

**I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN  
RESOLUTIONS**

| Resolution No. | Sponsor                                   | Title   | Date Intro            | Date of Presentation | Date Adopted | Date Referred | Referred to | PUBLIC HEARING DATE  | DATE AUTHOR REPORT FILED | NOTES |
|----------------|---|---|-----------------------|----------------------|--------------|---------------|-------------|----------------------|--------------------------|-------|
| 200-36 (LS)    | Therese M. Terlaje<br>Sabina Flores Perez | Relative to expressing the support of <i>I Mina'Trentai Sais Na Liheslaturan Guåhan</i> for the passage of H.R. 3368, the "Lonnie Kilpatrick Central Pacific Herbicide Relief Act" introduced by the Honorable Michael San Nicolas in the United States House of Representatives on May 20, 2021, which seeks to correct injustice, clarify the eligibility of affected veterans, and expedite the processing of veteran claims of health conditions caused by Agent Orange exposure on Guam. | 10/28/21<br>3:47 p.m. |                      |              | 10/29/21      | Author      | 11/9/21<br>4:00 p.m. | 11/16/21<br>11:32 a.m.   |       |



Office of the Speaker  
**THERESE M. TERLAJE**

*I Mina'trentai Sais na Liheslaturan Guåhan* | 36th Guam Legislature

November 12, 2021

**The Honorable Vice Speaker Tina Rose Muña Barnes**

Chairperson, Committee on Rules

*I Mina'trentai Sais na Liheslaturan Guåhan*

163 Chalan Santo Papa

Hagåtña, Guam 96910

**VIA: The Honorable Clyton E. Ridgell**   
**Acting Chair, Committee on Rules**

**RE: Report on Resolution No. 200-36 (LS)**

*Håfa Adai* Acting Chairperson Ridgell:

Transmitted herewith for consideration by the Body is the Report on Resolution No. 200-36 (LS) – Therese M. Terlaje / Sabina Florez Perez – “Relative to expressing the support of *I Mina'Trentai Sais Na Liheslaturan Guåhan* for the passage of H.R. 3368, the “Lonnie Kilpatrick Central Pacific Herbicide Relief Act” introduced by the Honorable Michael San Nicolas in the United States House of Representatives on May 20, 2021, which seeks to correct injustice, clarify the eligibility of affected veterans, and expedite the processing of veteran claims of health conditions caused by Agent Orange exposure on Guam,” which was publicly heard on **Tuesday, November 9, 2021.**

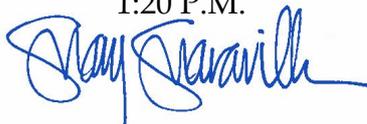
Sincerely,

  
Speaker Therese M. Terlaje

**COMMITTEE ON RULES  
RECEIVED:**

November 12, 2021

1:20 P.M.



Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

Tel: (671) 472-3586 | Fax: (671) 969-3590 | Email: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com) | [www.senatorterlaje.com](http://www.senatorterlaje.com)

*\*For transmittal of official Messages & Communications to the Guam Legislature to be distributed to all Senators,  
please send to: [speaker@guamlegislature.org](mailto:speaker@guamlegislature.org)*



Office of the Speaker  
**THERESE M. TERLAJE**  
*I Mina'trentai Sais na Liheslaturan Guåhan* | 36th Guam Legislature

**AUTHOR'S REPORT**

**RESOLUTION NO. 200-36 (LS)**

“Relative to expressing the support of *I Mina'Trentai Sais Na Liheslaturan Guåhan* for the passage of H.R. 3368, the “Lonnie Kilpatrick Central Pacific Herbicide Relief Act” introduced by the Honorable Michael San Nicolas in the United States House of Representatives on May 20, 2021, which seeks to correct injustice, clarify the eligibility of affected veterans, and expedite the processing of veteran claims of health conditions caused by Agent Orange exposure on Guam.”

**INTRODUCED BY:**

Speaker Therese M. Terlaje / Senator Sabina Florez Perez



Vice Speaker

**TINA ROSE MUÑA BARNES**

**CHAIRPERSON, COMMITTEE ON RULES**

*I Mina'trentai Sais Na Liheslaturan Guåhan*

GUAM CONGRESS BUILDING  
163 CHALAN SANTO PAPA  
HAGÁTÑA, GUAM 96910  
TEL 671-472-2461  
COR@GUAMLEGISLATURE.ORG

October 29, 2021

# MEMO

**To:** **Rennae Meno**  
Clerk of the Legislature

**Attorney Ana Won Pat-Borja**  
Legislative Legal Counsel

**From:** **Senator Amanda L. Shelton**  
Acting Chairperson, Committee on Rules

**Re:** **Referral of Resolution No. 200-36 (LS)**

---

*Håfa adai,*

As per my authority as Acting Chairperson of the Committee on Rules, I am forwarding the referral of **Resolution No. 200-36 (LS)** – Therese M. Terlaje, Sabina Flores Perez – “Relative to expressing the support of *I Mina'trentai Sais Na Liheslaturan Guåhan* for the passage of H.R. 3368, the “Lonnie Kilpatrick Central Pacific Herbicide Relief Act” introduced by the Honorable Michael San Nicolas in the United States House of Representatives on May 20, 2021, which seeks to correct injustice, clarify the eligibility of affected veterans, and expedite the processing of veteran claims of health conditions caused by Agent Orange exposure on Guam.”

Please ensure that the subject resolution is referred to **Speaker Therese M. Terlaje, Author of Resolution No. 200-36 (LS)**.

If you have any questions or concerns, please feel free to contact Mary Maravilla, Committee on Rules Director at 472-2461.

Thank you for your attention to this matter.

Respectfully,

**Senator Amanda L. Shelton**  
Acting Chairperson, Committee on Rules





Speaker Therese M. Terlaje &lt;senatorterlajeguam@gmail.com&gt;

## FIRST NOTICE of Virtual Public Hearing – Tuesday, November 9, 2021 at 4:00 PM

5 messages

**Speaker Therese M. Terlaje** <senatorterlajeguam@gmail.com>

Mon, Nov 1, 2021 at 12:35 PM

To: phnotice@guamlegislature.org

Cc: Audio / Video &lt;av@guamlegislature.org&gt;, Tom Unsiog &lt;sgtarms@guamlegislature.org&gt;, Guam MIS &lt;mis@guamlegislature.org&gt;, Ibarra Hernandez &lt;ihernandez@guamlegislature.org&gt;

Bcc: Office of Senator Shelton Guam Legislature <officeofsenatorshelton@guamlegislature.org>, Senator Sabina Perez <office@senatorperez.org>, Office of Senator Moylan Guam Legislature <officeofsenatormoylan@guamlegislature.org>, "Honorable Frank F. Blas Jr." <office@senatorfrankblas.com>, mindy@postguam.com, The Post Editor in Chief <editor@postguam.com>, Oyaol Ngirairikl <managingeditor@postguam.com>, haidee@postguam.com, John Oconnor <john@postguam.com>, reporters@postguam.com, rlimtiaco@guampdn.com, Rindraty Limtiaco <slimtiaco@guampdn.com>, Guam PDN <news@guampdn.com>, Jerick Sablan <jpsablan@guampdn.com>, life@guampdn.com, dmgeorge@guampdn.com, Mar-Vic Cagurangan <publisher@pacificislandtimes.com>, Pacific Island Times <pacificislandtimes@gmail.com>, Maureen Maratita <publisher@glimpsesofguam.com>, bryan@mvariety.com, emmanuel@mvariety.com, mabuhaynews@yahoo.com, editor@saipantribune.com, Bruce Hill <pacificjournalist@gmail.com>, Jason Salas <jason@kuam.com>, Sabrina Salas Matanane <sabrina@kuam.com>, Chris Malafunkshun Barnett <Chris@kuam.com>, Nestor Licanto <nestor@kuam.com>, reporters@kuam.com, K57 <news@k57.com>, Patti Rodriguez <parroyo@spbguam.com>, pattiontheradio@yahoo.com, Sorensen Pacific Broadcasting <news@spbguam.com>, raygibsonshow@gmail.com, manasilva626@yahoo.com, KISH <kstokish@gmail.com>, Manuel Cruz <cruzma812@gmail.com>, Troy Torres <troy@kanditnews.com>, Maria Louella Losinio <louella.losinio@gmail.com>, "Mayors' Council of Guam - Admin." <mcogadmin@teleguam.net>, "Mayor Paul M. McDonald" <mayor.mcdonald671@gmail.com>, agatmayor@yahoo.com, agatvice.chrisfejeran@yahoo.com, "Mayor Frankie A. Salas" <asanmainamayor@gmail.com>, June Blas <mayorbarrigada@gmail.com>, Jessie Bautista <jessie.bautista007@gmail.com>, Jessy Gogue <ocp.mayor@gmail.com>, MELISSA SAVARES <melissa.savares@gmail.com>, "Vice Mayor Peter John S. Benavente" <onedededo@gmail.com>, hagatnamayor@hotmail.com, Mayor Anthony Chargualaf <inalahanmayor@gmail.com>, Allan Ungacta <mayorallan.ungacta@yahoo.com>, Vice Mayor Kevin AN Delgado <mangilao.vicemayor@gmail.com>, mayorernestc@yahoo.com, mtmmayorpaco17@gmail.com, Jesse Alig <jesse.alig@pitiguam.com>, Dale Alvarez <daleealvarez@gmail.com>, Robert Hofmann <guammayor@gmail.com>, rudy iriarte <rudyiriarte@gmail.com>, Mayor Taitague <talofofomayor@gmail.com>, "Mayor Louise C. Rivera" <Mayorlcrivera.tatuha@gmail.com>, "Vice Mayor Albert M. Toves" <atoves.tatuha@gmail.com>, Umatac Mayor <umatacmo@gmail.com>, "Mayor Anthony P. Sanchez" <yamayortony@gmail.com>, "Vice Mayor Loreto V. Leones" <lloretoleones@gmail.com>, "Mayor Bill A. Quenga" <yonamayor2020@gmail.com>, jolene@postguam.com, Phil Leon Guerrero <phil@postguam.com>, Gerry Partido <gerrypartido@gmail.com>, gerry@spbguam.com, Damen Borja <damen@spbguam.com>, tlamorena@gmail.com, jsantotoma@guampdn.com, "Taitano, Joseph" <JTaitano@guampdn.com>, Walter Leon Guerrero <walter.leonguerrero@epa.guam.gov>, Michelle Lastimoza <michelle.lastimoza@epa.guam.gov>, mgolabi@triton.uog.edu, "San Nicolas, Michael" <michael.sannicolas@mail.house.gov>, Brian Moyer <[REDACTED]@yahoo.com>, "Winn, Jennifer" <Jennifer.Winn@mail.house.gov>

November 1, 2021

### MEMORANDUM

To: All Senators, Stakeholders and Media

From: Speaker Therese M. Terlaje, Resolution Prime Sponsor

Subject: **FIRST NOTICE of Virtual Public Hearing – Tuesday, November 9, 2021 at 4:00 PM**

*Buenas yan Håfa Adai,*

Please be advised that Speaker Therese M. Terlaje will convene a virtual public hearing, using the Legislature’s virtual Zoom platform on **Tuesday, November 9, 2021 at 4:00 PM** for the following agenda item:

- **Resolution No. 199-36 (LS)** - *Therese M. Terlaje / Sabina Flores Perez / Jose “Pedo” Terlaje / Tina Rose Muña Barnes / Clynton E. Ridgell / Telen Cruz Nelson / Amanda L. Shelton / Joe S. San Agustin / Joanne Brown / Telo T. Taitague / Mary Camacho Torres / V. Anthony Ada / Frank Blas, Jr. / Christopher M. Dueñas / James C. Moylan*- Relative to expressing the support of *I Mina'trentai Sais na Liheslaturan Guåhan* (the 36th Guam Legislature) for H.R. 3967, the ‘Honoring our Promise to Address Comprehensive Toxics Act of 2021’ because it recognizes Guam’s Agent Orange exposure, and advocating for the expansion of the toxic exposure definition of ‘covered veteran’ under Title III to include ‘a veteran who on or after October 30, 1980, performed active military, naval, or air service while assigned to a duty station in Guam’ because of the U.S. military’s open-air burn pit activity in the island.
- **Resolution No. 200-36 (LS)** - *Therese M. Terlaje / Sabina Flores Perez*- Relative to expressing the support of *I Mina'Trentai Sais Na Liheslaturan Guåhan* for the passage of H.R. 3368, the “Lonnie Kilpatrick Central Pacific Herbicide Relief Act” introduced by the Honorable Michael San Nicolas in the United States House of Representatives on May 20, 2021, which seeks to correct injustice, clarify the eligibility of affected veterans, and expedite the processing of veteran claims of health conditions caused by Agent Orange exposure on Guam.

