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Senate

(Legislative day of Thursday, May 9, 2002)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable JACK REED, a Senator from the State of Rhode Island.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, we humble ourselves and confess our need for You. You lift us up and grant us opportunities beyond our imagination. Yet, when we try to make it on our own, claiming recognition for ourselves, eventually we become proud and self-sufficiently arrogant. Keeping up a front of adequacy becomes demanding. Our pride blocks our relationship with You and debilitates deep, supportive relationships with others.

Help us accept our humanity. We need You, and life is a struggle when we pretend to have it all together. We honestly confess the times we forgot You went for hours this week, even days without asking for Your help, and endured life's pressures as if we were the source of our own strength.

In the quiet of this moment, we invite You to fill our depleted resources with Your Spirit. We want to allow You to love us, forgive us, renew us, and grant us fresh joy. To this end we admit our need and accept Your power for the work ahead this day. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JACK REED led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 16, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JACK REED, a Senator from the State of Rhode Island, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. REED thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The assistant majority leader is recognized.

SCHEDULE

Mr. REID. The Chair will shortly announce we will be in a period of morning business until 10 a.m. today, with the first half under the control of the majority leader and the second half under the control of the Republican leader. We expect Senator BOXER momentarily.

At 10 a.m. the Senate will resume consideration of the trade bill, with 90 minutes of debate in relation to the Gregg amendment, followed by a vote in relation to that amendment. I remind all Senators that from 2 to 3 p.m. today we will be in recess for the Reagan gold medal ceremony. President Reagan and Nancy Reagan will be recognized in the Rotunda today for their service to our country.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m. Under the previous order, half the time until 10 a.m. shall be under the control of the majority leader or his designee.

Mrs. BOXER. Mr. President, I ask to be advised when 5 minutes remain on our time.

The ACTING PRESIDENT pro tempore. The Chair will so advise.

THE ENVIRONMENT

Mrs. BOXER. Mr. President, I take to the floor this morning to talk about an issue that is very near and dear to the hearts of the American people. It is very near and dear to the hearts of Californians and very near and dear to my heart. That is a clean and healthy environment for our people. I know the Presiding Officer shares my view on this very important issue.

When I was a little girl, my mother would say you can have everything, but if you don't have your health, you

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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really don't have anything. She was right about that. The older I get, the more I realize that is true. You can have a wonderful home, wonderful family, but if someone is ill, someone has chronic problems, it takes over. That is what a clean and healthy environment means. It means clean air; it means clean water, safe drinking water; it means beautiful places to take your family.

In the old days, people used to say only the elitists were environmentalists. In other words, it was a movement about people who had everything. The truth is, it is quite the contrary because the people who have a lot of resources and a lot of money can buy their own environment. They can buy a big piece of property. It can have a lake on it, beautiful trees, and mountains. They can enjoy it forever, as long as they live. But ordinary families cannot do that. They need to rely on the environment that we all share.

Most of our people live in urban areas or near urban areas. In California, about 90 percent of our people live close to urban areas. In the rest of the country as a whole, it is almost 80 percent. The fact is, most of us live near businesses, and some pollute. We live in a shared environment. Sometimes it is an environment that is not as healthy as it should be. We know now what causes the pollution. It is no great surprise.

What brings me here? To say that I am distressed at the record of this administration on the environment. Almost every day we have something else to which we can say: Oh my God, what are they doing? We believe it is time to call attention to it. We think when we call attention to it, they may well change their ways. We have proof of that in one particular issue that I will discuss. But, also, the American people need to know the values of this administration compared to their own values. When so many of our children have asthma, this is not a time to turn away from the Clean Air Act and put up some phony proposal that you say is better but is worse. We have a leader on that issue, Senator JEFFORDS, very clearly saying that is the direction in which this administration is going.

When we have children who are suffering from too much lead in their blood and we know that leads to disability, sometimes coma, blindness, sometimes even death—certainly learning disabilities and mental retardation—it is not a time to float a proposal that says we should stop testing poor kids for lead in their blood.

What has happened as a result of this attack on the environment—and, by the way, I will go through more issues—is that our majority leader, TOM DASCHLE, has appointed what I call the E team, the environmental team. That team comprises several Senators: BILL NELSON, CANTWELL, CLINTON, REID, WYDEN, LIEBERMAN, TORRICELLI, and myself. We are examining on a daily basis what this admin-

istration is doing to us on the environment. We have created a Toxic Trophy Award to go to those particular agencies that are doing the most damage.

