoring—worse, circumventing—an ongoing process.

Mr. Ose's ill-conceived amendment attempts to fix a problem that doesn't exist.

This amendment undermines and overturns efforts made by local communities, civic groups, State agencies, and elected representatives who have been working to come to consensus with the Bureau of Customs and Border Protection.

This amendment even exempts from protection the Bald Eagle, a symbol of America's freedom that is surpassed only by our American Flag.

My colleagues should be aware that the California Coastal Commission continues to

work hard to complete the Southwest Border Fence, in compliance with the regulatory process established by 16 of our most essential public health, environmental, and cultural heritage laws and executive orders.

In fact, a meeting is scheduled for the 26th of October to work out the concerns between the Coastal Commission and the Department of Homeland Security's office of Homeland Security, Customs and Border Protection in charge of construction to resolve this issue.

We are a country built on laws. Our laws are in place not only to protect us today but also to protect this great nation for future generations.

There is no good reason why this project requires such a sweeping free ride.

By shirking the process and simply giving this project a blanket exemption from 16 of our most essential environmental laws, we are submitting that we can't do more than one thing at a time—and I don't, and won't, accept this.

I have more faith in our country, our laws, and the process.

This amendment will set a horrible precedent on multiple levels and I encourage all of my colleagues to vote "no."

A PROCLAMATION IN MEMORY OF  
WILLIAM HINIG

**HON. ROBERT W. NEY**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. NEY. Mr. Speaker:

Whereas, I hereby offer my heartfelt condolences to the family and friends of William Hinig; and

Whereas, William Hinig was a highly esteemed legislator who served in the Ohio House of Representatives for twenty-five years; and

Whereas, William Hinig worked tirelessly as Chairman of both the House Ways and Means Committee and the House Finance and Appropriations Committee to promote bipartisanship and help the people of Ohio; and

Whereas, William Hinig honorably fought for his country during World War II, receiving a Purple Heart for injuries received at Normandy; and

Whereas, William Hinig worked in and contributed to the financial industry by aiding in the founding of the accounting firm of Hinig and Miller; and

Whereas, the integrity William Hinig possessed, and the compassion he showed towards others, will stand as reminders to a truly remarkable person. His life and love gave joy to all who knew him.

Therefore, while I understand how words cannot express our grief at this most trying of times, I offer this token of profound sympathy to the family and friends of William Hinig.

CONFERENCE REPORT ON H.R. 4200,  
RONALD W. REAGAN NATIONAL  
DEFENSE AUTHORIZATION ACT  
FOR FISCAL YEAR 2005

SPEECH OF

**HON. HENRY A. WAXMAN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. WAXMAN. Mr. Speaker, I want to discuss a number of provisions included in the conference report for H.R. 4200, the Defense Authorization bill for fiscal year 2005.

The conference report includes a provision that restricts from access under the Freedom of Information Act (FOIA), "data that are collected by land remote sensing and are prohibited from sale to customers other than the United States and its affiliated users." The effect of this language is that non-confidential commercial satellite imagery, which the government has purchased, would be restricted from disclosure to the public. This section extends this restriction to products that are derived from those data. That would mean that maps, reports, and any other analyses or communications that are derived from the exempted satellite image would also be inaccessible through FOIA. This section also preempts State and local public disclosure laws that would provide access to these data.

Public access to these data and products derived from these data is essential for effective participation in governmental actions, especially those by local governments that affect their daily lives. Government agencies use licensed and/or purchased imagery data in regulatory proceedings and numerous other mandated activities. The public requires access to this imagery in order to participate in these proceedings and importantly, to be informed about the activities of Government. This point was emphasized by the National Academy of Sciences in its recent report, *Licensing Geographic Data and Services*:

When geographic data are used to design or administer regulatory schemes or formulate policy, affect the rights and obligations of citizens, or have likely value for the broader society as indicated by a legislative or regulatory mandate, the agency should evaluate whether the data should be acquired under terms that permit unlimited public access or whether more limited access may suffice to support the agency's mandates and missions and the agency's actions in judicial and other review. (page 229).