Email [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com) or call 472-3586 by **MONDAY, NOVEMBER 8, 2021,** to register to provide virtual testimony on the agenda items. Written testimony can also be submitted via email or to the Guam Congress Bldg; 163 Chalan Santo Papa, Hagåtña, Guam.

All public hearings broadcast on GTA TV Channel 21, Docomo Channel 117/112.4, and the Guam Legislature YouTube. In compliance with the Americans with Disabilities Act, Individuals needing assistance or accommodations can contact the Office of Speaker Therese M. Terlaje.

## **Office of Speaker Therese M. Terlaje**

**Committee on Health, Land, Justice and Culture**

*I Mina'trentai Sais na Liheslaturan Guåhan*

36th Guam Legislature

Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910



Office of the Speaker  
**THERESE M. TERLAJE**

*I Mina'trentai Sais na Liheslaturan Guåhan* 36th Guam Legislature  
Committee on Health, Land, Justice and Culture

November 1, 2021

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- [Resolution No. 199 36 \(LS\)](#) *Therese M. Terlaje / Sabina Flores Perez / Jose "Pedo" Terlaje / Tina Rose Muña Barnes / Clynton E. Ridgell / Telen Cruz Nelson / Amanda L. Shelton / Joe S. San Agustin / Joanne Brown / Telo T. Taitague / Mary Camacho Torres / V. Anthony Ada / Frank Blas, Jr. / Christopher M. Dueñas / James C. Moylan* Relative to expressing the support of *I Mina'trentai Sais na Liheslaturan Guåhan* (the 36th Guam Legislature) for H.R. 3967, the 'Honoring our Promise to Address Comprehensive Toxics Act of 2021' because it recognizes Guam's Agent Orange exposure, and advocating for the expansion of the toxic exposure definition of 'covered veteran' under Title III to include 'a veteran who on or after October 30, 1980, performed active military, naval, or air service while assigned to a duty station in Guam' because of the U.S. military's open air burn pit activity in the island.
- [Resolution No. 200 36 \(LS\)](#) *Therese M. Terlaje / Sabina Flores Perez* Relative to expressing the support of *I Mina'Trentai Sais Na Liheslaturan Guåhan* for the passage of H.R. 3368, the "Lonnie Kilpatrick Central Pacific Herbicide Relief Act" introduced by the Honorable Michael San Nicolas in the United States House of Representatives on May 20, 2021, which seeks to correct injustice, clarify the eligibility of affected veterans, and expedite the processing of veteran claims of health conditions caused by Agent Orange exposure on Guam.

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Tel: (671) 472-3586 | Fax: (671) 969-3590 | Email: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com) | [www.senatorterlaje.com](http://www.senatorterlaje.com)

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GUAM DAILY POST • MONDAY, NOVEMBER 1, 2021

|  |                                   |  |             |              |                 |             |                |              |  |
|--|-----------------------------------|--|-------------|--------------|-----------------|-------------|----------------|--------------|--|
|  | <b>CURRENCY EXCHANGE RATES</b>    | Keep posted and get more data and details online. Log on to see real time market data with our stock market tool at <a href="http://postguam.com/stock_market">postguam.com/stock_market</a> . |             |              |                 |             |                |              |  |
|  | <b>On Oct. 29, \$1 was worth:</b> | 50.424 PHPP  | 113.95 JPY¥ | 1,168.40 KR₩ | 27.798 TWD NT\$ | 6.4056 CNY¥ | 1.3301 AUD A\$ | 0.8650 EUR € |  |

# 4 of Guam's established names in real estate launch Hafa Adai Realty

There hasn't been a slowdown in the business of selling and buying real estate on Guam, even during the COVID-19 pandemic, and four of Guam's familiar and experienced professionals in the industry have formed their own brokerage.

Three women and a man - all born and raised on Guam - make up the team behind the newly formed Hafa Adai Realty, which is based in Tamuning. Each has extensive experience in their trade, the group announced in a press release.

And collectively, they decided now is the time to establish Hafa Adai Realty with the goal of providing even more localized services to buyers and sellers.

"Although there was a pandemic going on, we felt it was time to leave our previous brokerage. We wanted to start a brokerage that brought a more localized, island vibe feel. All partners were born and raised on Guam. Our No. 1 goal is to make sure our clients are satisfied with the



**Jodee C. Duenas**



**Saran Sachdev**



**Lolita Camit**



**Elizabeth "Libby" Pier**

service that we provide," the group stated in the release.

The low interest rates - hovering at or lower than 3% - have offered homebuyers a great opportunity to buy, the group stated.

Here's the background of the Hafa Adai Realty team:

**Jodee C. Duenas, principal broker**  
Duenas brings 25 years of experience in local real estate. She started working at an early age for her parents' businesses. About 85% of her clients were a result of referrals, which is a testament to her expertise and knowledge in Guam's market that has led to client satisfaction and

exceeded expectations, according to the agency.

**Saran Sachdev, associate broker**  
Leading the new agency as the youngest and only male partner, Sachdev brings his 12 years of real estate experience and networking to Hafa Adai Realty. He has maintained a 90%-95% referral rate and won Pika's Best Realtor in 2017 and 2019, according to the agency.

**Lolita Camit, associate broker**  
Lolita Camit had a four-decade academic career. Her leadership skills in education management helped her segue into the real estate industry in which she has earned the

The low interest rates - hovering at or lower than 3% - have offered homebuyers a great opportunity to buy.

"Rookie of the Year" award, numerous executive club awards, and the 100% club award in just eight short years, the agency stated.

**Elizabeth "Libby" Johnston Pier, associate broker**

Pier had a career in retail management for 25 years that included owning Nuts and Grains health food store. In 2004, she went into real estate, an industry in which she earned numerous awards. About 90% of her business comes from referrals, confirming that she cares about her clients and their goals, according to the agency.

(Daily Post Staff)



**JUDICIARY OF GUAM**  
Guam Judicial Center  
120 West O'Brien Drive, Hagåtña, Guam 96910  
[www.guamcourts.org](http://www.guamcourts.org)

**INVITATION FOR BID  
NO. IFB 22-01**

**8TH COURTROOM INTERIOR RENOVATIONS**

The Judiciary of Guam is accepting bids from qualified vendors for the Interior Renovations of the 8th Courtroom for Judiciary of Guam.

Interested and qualified vendors may request for printed or electronic copies of the IFB package from the Procurement Office, 1st Floor, Guam Judicial Center in Hagåtña, Guam beginning **Friday, October 15, 2021 from 8:00am to 5:00pm, Guam Standard Time, Monday to Friday**, except Government of Guam holidays.

All bids must be submitted to the Procurement Office **no later than 11:00am, Monday, November 15, 2021, Guam Standard Time**. All bids will be publicly opened and read aloud on that said date and time at the Administrator of the Courts Conference Room, 1st Floor, Guam Judicial Center in Hagåtña, Guam.

For any periodic updates of the IFB please visit the Judiciary's website <http://guamcourts.org>. For further information or to request for copies of the IFB package, please contact the Procurement Office at 671-475-3175/3393/3141/3290 or email [mantonio@guamcourts.org](mailto:mantonio@guamcourts.org) and/or [jprepeda@guamcourts.org](mailto:jprepeda@guamcourts.org).

/s/ **KRISTINA L. BAIRD**  
Administrator of the Courts.

The Judiciary of Guam is an equal opportunity provider and employer.

**Speaker**  **Senator**

**Therese M. Terlaje** **Sabina Flores Perez**

**NOTICE OF JOINT VIRTUAL PUBLIC HEARING**  
TUESDAY, NOVEMBER 9, 2021 at 4:00 PM

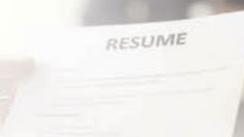
- Resolution No. 199-36 (LS)** - Therese M. Terlaje / Sabina Flores Perez / Jose "Pedro" Terlaje / Tina Rose Muña Barnes / Clynton E. Ridgell / Telena Cruz Nelson / Amanda L. Shelton / Joe S. San Agustin / Joanne Brown / Telo T. Taitague / Mary Camacho Torres / V. Anthony Ada / Frank Blas, Jr. / Christopher M. Dueñas / James C. Moylan- Relative to expressing the support of I Mina'Trentai Sais na Liheslaturan Guåhan (the 36th Guam Legislature) for H.R. 3967, the "Honoring our Promise to Address Comprehensive Toxics Act of 2021" because it recognizes Guam's Agent Orange exposure, and advocating for the expansion of the toxic exposure definition of 'covered veteran' under Title III to include 'a veteran who on or after October 30, 1980, performed active military, naval, or air service while assigned to a duty station in Guam' because of the U.S. military's open-air burn pit activity in the island.
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Speaker Therese M. Terlaje &lt;senatorterlajeguam@gmail.com&gt;

## SECOND NOTICE of Virtual Public Hearing – Tuesday, November 9, 2021 at 4:00 PM

5 messages

**Speaker Therese M. Terlaje** <senatorterlajeguam@gmail.com>

Fri, Nov 5, 2021 at 1:53 PM

To: phnotice@guamlegislature.org

Cc: Audio / Video &lt;av@guamlegislature.org&gt;, Tom Unsiog &lt;sgtarms@guamlegislature.org&gt;, Guam MIS &lt;mis@guamlegislature.org&gt;