Two weeks ago, we gave that award to the Department of Health and Human Services for their proposal to consider not testing poor kids for lead in their blood. We pounded away pretty hard and we presented our Toxic Award in a ceremony. They were not there, but in absentia we presented the award. Guess what happened. Yesterday we read in the paper that they decided they are going to back away.

We are really glad. We see this happening all over. My friend is very involved in education issues. Senator KENNEDY and I know that the Presiding Officer, Senator REED, and others were there to point out the administration is going to make it more difficult for our young people to pay back college loans. You pounded on this administration, and guess what happened. They backed away.

We think this administration functions in a very interesting way. They do a lot of things in the dead of night. They hope nobody notices. The newspapers may write a couple of articles, but then they figure the publicity will die down. And the American people, frankly, are worse for it.

The E team and the other teams Senator DASCHLE has set up, be it for prescription drugs or Social Security, the many issues we are looking at, are not going to allow these policy changes to go unnoticed.

Today I want to put on record and share with you, Mr. President, since I see you are the one with whom I can share it, what has happened since this administration took over in terms of the environment.

We think the place to start is an organization called the Natural Resources Defense Council, the NRDC. This is a great organization. They are nonprofit and nonpartisan. They employ about 200-plus lawyers and scientists to follow what various administrations are doing with regard to the environment. As I say, they are very nonpartisan. They did not like a couple of things the Clinton administration did, and they went pretty heavily for it on a few issues. They are unrelenting in their pursuit of a clean environment for our families.

Most of the time they agreed with the Clinton administration because the Clinton administration, I would say, was probably the most pro-environmental administration we have seen in many years. But even then, when they believed the administration was wrong, they went after them.

They have kept a record of this administration's decisions on the environment. That is what I want to talk about. What they have found is that there are more than 90 separate actions this administration has taken that are bad for public health and the environment. Let me repeat that. They have not been in office that long—it seems

like yesterday—and already 90 separate actions that this administration has taken are bad for public health and the environment.

I do not have time to put this entire list in, but let me show you the report. It is called "Rewriting The Rules, The Bush Administration's Assault On The Environment." It has a picture of some beautiful land with a used tire in the middle. Everyone should get a copy of this. You can go on their Web site, nrdc.org, and find out what is happening.

I am glad one of the members of my E team is here, Senator NELSON of Florida. I am opening, and when I get to the Superfund, I would like to get into a colloquy with him, if he can.

Does the Senator have time to stay for about 15 minutes?

Mr. NELSON of Florida. Certainly.

Mrs. BOXER. Let's start from the beginning. The administration took over in 2001. One of the first things they did was to hold up proposed rules announced by EPA in December of 2000 that were designed to minimize raw sewage discharges and to require public notification of sewage overflows.

There is nothing more ugly than sewage overflows—without going into any detail. Why on Earth would they reverse the decision to minimize sewage overflows? You will have to ask them. Last year alone, there were some 40,000 discharges of untreated sewage carrying bacteria, viruses and, frankly, fecal matter into basements, streams, playgrounds, and waterways across the country. That rule is still delayed today.

On March 13, 2001, President Bush broke the promise he made during the campaign and he announced he would not regulate carbon dioxide, the chief contributor to global warming. He is not going to go after the powerplants. This is where Senator JEFFORDS is taking this administration on, and I am right by his side, as is the E team.

On May 22, the administration suspended the new standard for arsenic in drinking water. My friend Senator NELSON and I just went wild on that point. When we took to the floor and shined the light on this subject, they changed their mind and they decided to let the Clinton rule go into place: 10 parts per billion. We know the old standard that they seemed to want to have, because they delayed the new standard, causes cancer in 1 in 100 people. So we had to fight very hard on arsenic. By the way, the fight isn't over because now we are learning from scientists that 10 is too high, 10 parts per billion; we need to go down to 3. So we have a fight there.

On May 3, the administration reversed a 25-year-old Clean Water Act rule that restricted the disposal of mining and other industrial solid wastes in our waterways. The EPA then issued a new rule, making it illegal for coal companies to dump "fill material," which includes waste material from mountaintop mining, into our

rivers, our streams, our lakes and our wetlands.”

