

## **Written Testimony**

Mike Daak - Retired

12-year resident of Midway Island

November 20, 2014

Oversight Hearing on the Management of the Midway Atoll National Wildlife Refuge

Testimony for Congressional House Hearing: November 20, 2014

My name is Mike Daak. I am here representing myself, as a concerned witness, and for Veterans who battled for Midway and protected our land - some stationed there, some born there and many who lived there.

I lived on Midway for about 12 years, first as a Navy Contractor, for about 6 years, then for another 6 years as an employee of Midway Phoenix Corporation. As an employee of Midway Phoenix, I held the title of Communications Department Manager. I maintain a Website dedicated to Midway Island, at <https://www.midway-island.com/>. I also produced the video, "**Midway Island - A Battle Lost to the U.S. Fish and Wildlife Service**". This 22-minute video can be viewed on-line at: <https://youtu.be/r1KGjS89D7k>

### **Background –**

**6/4/1999, Naval Administrative Message;**

**Navy Admiral Jay L. Johnson -**

"After considerable deliberation, it is apparent that the two most significant dates in our Naval history are 13 October 1775, the birth of our Navy, and 4 June 1942, the Battle of Midway."

"These two prominent days will henceforth be celebrated annually as the centerpieces of our heritage."

In 1996, administration of the atoll was transferred from the Navy to the Fish and Wildlife Service (FWS) through an Executive Order, which also established the Midway Atoll National Wildlife Refuge. The Executive Order stated that FWS "**shall recognize and maintain the historic significance of the Midway Islands consistent with the policy stated in [Executive Order 11593](#) of 1971**". Since 1996, it has become apparent that the FWS has mostly fixated on wildlife only issues.

In 2006, President George W. Bush designated Midway as a Northwestern Hawaiian Islands Marine National Monument. In 2009 it was later renamed as the **Papahānaumokuākea Marine National Monument**. Midway is also a **Battle of Midway National Memorial**. Recently, the island was inscribed as part of a larger **UNESCO World Heritage Site**.

Midway has been called the 'door', 'the window' and the 'hub' of the Monument. However, the door is being kept closed, by the FWS to all visitors - to all taxpayers who financially support the island. Over the course of a year approximately 150 people had visited the island, when their Visitor Program was open generally in groups of 10 or 15 at a time. FWS has charged as much as \$7000 per seat for the trip to Midway. Often, visitors were expected to pull weeds or do other work duties while on-island.

### **FWS Purpose on Midway - In Their Own Words –**

"The purposes of the refuge are to maintain and restore natural biological diversity within the refuge; provide for the conservation and management of fish and wildlife and their habitats within the refuge; fulfill the international treaty obligations of the United States with respect to fish and wildlife; provide opportunities for scientific research, environmental education and compatible wildlife dependent recreational activities; and, in a manner compatible with refuge purposes, recognize and maintain Midway's historic significance." "It also serves as the 'window to the Monument,' the only site open to public visitation."

### **Cooperative Agreement –**

The FWS was never expected to be capable of managing all the facilities of the entire island. Midway includes everything you'd find in a small city. There are more than 555 Wildlife Refuges across our nation, but none include an Airport, a Hotel a Restaurant, a Store, a Bar a Water Treatment Plant, a Fuel Farm, a Sport Fishing operation, a Diving operation, an Airline Service or a Tourist Program.

FWS had intended to farm out those type services to a third party - thus was born the Cooperative Agreement. In addition, a Refuge Manager once told me that it was illegal for FWS to earn a profit. The plan was for one Cooperator to run all non-wildlife functions of the island, in trade earning potential profits from all profit sources on Midway. Wildlife Refuges should only manage wildlife issues since that is what they are best at doing. Profit margins are alien to the FWS.

The Cooperative Agreement was a first of its kind, intended to outline the duties of FWS and their chosen Cooperative Contractor. The Agreement was intended to be a 'living document'; changes were expected to be made with the passage of time.

