

By Mr. HATCH:

S. 740. A bill for the relief of Inslaw, Inc., and William A. Hamilton and Nancy Burke Hamilton; to the Committee on the Judiciary.

By Mr. PRESSLER:

S. 741. A bill to require the Army Corps of Engineers to take such actions as are necessary to obtain and maintain a specified maximum high water level in Lake Traverse, South Dakota and Minnesota, and for other purposes; to the Committee on Environment and Public Works.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THOMAS (for himself, Mr. MURKOWSKI, Mr. HELMS, Mr. LAUTENBERG, Mr. GRAMS, and Mr. CRAIG):

S. 738. A bill to amend the Helium Act to prohibit the Bureau of Mines from refining helium and selling refined helium, to dispose of the U.S. helium reserve, and for other purposes; to the Committee on Energy and Natural Resources.

##### HELIUM ACT AMENDMENTS

Mr. THOMAS. Mr. President, I rise today to offer legislation that would reform the Federal helium program and the helium refining and marketing aspirations of the U.S. Bureau of Mines.

Mr. President, we are in the process, I think happily, to be reforming Government, to be changing some of the things that have gone on for a very long time, which is a tendency of the Federal Government. Things that started for good reason and with meritorious purpose, as time goes by, often change.

I think everyone admits it becomes very difficult that despite the changing conditions, programs seem to continue. I understand that. They start with a purpose. Often the remnants of that purpose at least remains, and of course, there is always a constituency built around that activity; in this case, an economic one. I understand that as well.

However, the more important thing is that we do have a chance to change, indeed, a responsibility to change. If there is anything, it seems to me, that this Congress is about, what this election was about in November, it is to really finally make some of the alterations in Government that need to be made, try to deal with some of the things that do not contribute to the well-being of this country and contribute to the well-being of this Government so that those resources being used in that manner can be shifted and changed to something more useful, to do something that is appropriate for this Government to be doing.

I think the Federal helium program, Mr. President, is one of those activities. This helium recovery program began in 1925. At that time, helium conservation was deemed to be a matter of national security. At that time, I think, people saw the future of defense, the future of aviation, as being lighter-than-air—machinery of that

kind, and there was no private helium industry that existed.

Today, on the contrary, the private sector has a thriving helium industry that produces 90 percent of the world's helium demand and supplies it. There are 11 privately owned plants throughout the country, modern plants, as opposed to the Government plant, which is some 50 years old.

A private company can deliver helium cheaper, better, and more efficiently than the Federal Government. Unfortunately, the Federal Government continues to process helium in a burdensome and outdated fashion. The program was designed for the 1920's and certainly is failing in the 1990's. Not only has the program been inefficient, but it has cost millions of dollars each year.

Beginning in 1960, the Federal Government contracted with private companies to supply helium to the Bureau of Mines. To finance these purchases, the Bureau borrowed \$252 million from the Treasury. Although it was planned that future sales would cover the costs of this loan, this has not occurred. The agency has paid back the loan, and it continues to accumulate. Today the Bureau of Mines owes the Treasury roughly \$1.3 billion on the loan.

The legislation that I am introducing, along with several cosponsors, including the chairman of the committee and the chairman of the subcommittee, would end the Federal helium program within 1 year. Then, importantly, it would phase out the sale of the Federal crude helium reserve. I think it is very important that we do phase it out over a period of time so that this private-sector industry that has developed will not be demolished by simply dumping all this surplus supply on the market. It would end the program and the Federal Government's direct competition with the private sector.

The Congressional Budget Office estimates that this bill will save American taxpayers approximately \$7 million annually, between \$26 and \$36 million over 5 years. The measure would allow the Bureau of Mines to contract with the private sector for services to purchase and distribute crude helium. There is some requirement in the Government for it. NASA is a customer, as well as the Department of Energy. It would be provided by the private sector.

Most importantly, this legislation phases out the sale of the official helium stockpile over several years and requires that all of these reserves be disposed of by the year 2015. This would allow the helium fields to be probably close to depleted, the ones that currently are there. It would ensure that when the stockpile is sold, the return to the Treasury would be at a level that makes this a valuable asset. If it were dumped immediately, it would not be valuable. The taxpayers would lose a considerable amount of asset value.

Mr. President, we are faced, of course, with some most difficult times on the budget. We are faced with seeking to balance this budget over 6 or 7 years. I think it is an imperative that we do that.