I don't know whether the President really listens to the words:

O beautiful for spacious skies,
For amber waves of grain,
For purple mountain majesties
Above the fruited plain!
America! America!
God shed his grace on thee.

He doesn't seem to understand beauty that we have been given by God, to be honest. I don't see it. Either that or he has not taken an interest. But, either way, the decisions of this administration—I have just shared a few. There are 90 of them. Go up on the NRDC site and get the rest of them—would make you shudder. That is why Senator DASCHLE set up this E team—to take a light and shine it on what is happening.

I am going to get to the issue I know Senator NELSON is very upset about, and that is the Superfund. Before I yield to him in a colloquy, let me show, in a chart form, what is actually happening. I want to show how many strip mine sites there are across this great land of ours. This is the EPA's own Web site, and this is the NPL sites, which are the priority sites, the worst sites. You don't see much yellow here. Yellow indicates the places that have no Superfund sites. Purple represents the ones that have the sites. So we are talking about an issue that impacts our entire Nation.

The health effects of these sites are very real. What are they? When we say Superfund, it means these are the most toxic sites. When you live near a Superfund site, studies show there are increased birth defects, low birth weights, changes in pulmonary function—that is breathing—neurological damaging—that is the brain—and leukemia.

If you live near one of these sites, you have a better chance of getting really sick, and particularly your children because—what have we said here so many times—children are the most vulnerable when it comes to being exposed to toxins and pollution. Why is that? Their bodies are changing and growing in the midst of these toxins. And they are small, so when they breathe in the air in proportion to their body weight, it is much more of an important factor.

Now, I often say, children are not little adults. I am a little adult. I am stronger. If I lived near one of these sites, I could get sick because I am not as strong as a big 155-pound male, which is always the standard on which we measure progress. But little kids, they are the ones who get hurt.

So there are 1,200 national priority list Superfund sites, NPL sites. And nearly 70 million Americans, including 4 million children, live within 4 miles of a Superfund site. Let me reiterate: 70 million Americans live within 4 miles of a Superfund site. And we know if you live near a site, you are at greater risk of getting very ill. We know 4

million children live near Superfund sites.

Mr. REID. Will the Senator yield for a question?

Mrs. BOXER. I am happy to do so.

Mr. REID. One of the things I have been trying to do is tell people in Nevada we should not be afraid of Superfund sites. Let me give the Senator from California an example.

In northern Nevada, Sparks, which is a suburb of Reno, there was a huge gravel pit, much larger than the Capitol Building. It was huge.

One day, a number of years ago, somebody started seeing black rings around this pit. And months and months went by and the State simply was ill-equipped to handle the many problems involving a Superfund. I thought something might be involved.

So to make a long story short, the Senator from California and I have served on the Environment and Public Works Committee for a long time, and I sent a staff person to look at it.

We held a hearing, and within 2 weeks that was declared an emergency Superfund site because millions of gallons of oil had been spilled by the oil companies into the ground. It could have been extremely dangerous.

Again, I will make this story shorter than it probably should be, but that place now, after having been declared a Superfund site, is one of the most beautiful places in all of northern Nevada. It is called Sparks Marina. There are boats out in this beautiful area which used to be an ugly gravel pit. Now it is a marina with recreation.

They are now going to build some apartments and homes next to it.

So I say to my friend from California, I appreciate very much, as someone from Nevada, that Senators are here this morning talking about the inadequacies and fallacies of this administration relating to the environment. But I also want to pinpoint what Senators are talking about with regard to Superfund sites because we should be spending more money on Superfund sites so we can have, across this country, more Sparks Marinas rather than less Sparks Marinas.

So I appreciate very much the Senator from California bringing this to the Senate's attention.

Mrs. BOXER. I say to the Senator, that is the point. If we can clean up these sites, the Senator is so right—the same way with brownfields—they are then safe, productive land, good for the community. The reason we are on the floor of the Senate today—and the Senator is part of my E team, and he will understand this—this wonderful story occurred because the site was cleaned. If the site sat there, people would have been fearful, and should have been fearful. And that is why I want to get to this next point.