Bcc: Office of Senator Shelton Guam Legislature <officeofsenatorshelton@guamlegislature.org>, Senator Sabina Perez <office@senatorperez.org>, Office of Senator Moylan Guam Legislature <officeofsenatormoylan@guamlegislature.org>, "Honorable Frank F. Blas Jr." <office@senatorfrankblas.com>, mindy@postguam.com, The Post Editor in Chief <editor@postguam.com>, Oyaol Ngirairiki <managingeditor@postguam.com>, haidee@postguam.com, John Oconnor <john@postguam.com>, reporters@postguam.com, rlimtiaco@guampdn.com, Rindraty Limtiaco <slimtiaco@guampdn.com>, Guam PDN <news@guampdn.com>, Jerick Sablan <jpsablan@guampdn.com>, life@guampdn.com, dmgeorge@guampdn.com, Mar-Vic Cagurangan <publisher@pacificislandtimes.com>, Pacific Island Times <pacificislandtimes@gmail.com>, Maureen Maratita <publisher@glimpsesofguam.com>, bryan@mvariety.com, emmanuel@mvariety.com, mabuhaynews@yahoo.com, editor@saipantribune.com, Bruce Hill <pacificjournalist@gmail.com>, Jason Salas <jason@kuam.com>, Sabrina Salas Matanane <sabrina@kuam.com>, Chris Malafunkshun Barnett <Chris@kuam.com>, Nestor Licanto <nestor@kuam.com>, reporters@kuam.com, K57 <news@k57.com>, Patti Rodriguez <parroyo@spbgum.com>, pattiontheradio@yahoo.com, Sorensen Pacific Broadcasting <news@spbgum.com>, raygibsonshow@gmail.com, manasilva626@yahoo.com, KISH <kstokish@gmail.com>, Manuel Cruz <cruzma812@gmail.com>, Troy Torres <troy@kanditnews.com>, Maria Louella Losinio <louella.losinio@gmail.com>, "Mayors' Council of Guam - Admin." <mcogadmin@teleguam.net>, "Mayor Paul M. McDonald" <mayor.mcdonald671@gmail.com>, agatmayor@yahoo.com, agatvice.chrisfejeran@yahoo.com, "Mayor Frankie A. Salas" <asanmainamayor@gmail.com>, June Blas <mayorbarrigada@gmail.com>, Jessie Bautista <jessie.bautista007@gmail.com>, Jessy Gogue <ocp.mayor@gmail.com>, MELISSA SAVARES <melissa.savares@gmail.com>, "Vice Mayor Peter John S. Benavente" <onedededo@gmail.com>, hagatnamayor@hotmail.com, Mayor Anthony Chargualaf <inalahanmayor@gmail.com>, Allan Ungacta <mayorallan.ungacta@yahoo.com>, Vice Mayor Kevin AN Delgado <mangilao.vicemayor@gmail.com>, mayorerneestc@yahoo.com, mtmmayorpaco17@gmail.com, Jesse Alig <jesse.alig@pitiguam.com>, Dale Alvarez <daleealvarez@gmail.com>, Robert Hofmann <guammayor@gmail.com>, rudy iriarte <rudyiriarte@gmail.com>, Mayor Taitague <talofofomayor@gmail.com>, "Mayor Louise C. Rivera" <Mayorlcrivera.tatuha@gmail.com>, "Vice Mayor Albert M. Toves" <atoves.tatuha@gmail.com>, Umatac Mayor <umatacmo@gmail.com>, "Mayor Anthony P. Sanchez" <yamayortony@gmail.com>, "Vice Mayor Loreto V. Leones" <lloretoleones@gmail.com>, "Mayor Bill A. Quenga" <yonamayor2020@gmail.com>, jolene@postguam.com, Phil Leon Guerrero <phil@postguam.com>, Gerry Partido <gerrypartido@gmail.com>, gerry@spbgum.com, Damen Borja <damen@spbgum.com>, tlamorena@gmail.com, jsantotoma@guampdn.com, "Taitano, Joseph" <JTaitano@guampdn.com>, Walter Leon Guerrero <walter.leonguerrero@epa.guam.gov>, Michelle Lastimoza <michelle.lastimoza@epa.guam.gov>, mgolabi@triton.uog.edu, "San Nicolas, Michael" <michael.sannicolas@mail.house.gov>, Brian Moyer <brian.moyer@yale.edu>, "Winn, Jennifer" <Jennifer.Winn@mail.house.gov>, "Campbell, James" <james.campbell@yale.edu>, John Wells <john.wells@mvadvocacy.org>, Sue Cruz <sue.cruz@hotmail.com>, Allen VanAken <allen.vanaken@teleguam.net>, Brian Merenda <brian.merenda@yahoo.com>, Chuck Tanner <chuck.tanner@gmail.com>, Daniel Mendiola <daniel.mendiola@gmail.com>, David Aguon <david.aguon@yahoo.com>, David Ehlers <ehlersd58@gmail.com>, Henry Manglona <henry.manglona@hotmail.com>, John Blas <john.blas@westcare.com>, Shawn Watson <shawn.c.watson@gmail.com>, Stan Ko <Stanstw@hotmail.com>, Thomas Devlin <thomas.devlin@ite.net>, Norma Castillon <normacastillon12@gmail.com>, Chris Gelardi <cgelardi@protonmail.com>, Sam DeLoach <sam.deloach57@gmail.com>, "Francine (Sissy) Bamba" <francine.bamba@dol.guam.gov>, Stephen Stettenbenz <stephen.stettenbenz@dol.guam.gov>, Speaker Terlaje <senatorterlajeguam@gmail.com>, Albert Parke <albert.parke@hotmail.com>, Andrea Cruz <ac.vetcorps.guam@gmail.com>, Anthony Tajeron <guam.magas@gmail.com>, "Antonio (Tony) Quenga" <antonio.quenga@yahoo.com>, "Bernadette Santos RN, BSN"

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November 5, 2021

## MEMORANDUM

To: All Senators, Stakeholders and Media

From: Speaker Therese M. Terlaje, Resolution Prime Sponsor

Subject: **SECOND NOTICE of Virtual Public Hearing – Tuesday, November 9, 2021 at 4:00 PM**

*Buenas yan Håfa Adai,*

Please be advised that Speaker Therese M. Terlaje will convene a virtual public hearing, using the Legislature's virtual Zoom platform on **Tuesday, November 9, 2021 at 4:00 PM** for the following agenda item:

- [Resolution No. 199-36 \(LS\)](#) - Therese M. Terlaje / Sabina Flores Perez / Jose "Pedo" Terlaje / Tina Rose Muña Barnes / Clynton E. Ridgell / Telen Cruz Nelson / Amanda L. Shelton / Joe S. San Agustin / Joanne Brown / Telo T. Taitague / Mary Camacho Torres / V. Anthony Ada / Frank Blas, Jr. / Christopher M. Dueñas / James C. Moylan- Relative to expressing the support of *I Mina'trentai Sais na Liheslaturan Guåhan* (the 36th Guam Legislature) for H.R. 3967, the 'Honoring our Promise to Address Comprehensive Toxics Act of 2021' because it recognizes Guam's Agent Orange exposure, and advocating for the expansion of the toxic exposure definition of 'covered veteran' under Title III to include 'a veteran who on or after October 30, 1980, performed active military, naval, or air service while assigned to a duty station in Guam' because of the U.S. military's open-air burn pit activity in the island.

- [Resolution No. 200-36 \(LS\)](#) - *Therese M. Terlaje / Sabina Flores Perez*- Relative to expressing the support of *I Mina'trentai Sais Na Liheslaturan Guåhan* for the passage of H.R. 3368, the "Lonnie Kilpatrick Central Pacific Herbicide Relief Act" introduced by the Honorable Michael San Nicolas in the United States House of Representatives on May 20, 2021, which seeks to correct injustice, clarify the eligibility of affected veterans, and expedite the processing of veteran claims of health conditions caused by Agent Orange exposure on Guam.

Email [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com) or call 472-3586 by **MONDAY, NOVEMBER 8, 2021**, to register to provide virtual testimony on the agenda items. Written testimony can also be submitted via email or to the Guam Congress Bldg; 163 Chalan Santo Papa, Hagåtña, Guam.

All public hearings broadcast on GTA TV Channel 21, Docomo Channel 117/112.4, and the Guam Legislature YouTube. In compliance with the Americans with Disabilities Act, Individuals needing assistance or accommodations can contact the Office of Speaker Therese M. Terlaje.

## Office of Speaker Therese M. Terlaje

### Committee on Health, Land, Justice and Culture

*I Mina'trentai Sais na Liheslaturan Guåhan*

36th Guam Legislature

Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

T: (671) 472-3586 F: (671) 989-3590 Email: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com)

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### 3 attachments



**SECOND NOTICE OF VIRTUAL PUBLIC HEARING- MONDAY, NOV. 9, 2021\_TMT.pdf**

401K



**Res. No. 199-36 (LS)-3.pdf**

1003K



**Res. No. 200-36 (LS)-2.pdf**

1017K

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Bill Cundiff <cundiffb175@gmail.com>

Fri, Nov 5, 2021 at 2:06 PM

To: "Speaker Therese M. Terlaje" <senatorterlajeguam@gmail.com>



Office of the Speaker  
**THERESE M. TERLAJE**

*I Mina'trentai Sais na Liheslaturan Guåhan* 36th Guam Legislature  
Committee on Health, Land, Justice and Culture

November 5, 2021

**MEMORANDUM**

To: All Senators, Stakeholders and Media

From: Speaker Therese M. Terlaje, <sup>TMT</sup> Resolution Prime Sponsor

Subject: **SECOND NOTICE of Virtual Public Hearing Tuesday, November 9, 2021 at 4:00 PM**

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*\*For transmittal of official Messages & Communications to the Guam Legislature to be distributed to all Senators, please send to: [speaker@guamlegislature.org](mailto:speaker@guamlegislature.org)*

Email [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com) or call 472-3586 by **MONDAY, NOVEMBER 8, 2021**, to register to provide virtual testimony on the agenda items. Written testimony can also be submitted via email or to the Guam Congress Bldg; 163 Chalan Santo Papa, Hagåtña, Guam.

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# World losing trees 'at an untenable rate'

By Tik Root and Harry Stevens  
The Washington Post

On Tuesday, more than 100 countries signed on to an ambitious plan to halt deforestation by 2030 and pledged billions of dollars to the effort. Although world leaders lauded the move, climate activists say they've heard that promise before and that past efforts have come up short - the world is still losing massive numbers of trees each year.

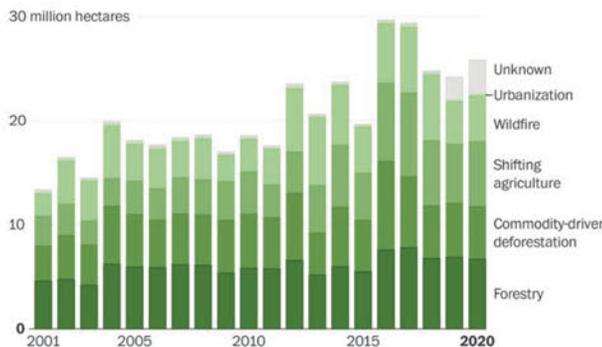
"Despite ambitious political commitments to end deforestation over the past decade, we are still losing tropical primary forests at an untenable rate," said Crystal Davis, the director of the Global Forest Watch monitoring initiative. "We are running out of time to solve this problem."

According to Global Forest Watch, the world lost 411 million hectares of forest between 2001 and 2020. That's roughly half the size of the United States and equivalent to 10% of global tree cover. In 2020, the world lost a near-record 25.8 million hectares - almost double the amount in 2001.

Trees play a critical role in absorbing carbon dioxide as they grow, thereby slowing global warming. There are a number of ways trees can disappear - from logging and wildfires to being cleared to make way for crops or livestock. But when they are cut, and are either burned or decay, they release the carbon into the atmosphere. According to the U.N. Intergovernmental Panel on Climate Change, about 23% of global greenhouse gas emissions come from agriculture,

## Global annual tree-cover loss by primary cause, 2001-2020

Over the past two decades, forestry has been the primary driver of tree-cover loss, followed by commodity-driven deforestation — the permanent conversion of forest for the expansion of commodities like beef, minerals, oil and gas.



Source: Global Forest Watch HARRY STEVENS/THE WASHINGTON POST

forestry and other land uses.

"Avoiding deforestation is the best near-term thing we could ever try to do," said Gretchen Daily, a professor at Stanford University and the co-founder of the Natural Capital Project. "That will keep more carbon out of the atmosphere and help us drive the broader transformation we need."

There have been global endeavors to combat deforestation in the past. In 2014, for instance, more than 200 governments, companies and civil society organizations signed the New York Declaration of Forests, which called for halving the rate of deforestation by 2020 and halting it by 2030. But, Davis said, the world fell far short

- "we blew through the 2020 targets that we set."