We are faced, as well, with programs that we do want to continue to provide services. We do want to help people who are in need. We do want to help them get back into the workplace. We do want Medicare to continue to provide those benefits.

Frankly, if we do not do something, none of those things will happen. It is not a question of whether we make some changes; it is a question of what changes we make and how soon we can make them.

Somehow, there has been kind of a presumption developed by our friends on the other side and by the administration that these programs are simply designed to take away benefits and that we should not do that, we ought to continue doing what we have been doing.

Let me say that that is not one of the choices. If we continue to do what we have been doing with the revenue we have, by the year 2010 we will be able to afford only the entitlements and interest on the debt. None of the other discretionary spending will be able to be provided.

We have talked about this in the past, Mr. President. There was considerable discussion last year when I was in the House Interior Committee. I think there is general acceptance to the notion, but we did not get it done. Now it is time to take action to shut down the Federal helium program, and I hope the Senate will take swift action on this bill so that we can begin to end this wasteful and inefficient and unnecessary Federal program.

By Mr. HATCH:

S. 740. A bill for the relief of Inslaw, Inc., and William A. Hamilton and Nancy Burke Hamilton; to the Committee on the Judiciary.

##### INSLAW PRIVATE RELIEF ACT

Mr. HATCH. Mr. President, today I am introducing two pieces of legislation regarding the matter of Inslaw, Inc.

Inslaw sold the Department of Justice a software program it alleges was improperly shared with other Federal agencies. In 1986, Inslaw sued the Department and was awarded a judgment. An appellate court, however, reversed the case some years later on technical grounds. Considerable controversy has surrounded the merits of Inslaw's claim ever since. Referring this matter to the Court of Claims is thus the best way to settle this matter once and for all.

It is to accomplish that referral that I am introducing these two pieces of legislation. The first is a bill to provide the compensation due, if any, to Inslaw. The second is a resolution, referring the Inslaw matter, including the bill just described, to the United

States Court of Federal Claims for a hearing to determine whether the United States owes the company compensation for providing computer software and services to the Department of Justice.

The Senate considered this matter favorably several months ago. On October 6, 1994, we adopted a similar resolution by unanimous consent in the form of a free-standing amendment to the Process Patent Protection Act of 1994. Pursuant to the legislation establishing the Court of Federal Claims, either House of Congress may refer a matter to the court. Unfortunately, because the House of Representatives failed to take action on the patent bill last October, and the Inslaw amendment was attached to that piece of legislation, the status of the amendment was left in doubt.

As the matter was never properly referred to the court, I believe the best way to proceed is for the Senate to repeat the action it took in the Inslaw matter last October.

There is, in closing, a point I believe that deserves special emphasis. This legislation simply refers the Inslaw case to the Court of Claims to hear, determine, and render conclusions that are sufficient to inform the Congress of the amount, if any, due to Inslaw for furnishing its computer services to the Department of Justice. This legislation does not obligate Congress to compensate Inslaw. It is deficit neutral, because the final decision to satisfy any judgment rendered will rest with Congress, not with the Court of Claims. Congress, and Congress alone, will decide how much to pay, if any, should the court recommend that compensation is owed. I believe this is the fair and appropriate thing to do.

By Mr. PRESSLER:

S. 741. A bill to require the Army Corps of Engineers to take such actions as are necessary to obtain and maintain a specified maximum high water level in Lake Traverse, South Dakota and Minnesota, and for other purposes; to the Committee on Environment and Public Works.

#### LAKE TRAVERSE RELIEF ACT

Mr. PRESSLER. Mr. President, today I am introducing a bill to correct a serious problem in South Dakota that has resulted in severe flooding along the shores of Lake Traverse. Lake Traverse is located in the far northeast corner of South Dakota and in parts of western Minnesota. In fact, the boundary line between South Dakota and Minnesota cuts through the middle of the lake.

There is very interesting history connected with Lake Traverse. Lake Traverse is the beginning of the Red River—the only major North American river that flows north. This river eventually enters Hudson Bay and flows through Wahpeton, Fargo, Grand Forks, and Winnipeg. Historical records show this lake was an important avenue in the transportation of

United States grain to destinations as far away as Belgium.

On Lake Traverse, the U.S. Army Corps of Engineers maintains and operates White Rock Dam and structures at interstate bridge. Both these sites are located east of Rosholt, SD. Operations to date have been devastating.