Mr. REID. Before the Senator does, let me make one additional point. That beautiful Sparks Marina was cleaned up without a single penny of taxpayers' money. It was paid for by the polluters

who were forced into cleaning that up when it was declared a Superfund site because had they not come forward and then been found guilty, they would have been charged three times the actual damages.

Mrs. BOXER. My friend has now hit on the very two issues that we are going to talk about in the next few minutes. The first one is the importance of cleaning up the sites and what it means when you do that. The second point is the importance of “polluter pays” as a concept that is now being threatened.

So what is happening under this administration, I say to my friends, is this: This administration is going to cut in half the number of sites to be cleaned up. I should not say they are going to; they have so stated.

So we are going from the Clinton administration, where the last cleanups reflected in the year 2000 were 87 sites cleaned up, to now, under this administration, they are talking about cleaning up 47. They did 47 last year. So that means it has already been cut in half. And they want to continue to go down, down, down. So we see here a walking away from the Superfund Program.

I say to my friend from Florida, what is so stunning about this is the only way we found this out was by digging and digging through EPA documents. We have asked in the Environment Committee—I am the chair of the Superfund Subcommittee—for a list of which sites are not going to be cleaned up. They first promised to do 75, and they did 47. Then they said they would do 65, and now they have said they are going to do 40. So they are down, from a high of 88 to 40. We cannot get the list of what sites they will not clean up.

I have a chart in the Chamber showing NPL sites. We do not know where the sites are. Mr. President, they could be in your State. They could be in Florida. They could be in my State. I have over 100 sites—100 sites—in my State, and 40 percent of my people—and that is a big number; we have 35 million people—live within 5 miles of a Superfund site.

So we are all in this together. There is only one State that has no sites, and that is North Dakota. Lucky North Dakota. Well, there are not that many people there. But the people who are there do not live near a Superfund site. Every other State has a site in it, and no one knows where the sites are because the administration will not tell us. By October, they have to expend the money, and the administration says they don't have the list ready.

I believe at some point we are going to have to subpoena this information because how would you feel, Mr. President, if you were a property owner, and you anticipated a site near you was going to be cleaned, and suddenly you were told it would not be? You would want to have some advance notice so you could protest, so you could call your Senator and say to him or her: Fight for me. This isn't right.

We have a site in New Jersey where, honestly, the rabbits there have turned a horrible color of green because of the Agent Orange on the site, arsenic on the site.

The ACTING PRESIDENT pro tempore. The Senator from California has 5 minutes remaining.

Mrs. BOXER. I will yield to my friend some time to ask me some questions. But I will say this: We are in a mess. Half of the sites that we thought were going to be cleaned up will not be cleaned up.

The last point is the point on "polluter pays." I have a chart I will show you, and then I will yield.

"Polluter pays" has been a theory and a practice. Now what the administration is doing—we always had a situation where taxpayer funds only paid for about 18 percent of the cleanup, and 82 percent was paid by the responsible parties and other funds.

Now, under this administration, in 2003, because there is no Superfund fee in place anymore, 54 percent of the program is going to be paid by taxpayers.

So I ask a rhetorical question to this administration: Where have you been, when we have made a point that polluter pays is basic?

I yield to my friend for questions or comments, but I also ask unanimous consent for 5 additional minutes on our side.

The ACTING PRESIDENT pro tempore. Is there objection?

The Chair hears none, and it is so ordered.

Mrs. BOXER. I thank the Chair.

Mr. NELSON of Florida. I thank the Senator from California for yielding.

I would like to talk about 1 of those 1,222 sites around the country, 51 of which are in my State, 111 in the State of New Jersey, 100 sites in the State of California. One of those sites is about 12 miles west of Orlando near Lake Apopka at a site called the Old Tower Chemical plant which was shut down in 1980 after a plug of witches' brew that had been created in a holding pond as a result of cooking DDT—I am not making this up; it sounds like a fantasy tale but it is true—after cooking this DDT in order to get a chemical byproduct, all of this residue flowed into a holding pond.

What they didn't know was that the holding pond was a sink hole that allowed that cooked witches' brew to go right into the water supply, the Floridian aquifer and, even with that sink hole, a plug escaped over the top of the holding pond and into a creek which flowed into Lake Apopka.

