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(Original Signature of Member)

117TH CONGRESS
2D SESSION

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

Mr. KAHELE introduced the following bill; which was referred to the Committee on _____

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:

1 (1) The Red Hill Underground Fuel Storage
2 Facility (in this section referred to as the “Red Hill
3 facility”) was constructed in September 1943.

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

7 (3) The Red Hill facility’s 20 steel tanks are
8 encased by 2.5 to 4 feet of concrete and surrounded
9 by basalt bedrock.

10 (4) The Red Hill facility is the largest single
11 Department of Defense fuel storage facility in the
12 Pacific theater.

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

17 (6) The Red Hill facility is located approxi-
18 mately 100 feet above the basal groundwater table
19 and sits directly above the island of Oahu’s feder-
20 ally-designated sole-source groundwater aquifer, the
21 Southern Oahu Basal Aquifer, which provides ap-
22 proximately 77 percent of Oahu’s drinking water.

23 (7) Historic records compiled by the Navy in a
24 2008 groundwater protection plan indicate that the

1 Red Hill facility has had dozens of fuel leaks dating
2 back to 1947.

3 (8) The Red Hill facility's fuel leaks pose an ex-
4 istential threat to Oahu's federally-designated sole-
5 source groundwater aquifer.

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

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

19 (11) To address a nationwide problem of leak-
20 ing USTs, Congress passed a series of laws to pro-
21 tect human health and the environment, including
22 the Solid Waste Disposal Act, the Superfund
23 Amendments Reauthorization Act, the Energy Policy
24 Act of 2005, and the American Recovery And Rein-

1 vestment Act of 2009 (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 Hawaii’s UST
6 program to operate in lieu of the Environmental
7 Protection Agency UST program.

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 8 sections on overall project management,
22 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 facility's lower access tunnel
11 and the Navy failed to recover the entirety of the
12 leaked fuel. While the Navy initially estimated that
13 1,618 gallons of fuel spilled, with all but 38 gallons
14 recovered, several months later, the Navy's esti-
15 mated amount of fuel spilled increased to 19,000
16 gallons, with most of the spilled fuel not recovered.

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

22 (18) On November 22, 2021, the Navy an-
23 nounced that the water and fuel mixture was re-
24 moved from the tunnel and put into a storage tank
25 above ground and that there were no signs that the

1 fuel had escaped into the environment. The Navy
2 communicated that the water was safe to drink.

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

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

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

15 (22) After it was definitively confirmed that the
16 Red Hill well was contaminated with petroleum, the
17 State of Hawaii Department of Health issued an
18 emergency order on December 6, 2021, to the
19 United States Navy to suspend operations and
20 defuel the Red Hill Bulk Fuel Storage Facility. That
21 emergency order was contested by the Navy in late
22 December, and on January 3, 2022, it was re-
23 affirmed by the State of Hawaii, Department of
24 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, the Department of Health,
4 State Commission on Water Resource Management,
5 the City and County Board of Water Supply, city
6 council members, and State legislators. In short, the
7 whole-of-government in Hawaii believes that the
8 Navy should comply with the emergency order.

9 (24) On December 7, 2021 the Navy announced
10 that they will contest the State of Hawaii's order to
11 drain the fuel tanks.

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

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

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

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

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

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

4 (3) permanently close the facility in accordance
5 with relevant Environmental Protection Agency reg-
6 ulations.

7 (b) NAVY RESPONSIBILITY.—

8 (1) IN GENERAL.—The Navy shall retain own-
9 ership and possession of the Red Hill Bulk Fuel
10 Storage Facility and the property on which such fa-
11 cility is located. Consistent with existing Navy and
12 legal requirements, the Secretary of the Navy shall
13 remain responsible for the environmental condition
14 of the property.

15 (2) CLEANUP COSTS.—The Navy shall be re-
16 sponsible for all cleanup costs associated with—

17 (A) the fuel spill that occurred at the Red
18 Hill Bulk Fuel Storage Facility in November
19 2021 spill; and

20 (B) each prior spill or leak that occurred
21 at the Red Hill Bulk Fuel Storage Facility
22 since the opening of the facility.

23 (3) REIMBURSEMENT OF CERTAIN STATE AND
24 LOCAL ENTITIES .—The Secretary of the Navy shall
25 reimburse the Honolulu Board of Water Supply and

1 the Hawaii State Departments of Health and Edu-
2 cation for expenditures made in response to the
3 threats posed by operations at the Red Hill Bulk
4 Fuel Storage Facility, including expenditures made
5 to drill new drinking water wells and to install moni-
6 toring wells (both monitoring wells that were pre-
7 viously installed and to be installed).

8 (4) RESEARCH.—The Secretary of the Navy
9 shall conduct relevant near-to-mid term research, in-
10 cluding on hydrology and water monitoring.

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

15 (1) a water treatment facility; and

16 (2) a permanent water quality testing facility.

17 (d) MONTHLY REPORTS.—Not later than 30 days
18 after the date of the enactment of this Act, and every 30
19 days thereafter until all bulk fuel storage tanks located
20 at the Red Hill Bulk Fuel Storage Facility have been
21 defueled, the Secretary of Defense shall provide a report
22 and briefing on the progress toward such defueling to—

23 (1) the Committee on Armed Services and the
24 Committee on Appropriations of the Senate; and

1 (2) the Committee on Armed Services and the
2 Committee on Appropriations of the House of Rep-
3 resentatives.

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

9 (1) Immediately suspend operations at the Red
10 Hill Bulk Fuel Storage Tanks, including fuel trans-
11 fers. The Navy must continue to maintain environ-
12 mental and monitoring controls.

13 (2) Take immediate steps to install drinking
14 water treatment system(s) at Red Hill Shaft to en-
15 sure distribution of drinking water conforms to the
16 standards prescribed by the federal Safe Drinking
17 Water Act and applicable federal and state regula-
18 tions. This action should also minimize movement of
19 the contaminant plume(s).

20 (3) Submit a workplan and implementation
21 schedule within 30 days, prepared by a qualified
22 independent third party approved by the State De-
23 partment of Health, to assess the operations and
24 system integrity to safely defuel the Bulk Fuel Stor-
25 age Tanks. Upon the State Department of Health's

1 approval of the assessment, workplan and implemen-
2 tation schedule, the Navy must make necessary cor-
3 rective actions to address any deficiencies as expedi-
4 tiously as possible.

5 (4) Within 30 days of completion of required
6 corrective actions, remove fuel from the Bulk Fuel
7 Storage Tanks at the Red Hill facility.

8 (5) Within 30 days, submit a workplan and im-
9 plementation schedule, prepared by a qualified inde-
10 pendent third party approved by the State Depart-
11 ment of Health, to assess operations and system in-
12 tegrity of the Red Hill facility to determine design
13 and operational deficiencies that may impact the en-
14 vironment and develop recommendations for correc-
15 tive action. Upon the Department's approval, the
16 Navy must perform work and implement corrective
17 actions as expeditiously as possible.

18 (f) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated to carry out this section
20 such sums as may be necessary for each of fiscal years
21 2023 through 2028.