Lake Traverse is facing a major disaster due to high water levels. Shorelines have been destroyed. Some small businesses are facing financial jeopardy. Farmland is being lost. Homes, cottages, and other structures are being destroyed. And if that is not enough, subsequent erosion is wreaking havoc on the local land. Thousands of trees are under water and dying.

Something must be done. Taxpayers should not be required to pay taxes on land that is under water and useless.

According to the U.S. Army Corps of Engineers, congressional approval is needed before the corps can take steps to correct the high water level and erosion problems. The corps is managing the lake with arcane rules that are half a century old. That is unacceptable. My bill would give the corps the necessary authority to better manage water release at Lake Traverse and control erosion.

The answer, in the form of legislation I am introducing today, is simple: It would direct the U.S. Army Corps of Engineers to obtain and maintain a high water level at Lake Traverse not to exceed 977 (MSL). In other words, this legislation would provide the necessary authority for the U.S. Army Corps of Engineers to solve the problems surrounding Lake Traverse.

There is strong public support for this action. Just last week, I held a meeting at the Circle K Resort, which is located on the South Dakota side of Lake Traverse. More than 250 people were in attendance. This turnout clearly indicates that South Dakotans believe something needs to be done. The bill I am introducing today would achieve their goal.

Mr. President, I ask unanimous consent that material related to the Lake Traverse flooding be inserted into the RECORD.

I urge my colleagues from South Dakota and Minnesota to review this legislation. We must solve this problem. I urge their support and the support of the entire Senate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Rosholt Review, Apr. 26, 1995]

PRESSLER SEEKING CONGRESSIONAL ACTION ON TRAVERSE SITUATION  
(By Kathleen Cook)

Emotions were almost as hard to control as rising waters on Lake Traverse at a public meeting Thursday night.

More than 250 persons crowded into Circle K Resort to voice concerns about high water, property damage and shoreline erosion at the meeting arranged by South Dakota Sen. Larry Pressler and staff.

Pressler couldn't attend, but he acted quickly on his staff's report of overwhelming public sentiment.

"According to the U.S. Army Corps of Engineers, they need Congressional approval before they can take steps to correct the high water level and erosion problems," he said Friday.

The Corps is managing the lake with rules that applied to its condition half a century ago, and "that is unacceptable," Pressler said.

"I am preparing legislation that would give the Corps the necessary authority to better manage water release at Lake Traverse and to control erosion," Pressler said.

At Pressler's invitation, representatives of the St. Paul District of the U.S. Corps of Engineers attended Thursday's showdown with property owners, area farmers and sportsmen, and others who simply have sentimental ties to the lake.

Also present were representatives of South Dakota Sen. Tom Daschle and Rep. Tim Johnson and Minnesota Sen. Paul Wellstone.

"Currently, landowners are paying taxes on land that is under water and not of any use. Approval of my legislation would change that. I will work with my colleagues from South Dakota, Minnesota and North Dakota to correct this problem quickly," Pressler said.

Lake Traverse, bisected by the border of South Dakota and Minnesota, is located at the headwaters of the Red River, the only major river that flows north in North America, and eventually drains into the Hudson Bay.

Less than 100 years ago, Lake Traverse was a major transportation link for South Dakota agricultural products. Pressler learned after about 100 persons pressed him earlier this month to help them address problems.

Cottonwood Point Resort owner Mike Brody, who led the local effort and who served as moderator Thursday night, summed it up. Citing historic, cultural, recreational and economic value of Lake Traverse, he said, "We would like to see it continue to flourish. We feel the present management of the lake will destroy this treasure."

Brody added, "Temperatures are strained, which is understandable. But we are not here to attack or belittle. We are asking cooperation of all parties."

He presented an aerial video taken around the lake April 8. Many trees along the shoreline are dying; some of them have been under water for about three years. Rainbow Island, normally a peninsula, really is an island now. Many miles of shoreline are gouged or washed away with erosion. Silt appears to flow freely into the lake in some spots.

"When work was completed on these dams (White Rock and Reservation) years ago, were they engineered to hold this water back?" Brody asked.

The dams were intended to control "an event" about every 30 years, according to the Corps.

Edward Eaton, water control chief for the St. Paul District of the Corps, said water level has exceeded elevation 981 feet only once in 43 years.

Lake Traverse rose to 980.3 feet above sea level April 1, the third highest level recorded at the reservoir since it became operational in 1940. The pool reached 980.75 in 1952 and 980.71 in 1986, according to Corps information.

