

117TH CONGRESS
2D SESSION

S. 3647

To direct the Secretary of the Navy to close the Red Hill Bulk Fuel Storage Facility in Hawaii, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2022

Mr. SCHATZ introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To direct the Secretary of the Navy to close the Red Hill Bulk Fuel Storage Facility in Hawaii, 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. SHORT TITLE.**

4 This Act may be cited as the “Red Hill Watershed
5 and Aquifer Initiative Act” or the “Red Hill WAI Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) The Red Hill Bulk Fuel Storage Facility (in
9 this section referred to as the “Red Hill facility”)
10 was constructed in September 1943.

1 (2) The Red Hill facility was constructed un-
2 derground in hollowed-out volcanic rock to allow for
3 maximum protection of the fuel supply.

4 (3) The 20 steel tanks of the Red Hill facility
5 are encased by 2.5 to 4 feet of concrete and sur-
6 rounded by basalt bedrock.

7 (4) The Red Hill facility is the largest single
8 fuel storage facility of the Department of Defense in
9 the Pacific theater.

10 (5) The Red Hill facility can store approxi-
11 mately 250,000,000 gallons of fuel. The fuels stored
12 are marine diesel, F-76, and two types of jet fuel,
13 JP-5 and JP-8.

14 (6) The Red Hill facility is located approxi-
15 mately 100 feet above the basal groundwater table
16 and sits directly above the federally designated sole-
17 source groundwater aquifer of the island of Oahu,
18 the Southern Oahu Basal Aquifer, which provides
19 approximately 77 percent of the drinking water of
20 Oahu.

21 (7) Historic records compiled by the Navy in a
22 2008 groundwater protection plan indicate that the
23 Red Hill facility has had dozens of fuel leaks dating
24 back to 1947.

1 (8) Fuel leaks from the Red Hill facility pose
2 an existential threat to the federally designated sole-
3 source groundwater aquifer of Oahu.

4 (9) The Navy and the Defense Logistics Agency
5 are responsible for protecting the public from un-
6 scheduled fuel leaks that may pose a risk to drinking
7 water.

8 (10) Until the mid-1980s, most underground
9 storage tanks (in this section referred to as
10 “USTs”) were made of bare steel, which is likely to
11 corrode over time and allow contents of USTs to
12 leak into the environment. The greatest potential
13 hazard from a leaking UST is that its contents (pe-
14 troleum or other hazardous substances) can seep
15 into the soil and contaminate groundwater, the
16 source of drinking water for nearly half of all people
17 in the United States.

18 (11) To address a nationwide problem of leak-
19 ing USTs, Congress passed a series of laws to pro-
20 tect human health and the environment, including
21 the Solid Waste Disposal Act (Public Law 89–272),
22 the Superfund Amendments and Reauthorization
23 Act of 1986 (Public Law 99–499), the Energy Pol-
24 icy Act of 2005 (Public Law 109–58), and the
25 American Recovery and Reinvestment Act of 2009

1 (Public Law 111–5) (commonly referred to as the
2 “Recovery Act”).

3 (12) The State of Hawaii obtained Environ-
4 mental Protection Agency State Program approval,
5 effective on September 2, 2002, for the UST pro-
6 gram of Hawaii to operate in lieu of the UST pro-
7 gram of the Environmental Protection Agency.

8 (13) In January 2014, The Red Hill facility
9 leaked approximately 27,000 gallons of fuel.

10 (14) In 2015, the Environmental Protection
11 Agency and the State of Hawaii Department of
12 Health negotiated an enforceable agreement, an Ad-
13 ministrative Order on Consent, with the Navy and
14 the Defense Logistics Agency (EPA DKT NO.
15 RCRA 7003–R9–2015–01/DOH DKT NO. 15–
16 UST–EA–01).

17 (15) The 2015 Administrative Order on Con-
18 sent includes a Statement of Work that lays out the
19 specific tasks the Navy and the Defense Logistics
20 Agency must implement. The Statement of Work
21 consists of eight sections on overall project manage-
22 ment as follows:

23 (A) Tank inspection.

24 (B) Repair and maintenance.

25 (C) Tank upgrade alternatives.

1 (D) Release detection and tank tightness
2 testing.

3 (E) Corrosion and metal fatigue practices.