"It's a mixture of lack of enforcement, lack of political will and the private sector not stepping up," said Nathalie Walker, the director of tropical forest and agriculture at the National Wildlife Federation. "There has not been enough follow-through."

### Eyes on the Amazon

The Amazon is the world's largest rainforest and arguably the most closely watched harbinger of deforestation. The rainforest is 17% deforested, and losses are especially pronounced in Brazil, which lost some 1.7 million hectares of rainforest in 2020 alone.

"If you're looking at the area cleared,

Brazil is usually the worst," Walker said. And of that, "cattle is the single biggest driver" of loss.

Walker notes that starting in the mid-2000s, the country saw about a decade of positive momentum on the issue. "There was a suite of public and private measures that was aiming to encourage production away from the forest frontier," she said. But in recent years, that has been reversed.

New research shows that last year, despite an economic recession, Brazil reported a 9% jump in its greenhouse gas emissions. "The principal factor," the authors wrote, "was deforestation."

South America, however, is far from the only region experiencing deforestation. Of the 10 countries that have lost the most tree cover since 2001, only two of them - Brazil and Paraguay - are Amazonian.

One of the places where Walker says trees are most at risk right now is the Democratic Republic of Congo. The country has a large amount of remaining forest but high deforestation rates due to practices such as agricultural clearing, fuelwood harvesting and logging. "The Congo is under threat," she said.

Russia is another area of concern. About half the country is covered in forests, and it has topped Global Forest Watch's list of tree-cover loss since 2001 - with some 69.5 million hectares gone. "A lot of that tends to be for timber," Walker said. While much of that may be managed timber practices, at least a portion of the logging is probably illegal, she said. And with such a large area "it's difficult to police effectively."

*Speaker*

**Therese M. Terlaje**



*Senator*

**Sabina Flores Perez**

**NOTICE OF JOINT VIRTUAL PUBLIC HEARING**  
TUESDAY, NOVEMBER 9, 2021 at 4:00 PM

- **Resolution No. 199-36 (LS)** - *Therese M. Terlaje / Sabina Flores Perez / Jose "Pedo" Terlaje / Tina Rose Muña Barnes / Clynton E. Ridgell / Telena Cruz Nelson / Amanda L. Shelton / Joe S. San Agustin / Joanne Brown / Telo T. Taitague / Mary Camacho Torres / V. Anthony Ada / Frank Blas, Jr. / Christopher M. Dueñas / James C. Moylan* - **Relative to expressing the support of I Mina' Trentai Sais na Liheslaturan Guåhan (the 36th Guam Legislature) for H.R. 3967, the "Honoring our Promise to Address Comprehensive Toxics Act of 2021" because it recognizes Guam's Agent Orange exposure, and advocating for the expansion of the toxic exposure definition of 'covered veteran' under Title III to include 'a veteran who on or after October 30, 1980, performed active military, naval, or air service while assigned to a duty station in Guam' because of the U.S. military's open-air burn pit activity in the island.**
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Email [senatorterlaje@guam.gov](mailto:senatorterlaje@guam.gov) or call 472-3586 by **NOVEMBER 8, 2021** to register to provide virtual testimony on the agenda items. Written testimony can also be submitted via email or to the Guam Congress Bldg; 163 Chalan Sant o Papa, Hagåtña, Guam. All hearings broadcast on GTA TV Channel 21, Docomo Channel 117/112.4, and the Guam Legislature YouTube. In compliance with the Americans with Disabilities Act, Individuals needing assistance or accommodations can contact the Office of Speaker Therese M. Terlaje. This Ad was paid with Legislature Funds.



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**It Makes All the Difference**  
by Pastor John Fredericksen

We once had a friend named Richard, a handyman who fixed small motors and engines. He had a faithful dog that kept him company everyday in his shop. This dog excitedly jumped to greet Richard, and then followed him around like a shadow, giving him affection, and acting like she thought he was the best man in the world. One day while observing all this, I complimented the dog. Richard smiled and said, "You know, she's the same every day and after all these years, she's never complained once."

It's a shame more people don't have the same kind of disposition that Richard's dog had: a good attitude. But it is possible. Remember God's prophet Daniel? When Nebuchadnezzar conquered Jerusalem, Daniel, along with others, was taken captive to Babylon. In this process, he was forcibly stripped of his freedom, homeland, name, and ultimately his manhood (Daniel 1). He was placed in the charge of "the prince of the eunuchs" (1:7), which meant he was castrated to make him a safer subject in proximity to the king and his realm. Daniel could have responded to all these brutal events with anger and resentment, but he didn't. The queen described Daniel as one who had "an excellent spirit" (5:12). It was because of this quality that Daniel had been elevated to "master" of the king's magicians and astrologers. As the king observed Daniel, he elevated him further for his good attitude. Daniel 6:3 states, "Then this Daniel was preferred above the presidents and princes, because an excellent spirit was in him; and the king thought to set him over the whole realm."

A famous preacher once commented that he believed attitude was more important than facts, education, money, circumstances, failure, or skill, that it will make you or break you. \* Proverbs 17:27 says it this way: "He that hath knowledge spareth his words: and a man of understanding is of an excellent spirit." Like Daniel, each of us can make a conscious choice to have a good spirit, or attitude, no matter what our circumstances. We can choose not to complain, be bitter, resentful, or negative. We can choose to exalt our Savior with not just a good attitude but with "an excellent spirit." Is this going to describe you today?



Speaker Therese M. Terlaje &lt;senatorterlajeguam@gmail.com&gt;

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**Invitation to Virtual Public Hearing on Resolutions 199-36 (LS) & 200-36 (LS)**

2 messages

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**Speaker Therese M. Terlaje** <senatorterlajeguam@gmail.com>

Fri, Nov 5, 2021 at 9:33 AM

To: Sue Cruz [REDACTED].com&gt;

November 5, 2021

**Transmitted via Electronic Mail:**Susan Olivares Uncangco  
[REDACTED]**Subject:** Invitation to Virtual Public Hearing – Tuesday, November 9, 2021, at 4:00 PM*Buenas yan Håfa Adai Ms. Uncangco:*

I will convene a virtual public hearing, using the Legislature’s virtual Zoom platform on **Tuesday, November 9, 2021, at 4:00 PM** for the following agenda items, and cordially invite you to attend to provide testimony. Your feedback would be most appreciated!

**Agenda:**

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Office of the Speaker  
**THERESE M. TERLAJE**

*I Mina'trentai Sais na Liheslaturan Guåhan* 36th Guam Legislature  
Committee on Health, Land, Justice and Culture

November 5, 2021

**Transmitted via Electronic Mail:**

Susan Olivares Uncangco  
[REDACTED]

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*\*For transmittal of official Messages & Communications to the Guam Legislature to be distributed to all Senators, please send to: [speaker@guamlegislature.org](mailto:speaker@guamlegislature.org)*

TO: Susan Olivares Uncangco

RE: Invitation to Virtual Public Hearing- Tuesday, November 9, 2021 at 4:00 PM

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May 20, 2021, which seeks to correct injustice, clarify the eligibility of affected veterans, and expedite the processing of veteran claims of health conditions caused by Agent Orange exposure on Guam.

You can contact my office at (671) 472-3586 or email [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com) to confirm your attendance. Upon confirmation, the Zoom hearing link will be sent to you via email. If you are not able to attend, do note that you are able to submit written testimony to my office via email.

I look forward to hearing from you! Please contact my office with any questions you may have. Copies of the resolutions are included with this letter for your reference.

*Si Yu'os Ma'åse',*

  
Therese M. Terlaje

Attachments: Copy of Resolution No. 199-36 (LS) and Resolution No. 200-36 (LS)



Speaker Therese M. Terlaje &lt;senatorterlajeguam@gmail.com&gt;

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**Invitation to Public Hearing on Resolutions 199 and 200 from Speaker Terlaje**

2 messages

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**Speaker Therese M. Terlaje** <senatorterlajeguam@gmail.com>  
To: "San Nicolas, Michael" <Michael.sannicolas@mail.house.gov>

Fri, Nov 5, 2021 at 11:32 AM

Buenas Congressman San Nicolas,

Please see the attached letter from Speaker Therese Terlaje inviting you to attend the November 4 Virtual Public Hearing for Resolutions 199 and 200.

Thank you,  
Lincoln Budasi  
Policy Analyst**Office of Speaker Therese M. Terlaje**  
Committee on Health, Land, Justice and Culture*I Mina'trentai Sais na Liheslaturan Guåhan*

36th Guam Legislature

Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

T: (671) 472-3586 F: (671) 989-3590 Email: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com)website: [www.senatorterlaje.com](http://www.senatorterlaje.com)

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 **Invitation to Virtual Public Hearing on Resolutions 199 and 200 for Congressman San Nicolas from Speaker Terlaje\_signed.pdf**  
1017K

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**Speaker Therese M. Terlaje** <senatorterlajeguam@gmail.com>

Sat, Nov 6, 2021 at 10:23 AM

To: "San Nicolas, Michael" &lt;Michael.sannicolas@mail.house.gov&gt;, "Winn, Jennifer" &lt;Jennifer.Winn@mail.house.gov&gt;, "Mori, T'Nelta" &lt;T'Nelta.Mori@mail.house.gov&gt;

Hafa Adai Honorable Congressman San Nicolas,

Please see the hearing link and guidance below for the November 9, 2021 4pm hearing. We look forward to your confirmation.

Respectfully,  
Charissa L. Manibusan  
Committee Director

Guam Legislature is inviting you to a scheduled Zoom meeting.



Office of the Speaker  
**THERESE M. TERLAJE**

*I Mina'trentai Sais na Liheslaturan Guåhan* 36th Guam Legislature  
Committee on Health, Land, Justice and Culture

November 5, 2021

Transmitted via Electronic Mail

[Michael.sannicolas@mail.house.gov](mailto:Michael.sannicolas@mail.house.gov)

Honorable Michael F. Q. San Nicolas  
330 Hernan Cortez Ave. Suite 300  
Hagåtña, Guam 96910

*Hafa adai* Congressman San Nicolas,

I am convening a joint virtual public hearing with Senator Sabina Perez on **Tuesday, November 9, 2021 at 4:00 PM** via the Guam Legislature's Zoom platform to hear and accept testimony on the following resolutions:

**Resolution 199-36 (LS)** – Therese M. Terlaje / Sabina Florez Perez / Jose “Pedo” Terlaje / Tina Rose Muña Barnes / Clynton E. Ridgell / Telena Cruz Nelson / Amanda L. Shelton / Joe S. San Agustin / Joanne Brown / Telo T. Taitague / Mary Camacho Torres / v. Anthony Ada / Frank Blas Jr. / Christopher M. Dueñas / James C. Moylan – RELATIVE TO EXPRESSING THE SUPPORT OF *I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN* (THE 36<sup>TH</sup> GUAM LEGISLATURE) FOR H.R. 3967, THE ‘HONORING OUR PROMISE TO ADDRESS COMPREHENSIVE TOXICS ACT OF 2021’ BECAUSE IT RECOGNIZES GUAM’S AGENT ORANGE EXPOSURE, AND ADVOCATING FOR THE EXPANSION OF THE TOXIC EXPOSURE DEFINITION OF ‘COVERED VETERAN’ UNDER TITLE III TO INCLUDE ‘A VETERAN WHO ON OR AFTER OCTOBER 30, 1980, PERFORMED ACTIVE MILITARY, NAVAL, OR AIR SERVICE WHILE ASSIGNED TO A DUTY STATION IN GUAM’ BECAUSE OF THE U.S. MILITARY’S OPEN-AIR BURN PIT ACTIVITY IN THE ISLAND.

