

who practiced before him, and his many other friends and admirers. I would like to extend my deepest sympathy to his wife Charlene, and to his children, Julia Leahy, Karen Wiss, and Laurel Latimer. They can be very proud of his outstanding contribution to our Nation.

### SUPERFUND REFORM

Mr. PRESSLER. Mr. President, I wanted to bring to my colleagues' attention the concerns of a prominent South Dakotan regarding the Superfund program.

Like many of my colleagues, during the August recess, I spent considerable time back home talking to my constituents. While in South Dakota, one issue came up on numerous occasions: Superfund reform. This issue is important to small business men and women throughout South Dakota.

Recently, an op-ed by Bill Huebner of Rapid City, SD, was published in the Wall Street Journal. This article details Mr. Huebner's own unfortunate experience with Superfund. I ask unanimous consent that this article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRESSLER. We all agree that the current Superfund program does not work. It is one of the most expensive environmental programs on the books. Despite the vast amounts of taxpayer dollars that have poured into the Superfund, the program has a very low success rate. One of the prime causes of this low success rate is a confusing and costly liability system. This system is unfair to small businesses. It encourages excessive and costly litigation.

I am encouraged by the draft proposal drawn up by my esteemed colleague from New Hampshire, Senator SMITH. As chairman of the Superfund, Waste Control and Risk Management Subcommittee, he has assumed the daunting task of rewriting the existing Superfund law. I look forward to working with him to create a new Superfund law based on fairness and common sense. We should not insist on a system that calls on small businesses that have complied with past laws and regulations to continue shouldering the burden of cleaning up our hazardous waste sites.

Bill Huebner's article represents not only the concerns of South Dakota small business leaders, but of all small business men and women across the country. They are the innovators who collectively make our economic engine run. For that reason, we should take their concerns and experiences to heart in our reexamination of the Superfund program.

### EXHIBIT 1

[From the Wall Street Journal, Oct. 26, 1995]

#### MY SUPERFUND NIGHTMARE

(By Bill Huebner)

I'm sitting here at my desk starting at a three-foot-high pile of letters, legal motions, and other documents. That pile of paper tells my Superfund story—a 3½-year nightmare that cost my company time, money and business.

For those who don't know, Superfund is the federal government's program to clean up America's worst hazardous waste sites. It was established by Congress in 1980 with \$1.6 billion in funding. Today, 15 years later, more than \$20 billion in government and private sector funds have been spent. More than 1,300 hazardous waste sites have been identified by the Environmental Protection Agency. But only a tiny fraction of these sites have actually been cleaned up.

Where did Superfund go wrong? Read on.

Back in November 1991, I received a letter addressed to Ace Steel & Metals, claiming I owed \$47,000 as my share of the bill to clean up the Douglas County, Neb., Superfund site. Between 1940 and 1982, the letter said, the property had been owned by a series of battery recycling companies. Apparently, some battery lead and acid had seeped into the ground, creating a hazardous waste area.

There were only a few problems. First my company is Act Steel & Recycling, not Ace Steel & Metals. Second, we never sent any batteries to Douglas County. And third, we weren't even in business until 1989—a full seven years after they said the last battery was dumped.

A simple case of mistaken identity. I thought. In 1989, we bought about 20 % of the assets of a company called Ace Salvage, as well as the right to use the "Ace" name. That company was still in business, operating as Lipp Ventures. Lipp had sent the batteries to the Douglas County site, so they must be the one the EPA wanted. A letter from my lawyer explaining the situation should clear the whole thing up, right? Wrong.

Our first letter generated no response, so we sent another. This time, we documented everything. We sent copies of our original articles of incorporation from 1989, proving that we couldn't have been responsible for the problems at the Douglas County Superfund site.

Again, no response to speak of. Just a letter of acknowledgment saying thank you very much for the information, but you still owe \$47,000. Needless to say, as a small business, we didn't have an extra \$47,000 to spare—in fact, that was more than our profit for the entire year. We had to fight on or go out of business.

Finally, after 3½ years, Lipp's attorney settled with the lawyers from Douglas County. No one ever admitted there had been a mistake, but Ace Steel & Recycling was removed from the case "with prejudice." That means the plaintiff reserves the right to bring us back into the lawsuit, so we might not be out of danger yet.

Don't think for a minute that my case was some kind of freak accident. More than 20,000 small and medium-sized businesses, community groups, and other organizations across America have been dragged into the Superfund mess.