4 (F) Investigation and remediation of re-
5 leases.

6 (G) Groundwater protection and evalua-
7 tion.

8 (H) Risk and vulnerability assessment.

9 (16) On May 6, 2021, a burst pipeline in Red
10 Hill spilled fuel into the lower access tunnel of the
11 facility and the Navy failed to recover the entirety
12 of the leaked fuel. Although the Navy initially esti-
13 mated that 1,618 gallons of fuel spilled, with all but
14 38 gallons recovered, several months later, the
15 amount of fuel spilled estimated by the Navy in-
16 creased to 19,000 gallons, with most of the spilled
17 fuel not recovered.

18 (17) On November 20, 2021, the Navy an-
19 nounced a spill of 14,000 gallons of a water and fuel
20 mixture from a fire suppression drain line located
21 0.25 miles downhill of the fuel tanks at Red Hill due
22 to operator error.

23 (18) On November 22, 2021, the Navy an-
24 nounced that the water and fuel mixture was re-
25 moved from the tunnel and put into a storage tank

1 above ground and that there were no signs that the
2 fuel had escaped into the environment. The Navy
3 communicated that the water was safe to drink.

4 (19) On November 28, 2021, military families
5 and civilians living in the Joint Base Pearl Harbor-
6 Hickam military housing installation began report-
7 ing contaminated tap water.

8 (20) Impacted families shared personal experi-
9 ences of the immediate and ongoing health impacts
10 of exposure to the contaminated water in their
11 homes including chemical burns, stomach and head
12 pain, dizziness and nauseousness, rashes, and more.

13 (21) Families reported noxious odors in im-
14 pacted homes that continued to make that housing
15 unsuitable for many families.

16 (22) After it was definitively confirmed that the
17 Red Hill well was contaminated with petroleum, the
18 State of Hawaii Department of Health issued an
19 emergency order on December 6, 2021, to the Navy
20 to suspend operations and defuel the Red Hill Facil-
21 ity. That emergency order was contested by the
22 Navy in late December, and on January 3, 2022, it
23 was reaffirmed by the State of Hawaii Department
24 of Health in its final decision and order.

1 (23) The December 6, 2021, emergency order
 2 has had broad support from the communities of
 3 Oahu, the Governor of Hawaii, the Department of
 4 Health of Hawaii, State Commission on Water Re-
 5 source Management, the City and County Board of
 6 Water Supply, city council members, and State legis-
 7 lators. In short, the whole-of-government in Hawaii
 8 believes that the Navy should comply with the emer-
 9 gency order.

10 (24) On December 7, 2021, the Navy an-
 11 nounced that they will contest the order of the State
 12 of Hawaii to drain the fuel tanks.

13 (25) On December 10, 2021, the Navy con-
 14 firmed samples taken from the Navy Red Hill Shaft
 15 contained fuel levels 350 times more than the safe
 16 drinking limit in the State of Hawaii.

17 (26) On February 2, 2022, the Department of
 18 Justice filed an appeal in both Federal and State
 19 court regarding the order of the State of Hawaii to
 20 defuel the Red Hill Facility.

21 **SEC. 3. CLOSURE OF NAVY RED HILL BULK FUEL STORAGE**
 22 **FACILITY, HAWAII.**

23 (a) CLOSURE REQUIRED.—The Secretary of the
 24 Navy shall—

1 (1) discontinue all fuel operations at the Red
2 Hill Bulk Fuel Storage Facility in Hawaii;

3 (2) defuel all bulk fuel storage tanks located at
4 the facility by not later than December 31, 2022;
5 and

6 (3) permanently close the facility in accordance
7 with relevant regulations prescribed by the Adminis-
8 trator of the Environmental Protection Agency.

9 (b) NAVY RESPONSIBILITY.—

10 (1) IN GENERAL.—The Navy shall retain own-
11 ership and possession of the Red Hill Bulk Fuel
12 Storage Facility and the property on which such fa-
13 cility is located.

14 (2) CLEANUP.—Consistent with existing Navy
15 and legal requirements, the Secretary of the Navy
16 shall remain responsible for the environmental condi-
17 tion of the Red Hill Bulk Fuel Storage Facility.