**Resolution 200-36 (LS)** – Therese M. Terlaje / Sabina Flores Perez – RELATIVE TO EXPRESSING THE SUPPORT OF *I MINA'TRENTAI SAIS NA LIHESLATURAN* FOR THE PASSAGE OF H.R. 3368, THE “LONNIE KILPATRICK CENTRAL PACIFIC HERBICIDE RELIEF ACT” INTRODUCED BY THE HONORABLE MICHAEL SAN NICOLAS IN THE UNITED STATES HOUSE OF REPRESENTATIVES ON MAY 20, 2021, WHICH SEEKS TO CORRECT INJUSTICE, CLARIFY THE ELIGIBILITY OF AFFECTED VETERANS, AND EXPEDITE THE PROCESSING OF VETERAN CLAIMS OF HEALTH CONDITIONS CAUSED BY AGENT ORANGE EXPOSURE ON GUAM.

Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

Tel: (671) 472-3586 | Fax: (671) 969-3590 | Email: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com) | [www.senatorterlaje.com](http://www.senatorterlaje.com)

*\*For transmittal of official Messages & Communications to the Guam Legislature to be distributed to all Senators, please send to: [speaker@guamlegislature.org](mailto:speaker@guamlegislature.org)*

Invitation to Virtual Public Hearing for Congressman San Nicolas  
From Speaker Therese Terlaje

2

November 5, 2021

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As main sponsor of H.R. 3368, co-sponsor on H.R. 3967, and advocate for the inclusion of Guam in the recognition of United States Agent Orange use, I would like to extend an invitation to you for your attendance and/ or testimony at this virtual public hearing. Your attendance and/ or contributions would be valued and greatly appreciated.

You may submit any written testimony to my office located at the Guam Congress Building in Hagåtña, Guam or via email at [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com). If you would like to receive the hearing's Zoom link or have any questions, you may email them to the same address or call my office at (671) 472-3586.

Si Yu'us Ma'åse',

A handwritten signature in blue ink that reads "Therese M. Terlaje". The signature is written in a cursive style with a large initial 'T'.

Therese M. Terlaje



Speaker Therese M. Terlaje &lt;senatorterlajeguam@gmail.com&gt;

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**Invitation to Public Hearing on Resolutions 199 and 200 from Speaker Terlaje**

6 messages

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**Speaker Therese M. Terlaje** <senatorterlajeguam@gmail.com>

Fri, Nov 5, 2021 at 11:33 AM

To: John Wells &lt;johnlawesq@msn.com&gt;

Buenas Attorney Wells,

Please see the attached letter from Speaker Therese Terlaje inviting you to attend the November 4 Virtual Public Hearing for Resolutions 199 and 200.

Thank you,  
Lincoln Budasi  
Policy Analyst

**Office of Speaker Therese M. Terlaje**  
Committee on Health, Land, Justice and Culture*I Mina'trentai Sais na Liheslaturan Guåhan*

36th Guam Legislature

Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

T: (671) 472-3586 F: (671) 989-3590 Email: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com)website: [www.senatorterlaje.com](http://www.senatorterlaje.com)

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1019K

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**John Wells** <johnlawesq@msn.com>

Fri, Nov 5, 2021 at 11:10 PM

To: Therese Terlaje &lt;senatorterlajeguam@gmail.com&gt;

Cc: Brian Moyer MARINE GUAM &lt;moyer\_brian@yahoo.com&gt;, Mike Yates &lt;mike.yates@madvocacy.org&gt;, "mike.kvintus@madvocacy.org" &lt;mike.kvintus@madvocacy.org&gt;, Susie Belanger &lt;susie.belanger@madvocacy.org&gt;, Robin Barr &lt;robin.barr@madvocacy.org&gt;, Richard Elliott &lt;richard.elliott@madvocacy.org&gt;

Thank you for the kind invitation to attend/provide testimony on Resolutions 199 and 200. I will be honored to attend virtually. Please send me the link to the hearing.

I will submit written testimony as well on behalf of Military-Veterans Advocacy. Agent Orange Survivors of Guam is one of our Sections.

I look forward to the hearing and to finally getting recognition for those who lived worked and

served on Guam. Once we have succeeded, I look forward to visiting Guam. I would hope to meet you at that time.

Commander J. B. Wells U. S. Navy (Retired)

Attorney at Law

Chairman

Military-Veterans Advocacy, Inc. ®

PO Box 5235

Slidell, LA 70469-5235

985-641-1855

985-290-6940 (direct)

For more information on Military-Veterans Advocacy go to [www.militaryveteransadvocacy.org](http://www.militaryveteransadvocacy.org) or like us on Facebook.

**Please support Military-Veterans Advocacy through the Combined Federal Campaign. Our CFC number is 59905**

**Amazon Shoppers: you can support Military-Veterans Advocacy by going to "Amazon Smile" for your shopping. The prices are the same but Amazon donates 0.5% of the purchase price to Military-Veterans Advocacy Inc. Bookmark the link <http://smile.amazon.com/ch/38-3890520> and support us every time you shop.**

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**From:** Speaker Therese M. Terlaje <[senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com)>

**Sent:** Thursday, November 4, 2021 8:33 PM

**To:** John Wells <[johnlawesq@msn.com](mailto:johnlawesq@msn.com)>

**Subject:** Invitation to Public Hearing on Resolutions 199 and 200 from Speaker Terlaje

[Quoted text hidden]

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 **Invitation to Virtual Public Hearing on Resolutions 199 and 200 for Attorney John Wells from Speaker Therese Terlaje\_signed.pdf**  
1019K

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**Richard Elliott** <[richard.elliott@mvadvocacy.org](mailto:richard.elliott@mvadvocacy.org)>

Fri, Nov 5, 2021 at 11:22 PM

To: "johnlawesq@msn.com" <[johnlawesq@msn.com](mailto:johnlawesq@msn.com)>, Therese Terlaje <[senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com)>

Cc: Brian Moyer MARINE GUAM <[moyer\\_brian@yahoo.com](mailto:moyer_brian@yahoo.com)>, Mike Yates <[mike.yates@mvadvocacy.org](mailto:mike.yates@mvadvocacy.org)>, Mike Kvintus <[mike.kvintus@mvadvocacy.org](mailto:mike.kvintus@mvadvocacy.org)>, Susie Belanger <[susie.belanger@mvadvocacy.org](mailto:susie.belanger@mvadvocacy.org)>, Robin Barr <[robin.barr@mvadvocacy.org](mailto:robin.barr@mvadvocacy.org)>

Will this be recorded to review/listen to after Nov 9, 2021 zoom broadcast?

I will be traveling to Texas that day, BUT it has direct effect on my Agent Orange exposure in America Samoa.

Am I correct that 4 PM Guam time is 1 AM on Tuesday Nov 9



Office of the Speaker  
**THERESE M. TERLAJE**

*I Mina'trentai Sais na Liheslaturan Guåhan* 36th Guam Legislature  
Committee on Health, Land, Justice and Culture

November 5, 2021

Transmitted via Electronic Mail  
[johnlawesq@msn.com](mailto:johnlawesq@msn.com)

John Wells, Attorney at Law  
P.O. Box 5235  
Slidell, LA 70469-5235

*Hafa adai* Attorney Wells,

I am convening a joint virtual public hearing with Senator Sabina Perez on **Tuesday, November 9, 2021 at 4:00 PM** via the Guam Legislature's Zoom platform to hear and accept testimony on the following resolutions:

**Resolution 199-36 (LS)** – Therese M. Terlaje / Sabina Florez Perez / Jose “Pedo” Terlaje / Tina Rose Muña Barnes / Clynton E. Ridgell / Telena Cruz Nelson / Amanda L. Shelton / Joe S. San Agustin / Joanne Brown / Telo T. Taitague / Mary Camacho Torres / v. Anthony Ada / Frank Blas Jr. / Christopher M. Dueñas / James C. Moylan – RELATIVE TO EXPRESSING THE SUPPORT OF *I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN* (THE 36<sup>TH</sup> GUAM LEGISLATURE) FOR H.R. 3967, THE ‘HONORING OUR PROMISE TO ADDRESS COMPREHENSIVE TOXICS ACT OF 2021’ BECAUSE IT RECOGNIZES GUAM’S AGENT ORANGE EXPOSURE, AND ADVOCATING FOR THE EXPANSION OF THE TOXIC EXPOSURE DEFINITION OF ‘COVERED VETERAN’ UNDER TITLE III TO INCLUDE ‘A VETERAN WHO ON OR AFTER OCTOBER 30, 1980, PERFORMED ACTIVE MILITARY, NAVAL, OR AIR SERVICE WHILE ASSIGNED TO A DUTY STATION IN GUAM’ BECAUSE OF THE U.S. MILITARY’S OPEN-AIR BURN PIT ACTIVITY IN THE ISLAND.

**Resolution 200-36 (LS)** – Therese M. Terlaje / Sabina Flores Perez – RELATIVE TO EXPRESSING THE SUPPORT OF *I MINA'TRENTAI SAIS NA LIHESLATURAN* FOR THE PASSAGE OF H.R. 3368, THE “LONNIE KILPATRICK CENTRAL PACIFIC HERBICIDE RELIEF ACT” INTRODUCED BY THE HONORABLE MICHAEL SAN NICOLAS IN THE UNITED STATES HOUSE OF REPRESENTATIVES ON MAY 20, 2021, WHICH SEEKS TO CORRECT INJUSTICE, CLARIFY THE ELIGIBILITY OF AFFECTED VETERANS, AND EXPEDITE THE PROCESSING OF VETERAN CLAIMS OF HEALTH CONDITIONS CAUSED BY AGENT ORANGE EXPOSURE ON GUAM.

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Invitation to Virtual Public Hearing for Attorney John Wells  
From Speaker Therese Terlaje

2

November 5, 2021

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As a long-time advocate for the inclusion of Guam in the United States' recognition of Agent Orange use and overall justice for those exposed to Agent Orange, I am respectfully requesting your attendance and/ or testimony at the virtual public hearing for these resolutions. Your attendance and/ or contributions on this matter would be valued and greatly appreciated.

You may submit any written testimony to my office located at the Guam Congress Building in Hagåtña, Guam or via email at [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com). If you would like to receive the hearing's Zoom link or have any questions, you may email them to the same address or call my office at (671) 472-3586.

Si Yu'us Ma'åse',



Therese M. Terlaje



Office of Speaker Therese M. Terlaje & Office of Senator Sabina Flores Perez  
*I Mina'trentai Sais na Liheslaturan Guåhan* 36th Guam Legislature

JOINT VIRTUAL PUBLIC HEARING  
TUESDAY, NOVEMBER 9, 2021 AT 4:00 PM

## AGENDA

- [Resolution No. 199-36 \(LS\)](#) - Therese M. Terlaje / Sabina Flores Perez / Jose "Pedo" Terlaje / Tina Rose Muña Barnes / Clynton E. Ridgell / Tena Cruz Nelson / Amanda L. Shelton / Joe S. San Agustin / Joanne Brown / Telo T. Taitague / Mary Camacho Torres / V. Anthony Ada / Frank Blas, Jr. / Christopher M. Dueñas / James C. Moylan- Relative to expressing the support of I Mina'trentai Sais na Liheslaturan Guåhan (the 36th Guam Legislature) for H.R. 3967, the 'Honoring our Promise to Address Comprehensive Toxics Act of 2021' because it recognizes Guam's Agent Orange exposure, and advocating for the expansion of the toxic exposure definition of 'covered veteran' under Title III to include 'a veteran who on or after October 30, 1980, performed active military, naval, or air service while assigned to a duty station in Guam' because of the U.S. military's open-air burn pit activity in the island.
- [Resolution No. 200-36 \(LS\)](#) - Therese M. Terlaje / Sabina Flores Perez- Relative to expressing the support of *I Mina'Trentai Sais Na Liheslaturan Guåhan* for the passage of H.R. 3368, the "Lonnie Kilpatrick Central Pacific Herbicide Relief Act" introduced by the Honorable Michael San Nicolas in the United States House of Representatives on May 20, 2021, which seeks to correct injustice, clarify the eligibility of affected veterans, and expedite the processing of veteran claims of health conditions caused by Agent Orange exposure on Guam.