The bill's sweeping exemption is even contradictory to the advice the administration has solicited on access to geospatial information. In a report prepared for the National Geospatial-Intelligence Agency, the RAND National Defense Research Institute recommends that Federal agencies and other organizations use an analytical process to assess the potential homeland security sensitivity of specific pieces of publicly available geospatial information and to determine if restricting access to these specific pieces would enhance security. They recommend that such a process include analysis of the usefulness of the information to an attacker; its uniqueness; and the expected societal benefits of access and the costs of restricting the information.

The process through which this section was developed is contrary to the fundamental principles represented by the Freedom of Information Act. FOIA is a tool for protecting public

access to their government's actions. This amendment was developed behind closed doors. Laws that limit the use of FOIA for public oversight of government actions should only be enacted after wide public consultation and discussion, which has not occurred with this provision.

Mr. Speaker, I am also disappointed with a provision of this conference report affecting OMB Circular A-76, which lays out the procedures used when the government privatizes work currently performed by federal employees. Under existing law, the private sector has the legal right to protest the results of such a public/private competition, but the public sector employees do not. This is fundamentally unfair.

The Senate bill would have addressed this inequity by granting both the official who submits the agency's bid, and a person representing a majority of the affected federal employees legal standing to protest at both the GAO and in the Court of Federal Claims. Instead of adopting this approach, the conference report gives standing only to the agency official, and only at the GAO. The report also requires the agency official to file a protest if a majority of the affected federal employees request that he do so, unless the official determines there is no reasonable basis to protest. While this limited approach is an improvement over existing law, I would have preferred the original Senate language, and will continue working to ensure that federal employees have all the legal rights currently afforded to contractors.

Finally, I strongly oppose section 3116, a provision that reverses an important aspect of the nation's nuclear waste cleanup policy. Specifically, it allows the Department of Energy to abandon millions of gallons of highly radioactive waste in leaking tanks in South Carolina and Idaho. It also sets a dangerous precedent for the cleanup of radioactive waste in Washington. This provision has not been adequately considered in either chamber of Congress.

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THE LIBERATION OF NAVASSA  
AND DESECHEO ISLANDS BEGINS

**HON. NICK J. RAHALL, II**

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. RAHALL. Mr. Speaker, in my capacity as the ranking Democratic member on the Committee on Resources, it has been both a pleasure and an honor to oversee the management of our Federal public lands and resources.

It is not an exaggeration to say that our system of public lands—our parks, forests, refuges and wilderness areas—is second to none when it comes to providing world-class opportunities for Americans to enjoy outdoor recreation. That is, of course, when the general public is actually allowed to access and use their public lands.

Regardless of the fact that the Federal Government holds land in trust for the American people, sadly it appears that what the people own, the people may not necessarily ever get to use.

This is the case with two tiny islands in the Western Caribbean. Navassa and Desecheo

islands have interesting histories, but I doubt most Americans even know they exist, let alone that the islands are, in fact, part of our very own country.

The story of Navassa Island is a classic tale of American capitalism. It came to be part of America in the late 1800's through the mining and sale of petrified bird guano—yes, guano—as fertilizer. It is also the site of one of our Nation's early, ugly labor disputes. Over time, guano went out of fashion, but the outpost served a new purpose for 80 years, as a light source to guide ships through the islands of the Caribbean. In 1996, with the advent of new technologies, the lighthouse went dark. The property, however, remained part of the U.S.

Eventually that island and Desecheo Island, a former military training range, were incorporated into the National Wildlife Refuge system. The designation rightfully recognizes the unique qualities of the two islands, which are rich in uncommon plant and animal life. But, in turn, it has also led to their being essentially fenced off from the people who own them—the American public. For in fact, today, the Fish & Wildlife Service bars legal access to these two islands apparently under any circumstance.