18 (3) CLEANUP COSTS.—The Navy shall be re-
19 sponsible for all cleanup costs associated with—

20 (A) the fuel spill that occurred at the Red
21 Hill Bulk Fuel Storage Facility in November
22 2021; and

23 (B) each spill or leak that occurred at the
24 facility since the opening of the facility until
25 November 2021.

1 (4) REIMBURSEMENT OF CERTAIN STATE AND
 2 LOCAL ENTITIES.—The Secretary of the Navy shall
 3 reimburse the Honolulu Board of Water Supply and
 4 the Hawaii State Departments of Health and Edu-
 5 cation for expenditures made in response to the
 6 threats posed by operations at the Red Hill Bulk
 7 Fuel Storage Facility, including expenditures made
 8 to drill new drinking water wells and to install moni-
 9 toring wells (both monitoring wells that were pre-
 10 viously installed and to be installed).

11 (5) RESEARCH.—The Secretary of the Navy
 12 shall conduct relevant near-to-mid term research re-
 13 lating to the environmental condition of the Red Hill
 14 Bulk Fuel Storage Facility, including relating to hy-
 15 drology and water monitoring.

16 (c) ESTABLISHMENT OF NEW FACILITIES.—The Sec-
 17 retary of the Navy, in coordination with the Director of
 18 the Office of Naval Research, shall establish, at the site
 19 of the Red Hill Bulk Fuel Storage Facility—

20 (1) a water treatment facility; and

21 (2) a permanent water quality testing facility.

22 (d) MONTHLY REPORTS.—Not later than 30 days
 23 after the date of the enactment of this Act, and every 30
 24 days thereafter until all bulk fuel storage tanks located
 25 at the Red Hill Bulk Fuel Storage Facility have been

1 defueled, the Secretary of Defense shall provide a report
2 and briefing on the progress toward such defueling to—

3 (1) the Committee on Armed Services and the
4 Committee on Appropriations of the Senate; and

5 (2) the Committee on Armed Services and the
6 Committee on Appropriations of the House of Rep-
7 resentatives.

8 (e) HAWAII DEPARTMENT OF HEALTH EMERGENCY
9 ORDER.—The Navy shall comply with the emergency
10 order of the Hawaii Department of Health issued on De-
11 cember 6, 2021, which directs the Navy to carry out the
12 following:

13 (1) Immediately suspend operations at the bulk
14 fuel storage tanks at the Red Hill Bulk Fuel Stor-
15 age Facility, including fuel transfers, and continue
16 to maintain environmental and monitoring controls.

17 (2) Take immediate steps to install a drinking
18 water treatment system or systems at Red Hill
19 Shaft to ensure distribution of drinking water con-
20 forms to the standards prescribed by the Safe
21 Drinking Water Act and applicable Federal and
22 State regulations. Those steps should also minimize
23 movement of the contaminant plume or plumes.

24 (3) Submit a workplan and implementation
25 schedule prepared by a qualified independent third

1 party approved by the State of Hawaii Department
2 of Health, to assess the operations and system integ-
3 rity to safely defuel the bulk fuel storage tanks at
4 the Red Hill Bulk Fuel Storage Facility.

5 (4) Upon approval by the State of Hawaii De-
6 partment of Health of the assessment, workplan,
7 and implementation schedule under paragraph (3),
8 make necessary corrective actions to address any de-
9 ficiencies as expeditiously as possible.

10 (5) Not later than 30 days after completion of
11 required corrective actions under paragraph (4), re-
12 move fuel from the bulk fuel storage tanks at the
13 Red Hill Bulk Fuel Storage Facility.

14 (6) Submit a workplan and implementation
15 schedule prepared by a qualified independent third
16 party approved by the State of Hawaii Department
17 of Health, to assess operations and system integrity
18 of the Red Hill Bulk Fuel Storage Facility to deter-
19 mine design and operational deficiencies that may
20 impact the environment and develop recommenda-
21 tions for corrective action.

22 (7) Upon approval by the State of Hawaii De-
23 partment of Health of the assessment, workplan,
24 and implementation schedule under paragraph (6),

1 perform work and implement corrective actions as
2 expeditiously as possible.

3 (f) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to carry out this section
5 such sums as may be necessary for each of fiscal years
6 2023 through 2028.

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