In 1996, FWS entered into a Cooperative Agreement with the Midway Phoenix Corporation (MPC) for the operation of a Visitor Program at Midway. On paper, the Cooperative Agreement was being followed. In practice, the spirit of the Cooperative Agreement began to fail miserably, especially toward the very end of its 6-year term.

After MPC signed the Cooperative Agreement, they invested approximately \$15 million of their own money toward improvements in preparation for hosting the new visitor program.

### **MPC paid for the following buildings/structures/equipment, without taxpayer money:**

- Converted military barracks to hotel room standards
- New Clipper House restaurant on the beach
- New Captain Brooks beach bar
- Stationed two on-island aircraft for visitor and resident transport
- Purchased a Ship for logistical support of the island
- New Sewage Treatment Plant
- Chartered semiweekly flights of an Aloha Airlines jet
- New Bottled Water facility
- New Hydroponics facility
- New Garden, to provide fresh produce for the island
- The island's first Cellular Phone System
- New Harbor Office building
- New Sport Fishing building
- New Sport Diving building
- Purchased two 35 foot Fishing Boats and two smaller Fishing Boats
- Purchased a 48' Diving Boat.

The Cooperative Agreement authorized 100 visitors per week to the island. Midway has natural and historic resources that enable the island to be self-sustaining, via a properly managed Visitor Program. MPC operated the Visitor Program at near no cost to the American Taxpayer. The Visitor Program included Historical Tours, Wildlife Tours, Sport Diving and catch & release Sport Fishing Trips. The Cooperative Agreement was intended to allow FWS to focus on wildlife issues, while allowing MPC to focus on the Visitor Program so the island could pay its own way.

### **New Restrictions by FWS –**

With the passage of time, FWS placed more and more restrictions on visitors and residents.

#### **Additional Restrictions –**

- Requested MPC to stop mowing of grass in housing and populated areas.
- Added signs to further restrict the movement of people.
- Large sections of the island became off-limits with sightings of seals, turtles and birds.
- Terminated permission for use of kayaks from all shorelines, stating that the oars might hit a turtle.
- Terminated permission for use of small recreational sailboats, for all waters around the entire island.
- Terminated permission for use of wind surfing equipment.
- Tried to restrict MPC from using the word 'Island' on items sold in the gift store and insisted the word 'Atoll' be added in its place.
- Added new restrictions for residents, regarding the catching of fish, lobster and for scuba diving.

FWS elected to kill all Ironwood trees on Eastern and Sand Island via their 7-year Tree Removal Plan. **ALL** trees were killed on Eastern Island - the island was totally flattened. Dead trees were left standing, which snared and [killed many Albatross](#). FWS paused with their tree-killing program on Sand Island, after hearing public complaints. The Ironwood trees were considered non-indigenous. As info, Ironwood trees are found on most inhabited Pacific islands, their seeds floating on top the ocean.

### **End of Cooperative Agreement with MPC - May 1, 2002 -**

The Cooperative Agreement did not fail financially. It failed due to a lack of cooperation from the FWS who seemingly was not interested in hosting visitors.

It failed due to not having an appointed moderator to resolve disagreements between FWS and MPC.

**March 31, 2002, The New York Times, by John H. Cushman Jr.**

"Barbara Maxfield, a spokeswoman for the Interior Department, said it had not been satisfied with the company's performance in maintaining the refuge's property, ensuring the safety of tourists, and protecting the frail resources of the atoll. By law, the wildlife agency's main objective in managing its reserves is conservation."

**February 4, 2002, Honolulu Star Bulletin, by Mitch Stacy, Associated Press**

<https://archives.starbulletin.com/2002/02/04/news/story5.html>

**Bob Tracey, Midway Phoenix Corporation -**

"Midway Phoenix has lost at least \$15 million on the island, Tracey said. Strict Fish and Wildlife Service restrictions on where visitors can go and what they are allowed to do have made it difficult to operate as advertised, he said. "With this level of extremism with Fish and Wildlife, it's difficult to make a profit out there under that regime," Tracey said. "We're exhausted fighting the war. The situation is especially hard to take, he said, because under the government contract, Midway Phoenix pays the salaries of Fish and Wildlife officers who maintain the refuge and also flies them and their families back and forth to Honolulu."