The primary problem with Superfund is its unfair liability system known as "retroactive, strict, joint and several liability." Retroactive liability gives the EPA the power to make companies pay to clean up problems that occurred before Superfund was passed, even if they followed every rule on the books at the time. And under joint and several liability, a single company can be

forced to finance the entire cleanup cost, no matter how marginal its contribution to the site.

With marching orders like those, you can easily guess the EPA's standard operating procedure: Track down every company with even the most remote connection to a Superfund site, force them to pay, or drag them into court. Most companies fight the charges, rather than pay to clean up a problem they had little or no responsibility for creating. All the litigation caused by Superfund's notorious liability scheme is the main reason it now costs \$30 million and takes 12 years to clean up the average Superfund site.

Congress will shortly begin debating Superfund reform legislation. Its top priority must be total repeal of retroactive liability. Superfund reform opponents claim that ending retroactive liability will let polluters off the hook and force taxpayers to pick up the bill. Not true. The program will still be financed by a tax on oil and chemical companies and other large corporations. Individual taxpayers won't have to pay a penny—unless Congress keeps Superfund on its failed course for another 15 years.

Repealing retroactive liability will put an end to wasteful litigation and force the EPA to focus on cleaning toxic waste sites instead of harassing innocent companies. Superfund cleanup could start immediately. And think of how many additional Superfund sites could be cleaned up if 50% of the money wasn't wasted on lawyers and bureaucrats.

### MESSAGES FROM THE HOUSE

#### ENROLLED BILL SIGNED

At 10:56 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1322. An act to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

H.R. 716. An act to amend the Fishermen's Protective Act.

H.R. 1026. An act to designate the United States Post Office building located at 201 East Pikes Peak Avenue in Colorado Springs, Colorado, as the "Winfield Scott Stratton Post Office."

The enrolled bills were subsequently signed by the President pro tempore (Mr. THURMOND).

### ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 26, 1995, he had presented to the President of the United States, the following enrolled bill:

S. 1322. An act to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1550. A communication from the Deputy Associate Director for Compliance, Minerals Management Service, Royalty Management Program, Department of the Interior,

transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-1551. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to Exxon and stripper well oil overcharge funds as of June 30, 1995; to the Committee on Energy and Natural Resources.

EC-1552. A communication from the Secretary of Energy, transmitting, a draft of proposed legislation entitled "The Federal Energy Regulatory Commission Act of 1995"; to the Committee on Energy and Natural Resources.

EC-1553. A communication from the Deputy Associate Director for Compliance, Minerals Management Service, Royalty Management Program, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-1554. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, the report of a flood plain management assessment; to the Committee on Environment and Public Works.

EC-1555. A communication from the Chair of the Prospective Payment Assessment Commission and the Chair of the Physician Payment Review Commission, transmitting jointly, pursuant to law, a report on Medicare Managed Care; to the Committee on Finance.

EC-1556. A communication from the Chair of the Foreign Claims Settlement Commission, transmitting, pursuant to law, the annual report for calendar year 1994; to the Committee on Foreign Relations.

EC-1557. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC-1558. A communication from the Director of the Woodrow Wilson Center, transmitting, pursuant to law, the semiannual report of the Inspector General for fiscal year 1995; to the Committee on Governmental Affairs.

EC-1559. A communication from the Head of the Nonappropriated Fund Personnel and Insurance Branch, transmitting, pursuant to law, the report for the Navy NAF Retirement Plan for calendar year 1993; to the Committee on Governmental Affairs.

EC-1560. A communication from the Director of the Administrative Office of the U.S. Courts, transmitting, pursuant to law, the report of the proceedings of the Judicial Conference for fiscal year 1994; to the Committee on the Judiciary.

EC-1561. A communication from the Secretary of Veterans' Affairs, transmitting, a draft of proposed legislation to amend title 38, U.S. Code, to expand the authority of the Secretary of Veterans' Affairs to suspend special pay agreements for physicians and dentists who enter residency training programs; to the Committee on Veterans' Affairs.

EC-1562. A communication from the Comptroller General, transmitting, pursuant to law, the report of a revised deferral of budget authority; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, and to the Committee on Foreign Relations.

## PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated.

POM-454. A joint resolution adopted by the Legislature of the State of California; to the Committee on Agriculture, Nutrition, and Forestry.