All public hearings broadcast on GTA TV Channel 21, Docomo Channel 117/112.4, and the Guam Legislature YouTube. In compliance with the Americans with Disabilities Act, Individuals needing assistance or accommodations can contact the Office of Speaker Therese M. Terlaje.



**I Mina'trentai Sais na Liheslaturan Guåhan | 36th Guam Legislature**  
**Offices of Speaker Therese M. Terlaje and Senator Sabina F. Perez**

**Joint Virtual Public Hearing**

**Date:** **Tuesday, November 09, 2021** **Time:** **4:00 PM** Resolution

**200-36 (LS) – Therese M. Terlaje / Sabina Flores Perez – RELATIVE TO EXPRESSING THE SUPPORT OF I MINA'TRENTAI SAIS NA LIHESLATURAN FOR THE PASSAGE OF H. R. 3368, THE "LONNIE KILPATRICK CENTRAL PACIFIC HERBICIDE RELIEF ACT" INTRODUCED BY THE HONORABLE MICHAEL SAN NICOLAS IN THE UNITED STATES HOUSE OF REPRESENTATIVES ON MAY 20, 2021, WHICH SEEKS TO CORRECT INJUSTICE, CLARIFY THE ELIGIBILITY OF AFFECTED VETERANS, AND EXPEDITE THE PROCESSING OF VETERAN CLAIMS OF HEALTH CONDITIONS CAUSED BY AGENT ORANGE EXPOSURE ON GUAM.**

|    | NAME  | ADDRESS | CONTACT NO. | E-MAIL | Type of Testimony |      | Support |    |
|----|---|---------|-------------|--------|-------------------|------|---------|----|
|    |   |         |             |        | WRITTEN           | ORAL | Yes     | No |
| 1  | Attorney John Wells, on behalf of<br>Military-Veterans Advocacy, Inc. |         |             |        | X                 | X    |         |    |
| 2  | Brian Moyer   |         |             |        | X                 | X    |         |    |
| 3  | Susan Olivares Uncangco   |         |             |        | X                 |      |         |    |
| 4  | Mary Schlumpberger  |         |             |        | X                 |      |         |    |
| 5  | Michael Ulasich   |         |             |        | X                 |      |         |    |
| 6  | Thomas Vasapolli  |         |             |        | X                 | X    |         |    |
| 7  | Robert Celestial  |         |             |        |                   | X    |         |    |
| 8  |   |         |             |        |                   |      |         |    |
| 9  |   |         |             |        |                   |      |         |    |
| 10 |   |         |             |        |                   |      |         |    |

Military-Veterans Advocacy®

Written Testimony for the Record in Support of:  
Resolutions 199 and 200

Submitted to the 36<sup>th</sup> Legislature of Guam,  
April 28, 2021



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Commander John B. Wells, USN (Ret)  
Chairman

## **Introduction**

Distinguished Speaker Therese M. Terlaje and other members of the 36<sup>th</sup> Legislature of Guam, thank you for the opportunity to present Military-Veterans Advocacy®'s views on Resolutions 199 and 200.

### **About Military-Veterans Advocacy®.**

Military-Veterans Advocacy Inc.® (MVA™) is a tax-exempt IRC 501[c][3] organization based in Slidell, Louisiana that works for the benefit of the armed forces and military veterans. Through litigation, legislation, and education, MVA™ seeks to obtain benefits for those who are serving or have served in the military. In support of this, MVA™ provides support for various legislation on the State and Federal levels as well as engaging in targeted litigation to assist those who have served. We currently have over 1700 proud members and our volunteer board of directors litigates, legislates, and educates in support of veterans. MVA™ analyzes and supports/opposes legislation, assists Congressional staffs with the drafting of legislation and initiates rulemaking requests to the Department of Veterans Affairs. MVA™ also files suits under the Administrative Procedures Act to obtain judicial review of veterans' legislation and regulations as well as *amicus curiae* briefs in the Courts of Appeal and the Supreme Court of the United States. MVA is also certified as a Continuing Legal Education provider by the State of Louisiana to train attorneys in veterans' law.

MVA™ is composed of five sections: Blue Water Navy™, Agent Orange Survivors of Guam™, Veterans of Southeast Asia™, Veterans of the Panama Canal Zone™ and Veterans of Okinawa™. We are a member of the TEAMS Coalition and participate in other working groups. MVA™ works closely with Veterans Service Organizations including the United States Submarine Veterans, Inc., the National Association of Atomic Veterans, the Association of the United States Navy, Veterans Warriors, and other groups working to secure benefits for veterans.

### **Military-Veterans Advocacy®'s Chairman, Commander John B. Wells USN (Ret.)**

MVA™'s Chairman, Commander John B. Wells, USN (Retired) has long been viewed as a technical expert on herbicide exposure. A 22-year veteran of

the Navy, Commander Wells served as a Surface Warfare Officer on six different ships, with over ten years at sea. He possessed a mechanical engineering sub-specialty, was qualified as a Navigator and for command at sea and served as the Chief Engineer on several Navy ships.

Since retirement, Commander Wells has become a practicing attorney with an emphasis on military and veterans' law. He is counsel on several pending cases concerning herbicide and other toxic exposures. Commander Wells was the attorney on the *Procopio v. Wilkie* case that extended the presumption of herbicide exposure to the territorial sea of the Republic of Vietnam, which laid the groundwork for the Blue Water Navy Vietnam Veterans Act. He has initiated lawsuits on behalf of MVA™ to further extend the presumption and to cover veterans in Thailand, Guam, American Samoa, and Johnston Island. He also initiated successful judicial review of the Appeals Modernization Act which overruled several VA regulations concerning the implementation of that law. Since 2010 he has visited virtually every Congressional and Senatorial office to discuss the importance of enacting veterans' benefits legislation. With the onset of covid, Commander Wells has conducted virtual briefings for new Members of Congress and their staffs.

### **Resolution 199**

Resolution 199 calls for the enactment of HR 3967 entitled “Honoring our Promise to Address Comprehensive Toxics Act of 2021” or as sometimes shortened the “Honoring our PACT Act of 2021”. As with the Senate companion bill, S 3003, the Comprehensive and Overdue Support for Troops of War Act of 2021, or as sometimes shortened the COST Act, HR 3967 represents the first real attempt to draft an omnibus bill covering all, or at least most, incidents of toxic exposure. Both bills cover herbicide exposure in the Central Pacific (including Guam), Southeast Asia and other areas, as well as radiation clean up veterans and butn pits in Southwest Asia. Although there are some differences in the two bills, there are many similarities. MVA™ supports both bills although we prefer the PACT Act as it provides some additional coverage. Both bills provide coverage for herbicide exposure to veterans stationed on Guam, American Samoa and Johnston Island. MVA™ recommends that Resoution 199 call for the enactment of both bills.

A flaw in both bills is that they cover the period between January 9, 1962 and July 31, 1980. MVA™ has discovered evidence of herbicide usage on Guam as early as August 15, 1958.

[https://www.militaryveteransadvocacy.org/uploads/3/4/1/0/3410338/usn\\_pub\\_showing\\_ao\\_use\\_in\\_1958.revised..pdf](https://www.militaryveteransadvocacy.org/uploads/3/4/1/0/3410338/usn_pub_showing_ao_use_in_1958.revised..pdf). We have submitted this evidence to the sponsors and to the Committee staff. Although we anticipate the start date being modified to August 15, 1958, MVA™ recommends that Resooution 199 include a provision calling for the bill to be modified to reflect the earlier date.

In a document called Enhanced Technical Assistance for Cost of War Act of 2021, (hereinafter VA view) the Department of Veterans Affairs provided their view of the proposed legislation. For purposes of Guam, their views apply to both HR 3967 and S 3003. The VA claims that the Guam provisions are “in direct conflict with information received from the DoD regarding locations where Agent Orange was used, tested, stored, etc .” VA View p. 2.

As the Government Accountability Office found in their November 15, 2018 report: “Agent Orange: Actions Needed to Improve Accuracy and Communication of Information on Testing and Storage Locations” the records concerning Agent Orange “listing of locations outside of Vietnam where veterans may have been exposed is inaccurate and incomplete.”

<https://www.gao.gov/products/gao-19-24> Some efforts were made to update the listings, but they remain wholly inadequate. In 2018, MVA™ and our Agent Orange Survivors of Gum™ Section (AOSOG™) worked with the United States Environmental Protection Agency and the Guam Environmental Protection Agency to conduct random soil testing booth on and off military bases. The result was that 2,4,5-T and 2,4-D, both chemical element of Agent Orange, were discovered almost 40 years after the last known spraying. I want to emphasize that these findings were based on soil samples taken at random and not targeted locations.

[https://www.militaryveteransadvocacy.org/uploads/3/4/1/0/3410338/weston\\_guam\\_report\\_20190522.pdf](https://www.militaryveteransadvocacy.org/uploads/3/4/1/0/3410338/weston_guam_report_20190522.pdf) (2019 EPA report). Based on these initial results, MVA™ dispatched one of our board members, and AOSOG™ founder Brian Moyer to Guam. Working with both the federal and territorial EPA, Mr Moyer identified specific spraying locations. Soil samples taken at those locations revealed detectable amounts of 2,3,7,8-TCDD, or dioxin. The report concluded that: “It is probable that TCDD dioxin congener concentrations detected in soils are associated with chlorinated herbicides.”

[https://www.militaryveteransadvocacy.org/uploads/3/4/1/0/3410338/dioxin\\_letter\\_report\\_04172020\\_final-reduced.pdf](https://www.militaryveteransadvocacy.org/uploads/3/4/1/0/3410338/dioxin_letter_report_04172020_final-reduced.pdf). (2020 EPA report.)

It should be noted that the VA view refers only to Agent Orange. In actuality, the enabling legislation, the Agent Orange Act of 1991, Pub. L. 102-4, is not limited to Agent Orange. It covers all herbicides that contain 2,4-D or doixin. Both elements were found during the EPA testings. Later at page 21 of the VA View, the Department argues that only commercial herbicides were used on Guam

and that these herbicides “do not contain the levels of dioxin that made Agent Orange so potentially toxic.” This is nonsense. The VA has never provided evidence to support this proposition. Additionally, based on the language of the Act the attempt to distinguish between commercial and “tactical” herbicides fails. The legal requirement is for a herbicide to contain 2,4-D or dioxin. That requirement has been met. The law does not distinguish between so-called tactical or commercial herbicides. The relevant criteria is the chemical component of the herbicide not whether it was used for tactical or commercial purposes.

The existence of 2,4-D, 2,4,5-T and dioxin in the soil, almost four decades after the last known spraying, is conclusive evidence that high concentrations were once present. The 2020 EPA report confirms this and notes: “Taking into consideration the length of time since the reported use of chlorinated herbicides on Guam and their subsequent weathering, TCDD and/or other congeners have undergone environmental degradation. Concentrations may have originally been higher because the relative degradation rates vary depending on the congener and environmental conditions.” See 2020 EPA Report at 5.