### **Visitor Program - After MPC Departed the island in 2002 –**

The FWS has stated that the only reason the visitor program is not open is due to a lack of funding. Again I will mention the [2005 Feasibility Study](#) that concluded in recommending an alternate Cooperator be appointed.

**February 2, 2002, Honolulu Advertiser Newspaper Article, by Jan Ten Bruggencate**

<https://the.honoluluadvertiser.com/article/2002/Feb/02/In/In05a.html>

**Midway Refuge Manager (1997 - 2000) Rob Shallenberger -**

"The agency will find another operator or multiple operators to run facilities if Midway Phoenix leaves..."

**April 30, 2002, Honolulu Advertiser Newspaper Article, by Jan TenBruggencate**

<https://the.honoluluadvertiser.com/article/2002/Apr/30/In/In33a.html>

**Assistant Secretary of Interior, Craig Manson -**

"Although we are not in a position at this time to reopen our doors to visitors, we hope to be able to do so in the future," said Craig Manson, assistant secretary of the Department of Interior for Fish and Wildlife and Parks.

**May 6, 2002, Honolulu Star Bulletin, By Gregg K. Kakesako**

<https://the.honoluluadvertiser.com/article/2002/May/24/In/In13a.html>

**Assistant Secretary of Interior, Craig Manson -**

"The Department of the Interior is fully committed to restoring public access to Midway".

**May 26, 2003, The Washington Times, by Audrey Hudson**

<https://www.washingtontimes.com/news/2002/may/26/20020526-025453-2237r/>

**Rep. John J. Duncan Jr., Tennessee Republican –**

"Having a wildlife refuge or a national memorial that only bureaucrats can visit does not make a whole lot of sense," Mr. Duncan said. "I think the veterans who fought in the Battle of Midway deserve to be treated better by the Fish and Wildlife Service," Mr. Duncan said.

**February 7, 2006, Posting on FWS Web Site Visitor Services Planning Underway -**

"Refuge staff, with assistance from two Honolulu-based FWS staff, set aside a week in early January to embark on Midway Atoll NWR's long-awaited Visitor Services Plan, the next step toward enhancing the visitor program on the atoll."

### **Visitor Program Feasibility Study - 2005 -**

In 2005 the FWS spent more than \$200,000 for a [Feasibility Study](#), to determine if a Visitor Program were feasible at Midway. The study provided proof and offered examples of how a Visitor Program would work via an alternate Cooperative Agreement with a new Cooperative Contractor. The FWS elected to ignore the recommendations of that report and did not select an alternate Cooperator to run a Visitor Program, as stated in 2002.

**FWS Visitor Program Closed - In Their Own Words –**

"Midway's remote location and the high cost of fuel and chartering aircraft make it an expensive place to visit. The Fish and Wildlife Service has investigated several administrative and logistical management options related to administering reservations, cancellations and collection of money, including on-site management of independent travel groups. It has been determined that it would not be possible to advertise, manage reservations and cancellations and respond to travel requests, in addition to developing and investigating a legal mechanism for collection of money, without an additional full-time staff person dedicated to visitor services management. The current budget climate does not allow for this additional staff."

I have been witness to FWS methods for the past 26 years. I've witnessed their actions don't always match their words. As example, they're planning to install an electrical power generator that is much smaller in size as the one they're now using. "If" they were actually planning to once again host an Affordable Visitor Program, they'd be gearing upward, not downsizing.

All private, commercial and otherwise, aircraft are banned from landing on Midway, unless it's an emergency, this includes all military aircraft. Only emergency landings are allowable. Ocean access to Midway is completely unavailable, including access in an emergency. Midway airport is completely closed! Per AirNav.com -> **"APT CLOSED TO ALL TRANSIENT ACFT. APT OPEN FOR ETOPS AND APPROVED ACFT OPNS ONLY"**

I witnessed an aircraft on a military mission, being denied permission to land at Midway; FWS stated it would interfere with their Halloween Party. Recently, a sailboat was denied permission to enter the safe harbor at Midway, even though declaring an emergency; their water-making system was no longer working. The FWS decided it was best to take fresh water out to the sailboat, to keep the boat away from the island.