"SENATE JOINT RESOLUTION NO. 21

"Whereas, the interstate Tahoe Regional Planning Compact ratified pursuant to Title 7.4 (commencing with Section 66800) of the Government Code created the Tahoe Regional Planning Agency; and

"Whereas, the agency is responsible for facilitating the attainment of environmental thresholds in the areas of air quality, transportation, scenic resources, and water quality; and

"Whereas, providing nonmotorized transportation facilities allows recreationists and residents to travel in the Tahoe Basin without an automobile, is consistent with the achievement of those thresholds, and leads to improved air quality and reduced vehicle miles traveled; and

"Whereas, approximately one-third of Lake Tahoe is currently provided with nonmotorized facilities through past cooperative work by local, state, and federal agencies; and

"Whereas, a trailside survey of the existing nonmotorized facilities provided by the Tahoe City Public Utility District shows usage and demand for recreation and commuter use to be exceptionally high; and

"Whereas, a completed nonmotorized facility around the lake would be a major recreational attraction leading to increased economic improvement in the tourism base; and

"Whereas, an enthusiastic "partnership" of public, private, and volunteer groups is ready to move forward to develop such a nonmotorized facility; and

"Whereas, full construction of the ultimate nonmotorized facility will require considerable cooperation between the federal government, the two states that are parties to the compact, local governments, and special districts, and will require a cooperative effort by all parties, public and private, in meeting funding needs over the next five years with a goal of full operation of the system by the year 2000; Now, therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly,* That California state agencies, counties, cities, and districts in the Tahoe Basin, the Tahoe Regional Planning Agency, and other interested parties are urged to undertake the necessary steps to ensure the designation and siting, by July 1, 1996, and the development, by July 1, 2000, of an appropriate nonmotorized route on the California side of the Tahoe Basin; and be it further

*Resolved,* That the United States Forest Service is hereby urged to provide assistance to the Tahoe Regional Planning Agency to ensure the designation and siting of an appropriate nonmotorized route on the California side of the Tahoe Basin by July 1, 1996; and be it further

*Resolved,* That the Legislature of the State of California memorializes the President and the Congress of the United States to support the development of the Lake Tahoe Nonmotorized Bikeway and Pedestrian Facility; and be it further

*Resolved,* That the Tahoe Regional Planning Agency be requested to pursue a similar resolution and concurrent action with the State of Nevada; and be it further

*Resolved,* That planning for the nonmotorized facility consider the needs of both the recreational user who wishes to take an

enjoyable tour of the Lake Tahoe shoreline, as well as the "serious" commuter or recreational traveler who wishes to travel the perimeter of the lake; and be it further

*Resolved,* That support of this resolution be based on the understanding that all facility development will be consistent with the thresholds established as a requirement of the interstate compact; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Director of the United States Forest Service, to the President pro Tempore of the United States Senate, to the Speaker of the United States House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Tahoe Regional Planning Agency, to the Governor of California, to the Board of Supervisors of El Dorado County, to the Board of Supervisors of Placer County, to the City of South Lake Tahoe, to the Board of Directors of the Tahoe City Public Utilities District, and to the Board of Directors of the North Tahoe Public Utilities District."

POM-455. A joint resolution adopted by the Legislature of the State of California to the Committee on Appropriations.

"SENATE JOINT RESOLUTION NO. 17

"Whereas, the United States government has mandated that state and local governments provide various services to immigrants, whether they are in this country legally or illegally, and has failed to reimburse those state and local governments for the costs of providing those services; and

"Whereas, the United States government historically has failed to adequately control the influx of undocumented immigrants into this country; and

"Whereas, the United States Supreme Court has repeatedly held that regulating the movement of individuals between this country and other nations is exclusively a federal responsibility; and

"Whereas, the costs associated with the supervision of parolees should never have been borne by the State of California because federal law mandates the prompt deportation of criminal aliens; and

"Whereas, the United States Congress enacted the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322), authorizing a total of one billion eight hundred million dollars (\$1,800,000,000) to be distributed to several states over a period of six years to cover incarceration costs of illegal immigrants, but did not actually appropriate or provide the funds to the states; and

"Whereas, the amount authorized by the federal act would not, in any event, cover more than a fraction of the costs to the State of California associated with the incarceration of illegal immigrants; and

"Whereas, the failure of the United States government to adequately control the borders, in addition to the imposition of huge mandated but unreimbursed costs to state and local governments, has led to blatant inequities in terms of exploitation of undocumented laborers, and abuse of wage, safety, and child labor laws, as well as lower wage levels for California's working poor; and

"Whereas, California, Florida, and other states have suffered disproportionately from the failure of the United States government to control this nation's borders; and

"Whereas, California, Florida, and other states have brought legal actions with federal district courts to compel the United States government to reimburse them for the costs associated with providing mandated and other services to illegal immigrants; and