Todd Johnston of the Lake Traverse Association pointed out that within recent weeks he believes the water was at least in the 980 range with 40 to 50 mile per hour winds at times, creating two- to three-foot rolling waves. "Was the dam constructed to take that kind of pounding?"

The pool was set at 981 to allow for a couple of feet of wave action, Eaton said.

Eaton then referred to excerpts from a brochure created after a public meeting concerning Traverse flooding in 1986.

At that time, Corps personnel explained in the Reservation pool, located between Browns Valley and Reservation Highway, the government bought permanent flowage rights for lands lying below elevation 977 mean sea level. Elevation 977 is the summer conservation pool for the Reservation pool.

The government also acquired the right to intermittently overflow those lands between the taking line and the summer conservation pool to temporarily store flood water. The flowage easement means Lake Traverse can permanently flood the surrounding land up to the taking line at approximately elevation 983.

"Property owners have cabins with flowage easements. We went through this whole thing after the flood of 1986. The purpose isn't to hold water down but to implement spring drawdown. We don't make releases over winter because of poor quality of water. We wait as close to spring as possible. This year a 1.2 foot drawdown would have made the lake about three-fourths foot higher than it is now," the Corps spokesman said.

Basically, the St. Paul District representatives relied on answers to questions from the 1986 meeting to deal with problems experienced by property owners in varying degrees over the past three years—less than a decade—far from a single "event" occurring every 30 years.

One local resident, John Nelson, wondered if the government controls the lake in such a way that Wahpeton-Breckenridge can release sewage.

Until then, the crowd was quiet, but in their exuberant support of Nelson's question, they even interrupted Brody.

Water treatment in cities downstream of Fargo-Moorhead isn't directly related to flood control, Eaton said. "We don't make releases for waste dissolution."

Brody then asked the Corps staff to define intermittent, since it seemed to him government flowage easements for "intermittent" flooding were "steady" instead, at least the last three years.

At that point, Corps spokesmen repeated they had the right to flood, acquired through easements in the early 1940s and on record in the Roberts County Courthouse.

But several property owners said they purchased lake land with no knowledge of the easements.

It is the responsibility of the property buyer to learn what terms, such as "metes and bounds," mean, to make sure they have abstracts examined and updated and to read their deeds and other real estate papers.

"You're stuck if you didn't have your abstract examined," said Roberts County Commissioner Art Johnson.

Brody asked if the Corps would be willing to work with local agencies to establish retaining pools.

"We don't believe there is a serious sedimentation problem in the lake," said Eaton.

That remark put local folks over the edge, drawing loud disagreement.

Moments later, the crowd broke out in applause when Brody said if the Corps isn't authorized to make changes without Congressional action, then he wanted to pursue Congressional intervention.

He then opened the meeting to comments from the floor.

"We've got to go through all these hoops for our property. Somebody's got to be liable for what I've lost, because I'm still paying taxes on property that is gone, washed away," said one spectator.

The Corps had made no effort to retain shoreline, added another property owner.

Back when the Corps' policies regarding Lake Traverse were established, "environ-

ment wasn't so important. Now two islands are completely gone, trees are gone, the rest of the islands are completely gone, trees are gone, the rest of the islands are going . . ." said one longtime property owner.

"What's going to be done?" asked another.

Eaton said choices were offered after the 1986 flood: Restore property to its condition before the high water and accept the risk that there may be high water again, or flood-proof property so that when the lake gets above 977 elevation, property won't be damaged as severely.

Roberts County Commissioner LaVonne Ringsaker wondered if the Corps has money for dredging. Eaton said no.

Another spectator remarked, "Water seems to be held longer these days, and the soil can't absorb it after a number of very wet years."

"What's the magic of 981?" asked another.

Gordon Heitzman, a water control specialist with the Corps, answered, "The bowl is only so big; it's for the safety of the dam."

Asked for some specific dates regarding establishment of Lake Traverse policy, Heitzman became flippant—saying he was still in school back then and wouldn't know. He insinuated information sent ahead of the meeting should have provided answers to some of the questions being tossed out.

That, and just so much technical jargon, made Brody lose his composure.

"I'm not a professor, I'm a resort owner!" he said, exhibiting a thick catalog of Corps facts, figures and policies, which he received when he requested advance information.