FWS continues to try and lead the public into believing they want a visitor program. They have claimed their Visitor Program was open on a weekly basis from 2008 until 2012: this claim is not entirely true, confirmed by media articles of that time period. FWS would claim they were open for public visitation but were charging as much as \$7000 per seat for airfare and requiring the visitors to work or pull weeds while on the island. One year, the FWS claimed they were open for visitors when in fact they had only hosted a few hundred visitors from a cruise ship for a few hours.

From May 1, 2002 till 2008, the Visitor Program was mostly closed – 6 years. Since MPC departed from the island the Visitor Program has been closed for about 8 of the 12 years.

### **Island Stewardship –**

Anyone who has viewed recent pictures of the island, the photos speak for themselves. The Report Card for FWS stewardship is there for all to see. <https://youtu.be/r1KGjS89D7k>

Since 2002 when MPC made their exit from the island, the FWS has been responsible for stewardship and contracted with Chugach McKinley to maintain the island. The FWS stated in writing, they would only maintain buildings & structures they can "use", regardless of their historic significance.

Prior to Midway being transferred from the Navy to the FWS, 111 buildings & structures were demolished. Per FWS, these buildings & structures were demolished for the purpose of "right-sizing" to the needs of FWS for the new mission as a Wildlife Refuge with a Visitor Program. Ninety-six buildings & structures were left standing for FWS to use and maintain in support of a Visitor Program.

The FWS continues to demolish buildings that could be used to support an Affordable Visitor Program. In their words, they are still "right-sizing". FWS stated in writing, they have a \$160 million "Maintenance Backlog". We firmly believe that the majority of the "Maintenance Backlog" money is for the demolition of buildings that have been marked as "Abandoned" over the past 12 years. Buildings that were once used to support an Affordable Visitor Program are now being abandoned. Some have referred to this as "**Demolition by Neglect**". First the building is abandoned and then deemed as unsafe, making it eligible for demolition.

### **FWS contract with Chugach: No maintenance plan for the following buildings:**

**The Main Galley** – Abandoned - Scheduled for demolition.

Properly maintained and managed, the Main Galley would support a Visitor Program.

**The Main Hangar** – Abandoned - Scheduled for demolition.

Properly maintained and managed, the Main Hangar to serve as building/office space for support of an active Visitor Program.

**The Historical SAR Hangar** – Abandoned - Scheduled for demolition.

FWS stated that they have no plan to maintain the Historic Sea Plane Hangar and have referred to it as "an abandoned ruin".

**The Historic Station Theater** – No Maintenance Plan

The Station Theater has a hole in the roof. Rather than repair the hole, the FWS has elected to abandon the building. They also removed historical murals from the walls of the Station Theater and sent them to Ford Island for storage, an indicator of their inability or interest to maintain historical structures.

**BOQB Living Quarters** – Abandoned – Scheduled for demolition.

Properly maintained, this building would serve to house Midway visitors.

**BEQB Living Quarters** – Abandoned – Scheduled for demolition.

Properly maintained, this building would serve to house Midway employees, who serve to support an active Visitor Program.

**BEQC – Living Quarters** – Abandoned – Scheduled for demolition.

Properly maintained, this building would serve to house Midway employees, who serve to support an active Visitor Program.

**The All Hands Club** - May soon close its doors for good.

**The Main Fuel Farm** – Abandoned - Scheduled for demolition in 2016.

Properly maintained and managed the Fuel Farm is a main source of revenue off-setting the operational costs of running the island. Two large tanks, each holding 2 million gallons, are scheduled for demolition. These large tanks are being replaced with smaller/portable tanks, with a total capacity of about 450,000 gallons.

FWS has verbally stated that they have no plans to demolish additional structures, such as the Fuel Farm. However, we hold a 122-page document clearly confirming the demolition schedule as being right on time. This includes the Fuel Farm scheduled for demolition in 2016. The Fuel Farm is key to a successful and Affordable Visitor Program. Fuel sales to transient aircraft and ships were the number one profit source, while MPC was on-island. Every dollar that is earned from Fuel Sales becomes one less dollar of burden for the American Taxpayer.