That might be the end of the story, were it not for a group of Ham radio operators, who, after having been granted special use access to these public lands for twenty years, were suddenly denied permission to visit the islands to broadcast

Indeed, for no sensible reason, the Fish and Wildlife Service—the same agency that had been granting access to these radio operators—arbitrarily reversed course and denied permits for a non-controversial recreational activity that had been approved for two decades of responsible and uneventful public use.

Not only did the agency cut off these broadcasters, it did so even after they agreed to assume all liability, to submit to any regulation or permit condition, and even to pay all administrative, management and travel costs for the Federal agency to remove all financial and logistical hurdles.

This is an instance of outrageous administrative arrogance to deny a permit for a recreational use that has been shown to be harmless to fish and wildlife. Public recreation at our National Wildlife Refuges is as much a part of the history of Refuge System as the critters themselves.

The Secretary of the Interior has been given congressional authority to grant special use permits for just such circumstances, when a public use is not incompatible with the purpose of the refuge. Yet, for some reason that escapes me, this Secretary will not budge. In the case of these two islands, the Secretary's discretionary powers amount to guano.

Such hubris cannot be allowed to stand unchallenged. Along with my colleague, the Chairman of the Resources Committee, RICHARD POMBO, I am introducing today legislation to address this deplorable situation and to restore the public's right of access to its Federal public lands. The liberation of Navassa and Desecheo Islands begins today.

This legislation would accomplish two main goals. First, it would require the Fish and Wildlife Service to issue regulations within 120 days after the bill's enactment to resolve this particular dispute. Second, to ensure access at both refuges the legislation would require

the Service to establish at least one period of time each year for public access for each island.

Language authorizing the Service to specify use periods and to attach reasonable permit restrictions in order to protect resources and public safety should provide adequate flexibility to balance the competing interests of resource protection and public recreation.

Also important, this legislation will help to harmonize existing use policies in regard to Navassa and Desecheo Refuges with three other remote refuges in the Pacific—Baker Island, Johnson Island and Jarvis Island. These three refuges, all accessible by way of special use permits, show plainly that controlled public recreational access is possible even at extremely remote and fragile refuges. In fact, the ham radio operators were successful in securing a permit to visit Baker Island as recently as 2002. In fairness, the same access should be provided to Navassa Island and Desecheo.

I am fully aware of the Service's need to balance public access with the Refuge System's overall "wildlife first" mission.

The Service cannot, however, be allowed to selectively choose to implement those parts of its authority it favors but ignore those requirements to provide for public recreation which are clearly stated in existing law.

I urge members to support this important legislation.

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PERSONAL EXPLANATION

**HON. ELTON GALLEGLY**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. GALLEGLY. Mr. Speaker, on October 8, 2004, I was unable to vote on ordering the previous question on H. Res. 843, waiving points of order against the conference report to accompany H.R. 4200, the National Defense Authorization Act for fiscal year 2005 (rollcall 524); had I been present I would have voted "yea." Also, I was unable to vote on a motion to instruct conferees on S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States government (rollcall 525); had I been present I would have voted "nay." Additionally, I was unable to vote on the motion to table H. Res. 845 (rollcall 526); had I been present I would have voted "aye."

Mr. Speaker, on October 9, 2004, I was unable to vote on several measures before the House: H. Con. Res. 518, providing for an adjournment of the two Houses (rollcall 527); had I been present, I would have voted "yea"; On agreeing to the conference report on H.R. 4200, the DOD Authorization for fiscal year 2005 (rollcall 528); had I been present, I would have voted "yea"; on agreeing to the conference report on H.R. 4837, the Military Construction Appropriations bill for fiscal year 2005 (rollcall 529); had I been present, I would have voted "yea"; and on agreeing to the conference report on H.R. 4567, the Homeland Security Appropriations bill for fiscal year 2005 (rollcall 530); had I been present, I would have voted "yea."