Without question both HR 3967 and S 3003 establish an important framework to compensate veterans for exposure to all types of toxins, including herbicide. Unfortunately neither bill has made it to the floor. The holdup is a lack of a permanent score by the Congressional Budget Office (CBO) which is required by the Pay As You Go Act of 2010, (PAYGO) Pub. L. 111-139. We anticipate that the costs will be massive. In the VA View, the Department estimates an increase of \$206,151,538 in mandatory spending and \$74,669,284 in discretionary costs. Under PAYGO, a spending offset will have to be identified to pay for the bill. Currently none have been identified.

Still, Resolution 199 us needed to let the Congress know the importance that you attach to this bill. MVA™ thanks you for the support of veterans everywhere.

### **Resolution 200**

Resolution 200 expresses support for HR 3368, the Lonnie Kilpatrick Central Pacific Island Act. Mr Kilpatrick was a veteran who served on Guam. He developed cancer as a result of his exposure to herbicide on Guam and received service-connected status by the VA one month before he succumbed to the disease. His story was widely publicized in Central Florida and his last words “Make it Court” have become the battle cry of AOSOG™.

HR 3368 was introduced by Guam Delegate Mike San Nicholas and Florida Congressman Gus Bilirakis. The bi-partisan bill is pending before the House Veterans Affairs Committee. It currently has 48 co-sponsors.

Like HR 3967 and S 3003, the coverage in HR 3368 begins on January 9, 1962 instead of August 15, 1958. Congressman San Nicholas is aware of the issue and has brought it to the attention of the Committee Chairman. I have also discussed it with the Chairman and the Committee staff. Although we anticipate that the start date will be corrected, we recommend that Resolution 200 address it as well.

The same issues discussed above apply to HR 3368 so I will not repeat them here. There is one significant difference however. The cost of this bill will be significantly lower than HR 3967 and S 3003. Although not scored by the CBO, MVA™ estimates the total cost of the bill to be significantly less than \$1 billion dollars over ten years. Should MVA™ prevail in the litigation discussed below, it would be possible to zero the cost, since the court mandate would exempt the benefits from CBO scoring under PAYGO.

### **Litigation.**

In December of 2018, MVA™ filed a rulemaking request with the Secretary of Veterans Affairs. I personally hand carried the request to then Secretary Robert Willie. The VA denied the request on May 12, 2020. After asking for reconsideration, MVA™ filed suit in the Court of Appeals for the Federal Circuit, asking for judicial review of the VA decision. The case is docketed as *Military-Veterans Advocacy v Secretary of Veterans Affairs* number 20-2086. Briefing is complete and oral argument has been set for December 9, 2021. The petition for review and our briefs are available on the Military-Veterans Advocacy® web site <https://www.militaryveteransadvocacy.org/aosog.html>.

MVA™ has successfully used a combined litigation-legislation approach in the past. In *Procopio v. Wilkie*, 913 F.3d 1371 (2019), the Court ordered that those veterans who served in the bays, harbors and territorial sea of South Vietnam. For a decade, MVA™ and other organizations had been advocating Congress to grant benefits to these Blue Water Navy veterans. The bills were always stymied by PAYGO. Subsequent to the *Procopio* decision, Congress passed the Blue Water Navy Vietnam Veterans Act, Pub. L. 116-23.

I would also like to thank Speaker Terlaje for filing an *amicus curiae* brief in support of our Petition.

## Conclusion

MVA™ appreciates the opportunity to testify before the Legislature of Guam. Herbicide coverage of those who served on Guam is a top priority of our organization, Your efforts will help us move this matter forward. Accordingly, MVA™ asks that the Legislature support both Resolutions 199 and 200.

This is not the end of the story however. We will be back to ensure dependents who accompanied service members to Guam are also covered. Additionally, we will make our resources available to the Guam government to explore coverage for all residents of Guam.

. Thank you again for the opportunity to provide testimony on these resolutions. I will be present to answer any and all questions

Respectfully Submitted

A handwritten signature in black ink, appearing to read "John B. Wells". The signature is written in a cursive style with a large, sweeping initial "J".

John B. Wells  
Commander USN (retired)  
Chairman  
Military-Veterans Advocacy, Inc.®



Speaker Therese M. Terlaje &lt;senatorterlajeguam@gmail.com&gt;

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## HR 3967 testimony

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Mary Schlumpberger &lt;sunshineangel83@hotmail.com&gt;

Fri, Nov 5, 2021 at 6:18 PM

To: "senatorterlajeguam@gmail.com" &lt;senatorterlajeguam@gmail.com&gt;

November 5, 2021

Dear Senator Therese Terlaje,

I am submitting testimony on HR 3967 regarding Agent Orange exposure on Guam and the effects it has had on my family and me. I was stationed at Andersen AFB in Guam from December 1985 to December 1988. During that time my husband, also a veteran, and myself lived at 314 G Palmyra in Andersen South. During those three years we ate wild board found on Guam, went boonie stomping in the jungle near Andersen South, swam in and ate fish from the ocean, and drank water from the tap. My current health conditions related to Agent Orange exposure are Hypothyroidism and Peripheral Neuropathy. I have many other health conditions as well. Our daughter, Ashley Nicole Reynolds, was born on Guam on 11/5/1987. Her health conditions are:

- Hypertension
- Peripheral Neuropathy
- Melanoma
- Tuft Angioma
- Eczema (2 types)
- Allergies (too many to name)
- Asthma
- Fibromyalgia
- Vasovagal Syncopy
- IBS
- Osteoarthritis (neck fused as a 31-year-old)
- Severe GERD
- Vitamin D Deficiency
- Granuloma Annulare
- Continuous issues with pregnancies
  1. Baby stopped growing at 39 weeks
  2. Pre-term labor 36 weeks
  3. Miscarriage
  4. Pre-term labor at 33 weeks - water broke
  5. Miscarriage

6. Miscarriage  
Chronic Headaches  
Heat (rash) and cold (hives) intolerance  
Bruise easily  
Food intolerance (certain foods - violently ill)  
Balance and coordination issues

Both my daughter and myself are on Social Security Disability. We strongly believe the illnesses in both of us are related to Agent Orange exposure in Guam in the 1980's. We share some of the same ailments, however, no one else in the family shares these issues. Thank you for supporting HR 3967, the veterans of Guam, their offspring, and the people of Guam. Veterans wrote a check to the United States government giving up and to their lives and the people of Guam have been disregarded by the United States government. Thank you for changing that by supporting HR 3967.

I am willing to provide further testimony in writing, in person and/or via Zoom if requested.

Sincerely,

Mary Schlumpberger  
1015 Hope St #115  
Mankato, MN. 56073  
507-779-2044  
[sunshineangel83@hotmail.com](mailto:sunshineangel83@hotmail.com)

Hafa Adai ,

November 9, 2021

My Name is Susan Uncangco and I am from the island of Guam. I have met a lot of Veterans thru "Agent Orange survivors of Guam" site in Facebook ( most notable-Brian Moyer) who I have a lot of respect for. We have done a lot of research regarding AO in Guam and I am honored to be a part of the group.

After reading a lot of the files in the site and doing some research, I've come to the conclusion that the chemicals sprayed in Guam contributed my family's deaths and may be the reason we have so many health issues in the Island.

My father arrived in Guam from the Philippines in 1959. He was part of a group of people that came to work and help rebuilt the military base in Guam after World War 2. He was an electrician and stayed in Camp Roxas (now known as Camp Covington.) until he met my mother and married her. In 1972, Camp Roxas was shut down and my father worked in Naval Station in Guam with PWC. He continued to work as an electrician and his job required him to work in all bases in Guam, from Naval Station, Naval Mag, Anderson Airforce Base, Naval Hospital etc. My father was exposed to asbestos , respiratory diseases and received very little compensation for his work related illnesses." Please note : Per files- Leroy Foster documented that he “ **sprayed Agent Orange in fences and outside the offices etc. from 1968 thru 1978**” My father retired from the Navy and then worked for Pepsi Guam. My father died 6 years ago from lung cancer and high blood. I believe that he died of all the chemicals he worked around during his service at Public Works Center (PWC). A lot of the people he worked with had medical problems and most died of cancer. The ones alive are very sick.

My stepmother also worked at Naval Hospital Guam and died of cancer. She worked for the Day Care Center in Naval Hospital that had asbestos in the building.

My family also has 33 hectors of land in Tenjo Vista, Piti. The navy took it away but returned 13 hectors I believe in 2015. My mother and stepfather lived in our side of the land for 20 years and they both died of cancer. At one point while clearing the land, I saw a few drums that were buried in our side of the land. We found out that the US Navy used 2,4,5-T which is the key chemicals in Agent Orange related herbicides for weed control as stated in the US Navy's publication Guam Land Use Plan of 1994 which leads me to ask: What else have my family members and I been exposed to on Guam?"

In closing, I am hoping that the US Government tell the truth and gives compensation ,not only our veterans, but also civilian workers, like my father , my family and the many civilians in Guam affected by Agent Orange and other chemicals .

Please pass resolution No.199-36 and Resolution 200-36.

Thank you for taking the time to hear my story.

My contact number is 

November 5th, 2021

Hafa Adai! Before we go any further, I want to say “Thank You” to Speaker Terlaje and her staff for inviting me to this Public Hearing. Also, Congressman Michael San Nicolas and his staff. Guam & US EPA for thier work ethics and commitment to professionalism on all levels. On October 22<sup>nd</sup> we, being Agent Orange Survivors of Guam and Commander John Wells who created Military Veterans Advocacy Inc. were involved in a educational rally at the largest American Legion Post in country at The Villages, Florida.

Agent Orange Survivors of Guam was created on August 26<sup>th</sup>, 2017, with twenty Guam Veterans and seven Chamorro who reside on Guam one of them being Susan Olivares. We now have a membership over 1,600 members from all around the country and Guam.

I arrived on Guam on February 14<sup>th</sup>, 1974, as a Sea Duty Marine assigned to Marine Detachment USS Proteus AS-19 which was a submarine tender homeported at Polaris Point, Apra Harbor. My tour of duty aboard the USS Proteus was a two-year tour of duty and I rotated to the First Marine Division, Camp Pendleton, California in February 1976. The Proteus, Marine Barracks Guam, The Sea-Bee's from Camp Covington, Andersen AFB including almost the entire island population of Guam participated in Operation New Life which was part of the Evacuation of Saigon in 1975.

Many of these same Veterans who served on Guam personally witnessed herbicide spraying or, participated in herbicide spraying on Guam at many of the military sites all over Guam.

I personally seen herbicide spraying take place on many occasions at Polaris Point, Apra Harbor Guam either by galvanized sprayer cans

that were used by sailors from my ship the USS Proteus AS-19 and a small tractor with a plastic tank mounted on a trailer with outriggers on the back of it spraying a large empty field. We trained on that field and played football or, baseball at that location. I was also sent to Andersen AFB Firefighting School with two other Marines from my detachment. The CDC issued a report that the dioxin levels were at 1,900 parts per million at that location as per Center for Disease Control.

We managed to get HR 809 introduced in the 115<sup>th</sup> Congress. We then managed to get a request for a GAO hearing and investigation. These hearings were conducted on February 9<sup>th</sup> 2018 and other dates. Our testimony led to the US & Guam EPA soil collection teams allowed on to Andersen AFB to collect soil samples but in a very limited area.

There was a positive soil sample that did test positive for 2,4,5-T and 2,4-D but, there was a possible cross contamination issue.

At the same time the DOD would not allow anymore testing to take place. The areas that we Guam Veterans had clearly identified to the GAO hearing officers were ignored. So, we started contacting members of Congress in the House of Representatives, the Senate, the Guam Legislature and, the media by telling them we did not trust the testing process and felt the military authorities were “attempting to manipulate the outcome of the testing procedure through the site selection process”.