## **Abandoned Airfield -**

The FWS abandoned the airfield at Midway claiming they had no need for an airport at the wildlife refuge. This required the FAA to station 5 full-time employees to the island to manage the airport. At the same time the FWS is the primary entity currently using the airport for scheduled logistical flights. The airport is otherwise only open for Transpacific aircraft that declare an emergency.

### **Costs Of The Airfield On Midway Island**

<https://www.oig.dot.gov/sites/default/files/midway-Final.pdf>

"For the 15 month period of January 2004 through March 2005, there were 136 aircraft landings at Midway airfield, one of which was an emergency landing for a commercial airline. FWS is the primary user of the airport and regularly flies staff, volunteers, and supplies to support its refuge mission activities."

### **March 16, 2002, Article in The Washington Times, by Audrey Hudson**

<https://www.washingtontimes.com/news/2002/mar/16/20020316-041107-4551r/>

### **FWS Spokesperson, Mark Pfeifle -**

"We will implement a transition strategy to preserve the condition of the facilities and ensure the continued conservation of Midway's fish, wildlife and historical resources," said spokesman Mark Pfeifle. The agency is looking for another private company to resume the operations on the island. The Fish and Wildlife Service will use its own funds until another corporate sponsor can be recruited."

## **Demolition by FWS - Historic buildings demolished without input from the general public.**

- 4 of the 5 Historic Cable Station buildings were demolished in 2013
- 2 Historic Marine Barrack buildings were demolished in 2013
- SKI Warehouse was demolished in 2013
- **Demolition Schedule - Removal Action Work Plan -**  
Web Link - 130 Page PDF Document  
[https://www.fws.gov/uploadedFiles/Region\\_1/NWRS/Zone\\_1/Midway\\_Atoll/Documents/AR\\_0062%20Midway%20RAWP%20FINAL.pdf](https://www.fws.gov/uploadedFiles/Region_1/NWRS/Zone_1/Midway_Atoll/Documents/AR_0062%20Midway%20RAWP%20FINAL.pdf)

## **Restoration / Renovating Projects by FWS -**

### **Web Link - Photos of Remodeled Homes –**

To their credit, FWS managed to rally for a \$1.6 Million American Recovery and Reinvestment Act (ARRA) grant, for major remodeling of Officers' Row of housing. Worth noting, these homes are occupied by residents of Midway. As FWS stated, they are only interested in maintaining buildings they can "use", seemingly without regard to historical significance

<https://recovery.doi.gov/press/us-fish-and-wildlife-service/midway-atoll-%20national-wildlife-refuge/>



### **Cable Station Buildings -**

One of five Cable Station buildings was partially restored.

#### **Web Link - of Restored Cable Station Building**

<https://www.midway-island.com/documentation/cable-station-one-restored-building/>

### **Midway Fuel Spill -**

In February of 2003, the FWS was responsible for the largest [fuel spill](#) in recorded history for the entire Hawaiian archipelago. It was reported, between 75,000 and 100,000 gallons of fuel were spilled at Midway costing millions to clean up. When MPC was on-island 5 full-time employees manned the Fuel Farm. After MPC departed from the island the Fuel Farm was manned by one part-time employee.

The former MPC Fuel Farm Manager stated that 5 valves would have to have been left pressurized long-term for the leak to occur where it did.

### **Spending / Taxpayer Costs –**

Over the past 12 years, the FWS has spent millions upon millions of dollars to maintain the island. This money was spent for services they were getting for **FREE** by the previous Cooperator, Midway Phoenix while operating an Affordable Visitor Program.

### **Recommendations –**

More than twelve years ago, the FWS Refuge Manager stated, at our weekly managers meeting, he had a list of alternate Cooperators who were standing-by, ready and eager to take the place of MPC. Where are they, where is even one?

I recommend an immediate stop to the demolition of the fuel tanks and for maintenance and repairs to be immediately done before all hope of a visitor program is stripped away by the FWS through their maintenance neglect. The Fuel Farm is **crucial** piece of an Affordable Visitor Program.