"You called Friday (April 14) and asked for data. You didn't tell me your problems. I would like the same courtesy," Heitzman said. Heitzman later apologized.

[From Watertown Public Opinion, Apr. 11, 1995]

#### TRAVERSE RESIDENT BLAME CORPS FOR WATER WOES

(By Wayne Specht)

LAKE TRAVERSE—Rising water along sprawling Lake Traverse is inundating the economic and retirement dreams of Mike Brody and Ron Spencer.

Both men say it's the fault of the U.S. Army Corps of Engineers.

Last week, the Corps opened pen gates on the White Rock Dam at the northern reaches of Lake Traverse to relieve build-up of water delivered by Minnesota's Mustinka River.

That caused waters along Traverse shorelines to rise inundating some farm buildings, boat houses and vacation cabins built 40 years ago during drier weather cycles than what have been seen in the last several years.

Brody bought the 14-acre Cottonwood Point Resort, three rental cabins and a larger building housing a bar, three years ago.

For a time this week, his property was isolated as Traverse waters covered the only access road to the modest resort. Brody's parking lot is under several feet of water and he lost a line of trees he planted recently.

Because his septic tanks have been overtaken by lake waters, his sump pump motors have burned out, too, and reservations booked for cabins later this month may have to be canceled.

"This is the third consecutive year this has happened, and it's because of the Corp's inept water management practices over the years," says Brody, who estimates 10 of his 14 acres are now underwater. He had to haul in fill material to restore the access road so he could reach his property and says it will cost him \$1,000 to blade his property when the water recedes.

One mile south of Brodie, Spencer had to purchase \$210 worth of fill material to build

a dike around his home to keep lake waters outside.

"I live on my military retirement checks and I won't be able to meet my bills this month because I had to buy the fill material."

Spencer is not a happy camper either.

As he neared the end of a 24-year Air Force career, Spencer thought it would be a wonderful idea to purchase the property where, as a child, he accompanied his parents to enjoy summertime swimming, fishing and carefree hours on the same swing that remains on the site today.

"It was my dream come true when I purchased the property last October," Spencer says. "But if I had the chance, I would sell the property tomorrow. I got took."

That's because unlike Brody, who was told by local residents of Traverse flooding that threatened lakeshore structures every 10 or 15 years, owners who sold Spencer his nearly three acres, never let on about seasonal flooding.

When the water rose, Brody and Spencer went scurrying for land abstracts where they learned the Corps of Engineers purchased land around the perimeter of the lake that would be covered by water in wet years.

"We also purchased flowage easements around the lake covering areas that would be covered by water back in 1942 when the White Rock Dam and Reservation Dam across the lake were completed," explained Corps of Engineers Public Affairs spokesman, Ken Gardner.

Brody says his abstract shows the federal government obtained easements rights for 977 feet above sea level in 1942.

"Today (Thursday) I found an affidavit on file in the Roberts County Courthouse from Col. Joseph Briggs, St. Paul district engineer, dated 1987 placing on public record the right of the federal government to intermittently raise lake levels to 983 feet. Aren't they required to tell landowners?"

During dry cycles, these figures are of no concern to lake residents as Corps management of water outflow from the two dams keeps reservoir levels behind the White Rock Dam at between 976 and 977 feet.

"However the dams were built for flood control for the cities of Wahpeton and Breckenridge which sit on the Boyd de Sioux River," Gardner said. "When flood stage reaches 10 feet in either location, we shut the dam down tight to zero outflow."

That was the case twice during March when the inflow to Lake Traverse was doubling every 24 hours, Gardner noted, and some minor flooding struck Wahpeton.

This morning (Thursday) outflow from the White Rock Dam was 1,100 cubic feet per second, the maximum outflow says Corps resource manager for the Lake Traverse project Dave Solberg.

Solberg says the outflow has been holding steady and barring unforeseen heavy rainfall, he says Lake Traverse waters should be back to normal levels by June 15 given good evaporation conditions.

Gardner and Solberg both say the problem for residents like Spencer and Brody is properties they bought were built during the 1950s within the federal easements and are subject to periodic flooding, especially during the past three very wet years.

"I wasn't asking the Corps to bend over for me," Brody says, "but Solberg told me I shouldn't have purchased my property. What kind of compassion is that?"

Brody and Spencer says the larger problem is federal government enticements to farmers for the last 60 years that rewarded them for draining sloughs thus eliminating natural drainage areas.