

108TH CONGRESS
1ST SESSION

S. 1574

To direct the Secretary of the Interior to replace the U.S. Fish and Wildlife Service as the Federal agency responsible for the administration, protection and preservation of the Midway Atoll within 90 days after the enactment of this Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 2, 2003

Mr. LUGAR introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To direct the Secretary of the Interior to replace the U.S. Fish and Wildlife Service as the Federal agency responsible for the administration, protection and preservation of the Midway Atoll within 90 days after the enactment of this Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 Congress, through section 126 of the General Provi-
5 sions for the U.S. Department of the Interior within ap-
6 pendix C of the Consolidated Appropriations Act for Fis-
7 cal Year 2000, Public Law 106–113, directed the Sec-

1 retary of the Interior to designate Midway Atoll as a Na-
2 tional Memorial to the Battle of Midway. In so doing, Con-
3 gress intended that Midway Atoll be preserved as a memo-
4 rial to the honor and courage of members of the U.S.
5 Armed Forces who participated in the critical battle that
6 was the turning point of the war in the Pacific during
7 World War II. The designation was accomplished via
8 Order 3217 by the Secretary of the Interior on September
9 13, 2000. Order 3217 designated the U.S. Fish and Wild-
10 life Service (USFWS) as the agency responsible for the
11 development of the National Memorial.

12 In reviewing the performance of the USFWS in exer-
13 cising its responsibilities with regard to Midway Atoll and
14 the National Memorial thereon, the Senate has made the
15 following findings:

16 (1) The intent of Congress in directing that
17 Midway Atoll be designated as a National Memorial
18 to the Battle of Midway has not been properly im-
19 plemented by the USFWS.

20 (2) Matters of historic preservation and mili-
21 tary history have been subjugated to those of the
22 Midway Atoll National Wildlife Refuge, without
23 proper balance.

24 (3) Public Law 106–113, appendix C, section
25 126, required the Secretary of the Interior to consult

1 with the International Midway Memorial Foundation
2 on the management of the National Memorial. The
3 Secretary has failed to do so.

4 (4) The airfield on Midway Atoll is an impor-
5 tant asset for the military and civilian aircraft as an
6 emergency airfield for refueling and emergencies in
7 the northern Pacific. It is important that the airfield
8 be maintained in a functional state.

9 (5) From 1996 to 2002, the USFWS had a co-
10 operative relationship with a private contractor
11 under which the contractor provided logistical sup-
12 port at Midway Atoll, including operation and main-
13 tenance of the airfield, at no cost to the Federal
14 Government.

15 (6) Apparently because of the restrictive poli-
16 cies of the USFWS, the cooperative relationship
17 with the private contractor has been terminated.
18 Currently, the Federal Government is paying ap-
19 proximately \$8 million annually to maintain Midway
20 Atoll. This includes only minimal availability of the
21 airfield. All commercial flights have been halted.
22 There is no longer effective public access to Midway,
23 rendering virtually meaningless the designation of
24 Midway Atoll as a National Memorial. Infrastructure
25 support has been significantly reduced.

1 (7) It is important that current and future gen-
2 erations have access to those sites associated with
3 the great military events in U.S. history. Midway
4 Atoll is one such site. The Battle of Midway is wide-
5 ly regarded by historians as the turning point of
6 World War II in the Pacific and arguably the most
7 pivotal engagement of the entire war. Despite Mid-
8 way's remote location, the Federal Government must
9 do everything in its power to permit public access to
10 the site and properly commemorate its designation
11 as a National Memorial. To date, the Government
12 has done neither.

13 (8) Subsequent to the designation of Midway
14 Atoll as a National Memorial, neither the Depart-
15 ment of the Interior nor any other agency of the
16 Federal Government has erected any signage, dis-
17 play, a monument or indication of any sort whatso-
18 ever that Midway has been designated as a National
19 Memorial to the Battle of Midway.

20 (9) Moreover, USFWS appears to have made
21 no effort on Midway Atoll to offer any kind of his-
22 torical interpretation or information on the Battle of
23 Midway and its significance, or to document the lo-
24 cation and significance of the World War II airfield
25 or infrastructure.

1 (10) In early February 2003, a spill of approxi-
2 mately 100,000 gallons of jet fuel occurred at Sand
3 Island on Midway Atoll. Although it appears the
4 cause was a corroded piece of equipment, at the time
5 of the spill only one contract employee was on-site
6 to maintain and manage the fuel farm. The cost of
7 cleanup and remediation is estimated at \$4.7 mil-
8 lion.

9 **SEC. 2. REVIEW OF ADMINISTRATION AND DESIGNATION**
10 **OF REPLACEMENT AGENCY BY SECRETARY**
11 **OF THE INTERIOR.**

12 (a) REVIEW.—Upon enactment of this Act, the Sec-
13 retary of the Interior shall conduct a review of the admin-
14 istration of Midway Atoll and the designation of the Atoll
15 as a National Memorial. As part of such review, the Sec-
16 retary shall consult with the International Midway Memo-
17 rial Foundation and other interested parties. The Sec-
18 retary shall report the results of such review to the appro-
19 priate committees of the Senate and House of Representa-
20 tives.

21 (b) REPLACEMENT OF ADMINISTERING AGENCY.—
22 Within 90 days of enactment of this Act, the Secretary
23 shall designate another agency to replace the USFWS as
24 administrator of Midway Atoll and developer of the Na-
25 tional Memorial thereon.

1 **SEC. 3. STATUS OF THE NATIONAL MEMORIAL.**

2 It is the intention of Congress that:

3 (1) The National Memorial on Midway Atoll be
4 given equal consideration with concerns over the
5 preservation of wildlife in all matters related to the
6 administration, development and preservation of the
7 Atoll.

8 (2) Midway's airport remain in use as an alter-
9 native emergency site in order to ensure the safety
10 of civilian and military aircraft in the northern Pa-
11 cific region.

12 (3) The public continue to have meaningful ac-
13 cess to the Atoll so as to experience and benefit from
14 its status as both a National Memorial to the Battle
15 of Midway and a National Wildlife Refuge. The Sec-
16 retary shall provide for such public access in the
17 most cost-effective manner.

18 (4) The fact that Midway Atoll is a National
19 Memorial to the Battle of Midway be properly dis-
20 played on Midway, and that appropriate historical
21 documentation be given to those aspects of Midway's
22 infrastructure deemed to be of historical signifi-
23 cance.

24 (5) Interested organizations such as the Inter-
25 national Midway Memorial Foundation shall be con-

- 1 sulted on a regular basis on matters relating to the
- 2 National Memorial.

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