I would also recommend that the FWS be required to maintain abandoned buildings, using a fair portion of their wildlife money toward repair and restoration of abandoned structures. I would recommend they be required to include an equal number of volunteers for historical buildings at Midway as they now have for their favorite wildlife projects. I would also recommend that the IMMF be empowered to monitor volunteer members, so that historic preservation can be accounted for. A watchdog needs to be appointed.

I would also recommend that the airport be reopened to the public. Fuel sales at Midway would reduce the operational cost of the island and offset the cost for an Affordable Visitor Program.

In order for a new Cooperative Agreement to work, it would need to be moderated by any of the following entities; the U.S. Coast Guard, the National Park Service, the U.S. Navy, the FAA, and the International Midway Memorial Foundation. FWS and the new Cooperator could present their disagreements to a panel of third party Mediators, to resolve disputed issues.

I recommend that Midway be reverted to an Overlay Refuge, as it was when the Navy was still on-island, and the FWS only manage the wildlife, nothing else. It's been 26 years since FWS assumed responsibility for the island. If they have not yet figured it out by now, they never will.

Midway Island does not need a name change. The battle was fought as the Battle of Midway Island. Birth certificates do not say Midway Atoll, but Midway Island. Veterans, and all those who cherish Midway know this tiny dot of land as Midway Island, not Midway Atoll. We must honor those who fought and remember the island as "Midway Island".

Midway does not need millions upon millions of government handout money for more of the same. Midway needs limited enterprise to help this historical island be self-sufficient. Midway has natural and historic resources that enable the island to be self-sustaining, via a properly managed and Affordable Visitor Program.

It is clear to the majority that the FWS remains fixated on wildlife-only issues. Today, Midway is seemingly a sinking ship where the distress alarm has NOT been very loud or clear.

## **Notes and Documentation:**

### **Media Quotes -**

#### **April 12, 2009, 2nd Battle of Midway apparently lost -**

<http://www.redstate.com/diary/innocbystr/2009/04/12/2nd-battle-of-midway-apparently-lost/>

In 1999, in recognition of the atoll's historical significance, Congress directed the Secretary of the Interior to develop Midway as a National Memorial and establish a preservation program for its historic military buildings and gun emplacements. This was to include interpretative displays and promotion of tourist visits.

#### **February 4, 2002, Honolulu Star Bulletin, by Mitch Stacy, Associated Press US Coast Guard Statement -**

<https://archives.starbulletin.com/2002/02/04/news/story5.html>

It is a situation that concerns the Coast Guard, which depends on the island as a refueling stop during law enforcement and rescue operations. "If I don't have Midway, that area gets a little bit bigger," said Capt. Steven Newell, the Coast Guard's chief of the expansive North Pacific district.

#### **June 4, 2012, Battle of Midway Memorial Handout Brochure -**

[https://www.papahanaumokuakea.gov/pdf/midway\\_q\\_and\\_a\\_brochure.pdf](https://www.papahanaumokuakea.gov/pdf/midway_q_and_a_brochure.pdf)

## **Other Useful Web Sites –**

### **My Midway Island Web Site -**

<https://www.midway-island.com/>

### **Battle of Midway Ceremony - 2012 Brochure -**

[https://www.papahanaumokuakea.gov/pdf/midway\\_q\\_and\\_a\\_brochure.pdf](https://www.papahanaumokuakea.gov/pdf/midway_q_and_a_brochure.pdf)

### **Midway Island Fee Schedule -**

[https://www.fws.gov/uploadedFiles/Region\\_1/NWRS/Zone\\_1/Midway\\_Atoll/Documents/Midway%20Fee\\_Schedule%20Rev.%205-5-2014.pdf](https://www.fws.gov/uploadedFiles/Region_1/NWRS/Zone_1/Midway_Atoll/Documents/Midway%20Fee_Schedule%20Rev.%205-5-2014.pdf)

### **Before/After Photos of Midway Island -**

<https://www.midway-island.com/bird-photos/before-and-after/>