Lake Apopka is a huge lake west of Orlando. It has had quite a few environmental problems, not the least of which is a lot of agricultural runoff, and so forth. But this Tower Chemical plant was finally shut down by EPA when it found that some of this holding pond brew went into Lake Apopka.

Today Lake Apopka's population of 4,000 alligators is down to 400. And of those 400, they have found deformities

in the alligators. You know how tough an alligator is. This site, the Tower Chemical plant, still sits out there, not treated, not cleaned up, and there are traces of these chemicals in the area in the water supply. There are eight residences right in the immediate vicinity. I am trying to get EPA to give filters for the water wells that tap the water supply right next door to the Tower Chemical plant, just for starters, not to speak of the underlying point.

If we don't have a trust fund that is filled with money for that principle that the "polluter pays," there is not going to be any money. The money in the trust fund is going to run out next year. So how are we going to clean up the Tower Chemical site that could be threatening a huge water supply for the State of Florida? There is simply no way.

As to the Bush administration—I said this in Florida the other day—what has happened to them? Have they taken leave of their senses; to say that they are not going to fund, through the principle of the "polluter pays," the trust fund so we can clean up these 51 sites in the State of Florida, the 1,222 sites around the country? If you don't do that, either you don't clean up the sites—and there is just too much environmental risk—ergo, witness the example I have just given you west of Orlando and the Floridian aquifer being threatened—or if you are going to clean them up, guess who is going to pay. The general taxpayer is going to pay instead of the polluter paying.

When we passed this bill in 1980—I was a Member of the House of Representatives, and I voted for it—it was with the understanding that there would be a tradeoff, that the oil companies would trade off their liability in future lawsuits by agreeing to the principle of the polluter paying, and they and the chemical companies over the years would pay into the trust fund. If we don't keep that same principle, then the oil companies get off scot-free. They don't have any lawsuit liabilities now because of their agreement in exchange for paying in to help us clean up these sites. Are we to let them completely off the hook so that they will not pay?

I wanted to bring that one case to the attention of the Senator from California as she is talking about the national implications of this. I thank the Senator for yielding.

Mrs. BOXER. I thank my colleague. We are not talking about theory. We are not talking about an academic proposition. We are talking about sites with horrible pollutants and toxins in them, close to people, that have to be cleaned up.

This is the first time I have taken to the floor on this subject. I intend to come back. Other members of the team include HILLARY CLINTON and RON WYDEN and JOE LIEBERMAN, and we think BOB TORRICELLI may join us. This is a big issue to the people of this country. We are all pulling together on

the challenge that was handed to us on 9–11. We will pull together on that.

To me, the most important thing is to understand that there is a balance. On domestic issues, when we see this administration going the wrong way, repealing laws that reflect values of the American people, the value of a healthy environment, the value of a beautiful environment, we are going to be here.

Today we will with Senator SCHUMER give out another Toxic Trophy Award. Senator CANTWELL is also on the E team. I think I have covered then all of the members.

I know how strongly we believe in these issues. If we continue to shine the light on some of these outrageous proposals, we won't stop every one of them, but we will stop some of them. At a minimum, the American people will know what this administration is doing, sometimes in the dead of night when they are not watching. We intend to be here and call attention to these matters in the hope of winning this battle, when we consider that there has been a war waged on the environment. We will be here as soldiers in that war. We intend to win it.

I thank the Chair and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the time until 10 a.m. is under the control of the Republican leader or his designee.

The Senator from Iowa is recognized.

Mr. GRASSLEY. I yield myself such time as I may consume.

SOIL CONSERVATION

Mr. GRASSLEY. Mr. President, I come to the floor to comment on an article that was in the Des Moines Sunday Register April 21 which speaks to the point of conservation of farm land. There is nothing in the article that is not accurate, but I think some things that are not included leave the impression that farmers of the United States are not good stewards of the soil. The premise of the article, according to the headlines "Farmers' penalties rarely stick," is that under Federal law farmers must take certain action to conserve soil. If they do not conserve the soil and do it according to a plan, then they would be fined. And the article here is based on the premise that only a Government policeman from the U.S. Department of Agriculture is going to make the farmers conserve soil and that fines that might be imposed are the way of doing that because it says here that farmers' conservation fines rarely stick.

The bottom line of the article is that farmers are not conserving soil, that