We had also established a great working relationship with Senator now Speaker Therese Terlaje and the entire Guam Legislature and the former governor’s office. We also have also established a great working relationship with the US & Guam EPA.

For the record Speaker Terlaje has been the “tip of the spear” on Guam for us Guam Veterans and the Chamorro people who have been left holding the bag of herbicides that were used on Guam from 1958 through 1980.

Another round of soil collection and testing was conducted in November of 2018 on areas that were under former military control that had been released to the civilian authorities of Guam. This round of testing discovered 2,4-D / 2,4,5-T and 2,4,5-TP (Silvex) alongside a above ground aviation line at the old Naval Air Station Agana which is now part of the Won Pat International Airport Agana, Guam.

In the meantime, the people of Guam elected a new Congressman and we got HR 1713 The Lonnie Kilpatrick Central Pacific Relief introduced in March of 2019 in the 116<sup>th</sup> Congress by Congressman Michael San Nicholas

and Congressman Gus Bilirakis of Florida's 12th Congressional District

Congressman Michael San Nicolas of Guam and Congressman Gus Bilirakis have been the Guam Veterans champions up on "The Hill". We now have HR 3368 again "The Lonnie Kilpatrick Central Pacific Relief Act" reintroduced this Congress again by Representatives San Nicolas and Bilirakis.

In October of 2019 Military Veterans Advocacy Inc. sent me to Guam at the request of the US and Guam EPA to assist them in "hands on area identification" for soil sample collection.

Every place we went to on Guam tested positive for 2,3,7,8-TCDD dioxin or, its congeners. Congeners are essentially the DNA or, skeletal remains of 2,3,7,8-TCDD dioxin.

This would not have happened if the combined efforts of Military Veterans Advocacy Inc. had

not sent me back to Guam for a whole week. After receiving the finalized version on the US EPA report. Military Veterans Advocacy requested a rulemaking request from the VA which was denied.

After a few more procedural requirements Military Veterans Advocacy filed a lawsuit against the Department of Veterans Affairs on behalf of approximately 52,000 Guam, American Samoa and Johnston Atoll veterans. Johnston Atoll is where Agent Orange was sent for final destruction.

Also, Commander John Wells announced at The Villages rally the Federal Court of Appeals will be hearing our case on December 9<sup>th</sup>, 2021.

The media was present at the above-mentioned rally and I believe the broadcast had been picked up by other affiliates around the country. We have experienced a increase of

Guam Veterans enquiring about how to apply and file for claims with the Department of Veterans Affairs. Some Veterans have actually told me they have been told by VA Staff members from the Orlando, Florida VA Medical Center not to apply for benefits regarding Guam and Agent Orange related herbicide exposure on Guam because it will be denied. Those same veterans have prostate cancer, colon cancers, men and women with breast cancer, type II diabetes, skin cancers, peripheral neuropathy, and a lot more which is a mirror image of what the Chamorro community has been living with for decades.

I also had a mother who has young children residing on Andersen AFB contact me and enquiring as to “Why she has been told not to dig around the exterior walls of her assigned base housing on Andersen AFB.” This woman has concerns for the safety of her children and

to what maybe in the ground. I advised the lady to contact Guam EPA, Congressman San Nicolas's district office and, Speaker Terlaje's office for guidance and possible assistance.

Overall the Guam Veteran has been facing a uphill battle against a adversarial VA system which in my opinion has relegated us to a "second class veteran status which means we are also second class citizens".

The only way this can be stopped is by all who have a stake in this fight to become committed to "Our Cause." That cause is justice for ALL who have direct ties to Guam and who have suffered and, continue to suffer at the hands of a government entity that practices "Sprayed and Betrayed"! We will win! When we Win! Guam will Win! Thank You and Si Yu'os ma'ase!



Speaker Therese M. Terlaje <senatorterlajeguam@gmail.com>

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## Guam toxins

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**Zaagaate Niidiznikaaz** <zaagaate@gmail.com>  
To: senatorterlajeguam@gmail.com

Sun, Nov 7, 2021 at 10:50 AM

Dear Sentor Terlaje, This is Michael Ulasich I served in the USAF and was stationed on Guam with the 43 Muntions Maintenance Squadron as a 46150 i worked in the Northwest field the munitions depot everyday and worked in reventments the were sprayed with herbicides, also the building next to where i worked (renovation plant) there were stored barrels of herbicides agent orange and agent white, we opened one barrel not knowing what is was, the next day all the remaining barrels were gone, that was in 1981. I would like to at least watch the hearing via the zoom if you could please forward it to me, my email is [zaagaate@gmail.com](mailto:zaagaate@gmail.com)

Sincerely,  
Michael Ulasich

## Naval Air Station Guam Football Facility

I was station at Naval Hospital Guam 1968 and 1969. During that time, I also Played Football for Naval Air Station. Our Football uniforms and Football Equipment were stored in a facility next to a football field. We also used this facility to change our clothes and prep for practice or games. Our practices took place around the facility and the football field next to the building. The building Number I don't remember; but I do remember someone calling it the rainbow building. This building still present today and is located between the old football field and the baseball field on the road between Westbound side of Route 16 almost to the tri-intersection,

This same building also contained drums that we were told to stay away from as the drums contained Chemicals for Grounds Maintenance. The facility also was next to the fuel lines that I believe went to either Naval Air Station or Anderson Airforce Base or both. Supposedly these chemicals were used for keeping the vegetation cleared from the pipelines.

Thomas P Vasapolli

# Diseases associated with Agent Orange

Chloracne or other acneform diseases consistent with chloracne

Type 2 diabetes (also known as Type II diabetes mellitus or adult-onset diabetes)

Hodgkin's disease

Multiple myeloma

Non-Hodgkin's lymphoma

Acute and subacute peripheral neuropathy

Porphyria cutanea tarda

Prostate cancer

Respiratory cancers (cancer of the lung, bronchus, larynx, or trachea)

Soft-tissue sarcomas (other than osteosarcoma, chondrosarcoma, Kaposi's sarcoma, or mesothelioma)



**NVLSP**  
NATIONAL VETERANS LEGAL SERVICES PROGRAM

**NVLSP And VLSC White Paper  
Confirming That Veterans Who Served in Guam  
from 1962-1975 Were Likely Exposed  
to Dioxin-Containing Herbicide Agents  
Including Agent Orange**

**May 8, 2020**



Yale Law School  
Veterans Legal  
Services Clinic

## Introduction

The National Veterans Legal Services Program (“NVLSP”) partnered with the Jerome N. Frank Legal Services Organization of Yale Law School (“LSO”) to evaluate whether existing evidence satisfies the U.S. Department of Veterans Affairs (“VA”) legal standard to establish that veterans who served on Guam from 1962 to 1975 were exposed to Agent Orange and other dioxin-containing herbicide agents. The relevant VA standard of proof is whether it is “as likely as not” that these veterans were exposed to herbicide agents. We are pleased to share this white paper with the VA and veterans of Guam seeking service-connection for illnesses associated with Agent Orange exposure.

We conclude that existing evidence establishes that it is, at the very least, “as likely as not” that veterans who served in Guam from 1962 to 1975 were exposed to Agent Orange and other dioxin-containing herbicides. Official government accounts and credible veteran testimony demonstrate significant dioxin exposure pathways among Guam veterans as a result of spraying, mishandling, and disposal in documented areas. Widespread dioxin exposure is further supported by scientific evidence of dioxin contamination from Environmental Protection Agency (“EPA”) and the Department of Defense (“DoD”) testing at these sites during the 1980s and 1990s. Accordingly, these veterans are presumptively entitled to disability compensation for any diseases that the Secretary has associated with exposure based on findings from the Health and Medicine Division of the National Academies of Sciences, Engineering, and Medicine.

Below, we explain in depth the evidence and legal basis for our conclusion. This white paper is accompanied by an appendix of selected relevant sources to document veterans’ claims of service connection for illnesses associated with dioxin exposure.

### **The weight of the evidence strongly shows that veterans who served on Guam from 1962 to 1975 were exposed to herbicides containing dioxin.**

#### **I. The Rules Governing Entitlement of Veterans Who Served in Guam to Service-Connected Disability Benefit**

Veterans who incur or aggravate a disability during service are eligible for disability benefits upon establishing that the disability was service-connected. 38 U.S.C. § 1110; 38 C.F.R. § 3.303. To establish entitlement to service-connected disability benefits from the VA, the evidence in the veteran’s claims file must prove (1) the existence of a current disability, (2) a precipitating event or injury during service, and (3) some nexus between the current disability and precipitating event or injury during service. *See Caluza v. Brown*, 7 Vet. App. 498, 506 (1995), *aff’d*, 78 F.3d 604 (Fed. Cir. 1996); *Rabideau v. Derwinski*, 2 Vet. App. 141, 143 (1992). While disabilities must have been “incurred” during service, diseases diagnosed after service still render a claimant eligible for a grant of service connection. 38 C.F.R. § 3.303(d).

The first component, existence of a current disability, can be established by competent medical or lay evidence. VA regulations define competent medical evidence as that “provided by a person who is qualified through education, training, or experience to offer medical diagnoses, statements, or opinion,” and can include statements in medical treatises or “authoritative writings such as medical

and scientific articles and research reports or analyses.” 38 C.F.R. § 3.159(a)(1). A lay person’s statement may also be competent if it does not require “specialized education, training or experience . . . [or] if it is provided by a person who has knowledge of facts or circumstances and conveys matters that can be observed and described by a lay person,” *id.* § 3.159(a)(2), or if it reports on a contemporaneous diagnosis or describes symptoms that support a subsequent medical diagnosis. *Jandreau v. Nicholson*, 492 F.3d 1372, 1377 (Fed. Cir. 2007).

The second component, an in-service injury or event, requires evidence that the event, injury, or disease that led to the current disability actually occurred during service. This evidence is usually medical, but can in some cases be provided by a lay observer. The standard used to evaluate this evidence is “as likely as not”—it must be as likely as not that an in-service injury or event actually occurred. “When there is an approximate balance of positive and negative evidence regarding any issue material to the determination of a matter, the Secretary shall give the benefit of the doubt to the claimant.” 38 U.S.C. § 5107(b); 38 C.F.R. § 3.102; *see also Gilbert v. Derwinski*, 1 Vet. App. 49, 53 (1990).

The third and final component, a causal nexus, requires a link between an event or occurrence during service and the current disability. Medical evidence can provide this nexus by showing (1) a direct causal link between the current disability and something that occurred during service, (2) aggravation during service of a condition that existed prior to service, (3) a current disability that did not manifest itself during service, but is presumed by statute or regulation to have been associated with some occurrence during service; (4) a current disability resulting from a medical condition that is itself connected to service; or (5) a current disability resulting from an injury caused by VA healthcare, training and rehabilitation services, or VA compensated work therapy. Establishing a nexus generally requires competent medical evidence, which the VA is often required to assist the veteran in obtaining. Medical nexus between the disability and a precipitating in-service event or injury is also evaluated under the “as likely as not” standard and guarantees the veteran the benefit of the doubt in situations where the evidence is in equipoise. 38 U.S.C. § 5107(b); 38 C.F.R. § 3.102.

Congress has mandated by statute, and the VA by regulation, that when particular circumstances are met, the VA shall apply two different types of presumption that help a veteran become entitled to disability benefits. These presumptions promote administrative efficiency and facilitate prompt access to benefits for many disabled veterans. One type of presumption is a presumption of exposure to a dangerous substance. For instance, all veterans who served in Vietnam are presumed to have been exposed to toxic herbicides used in support of the United States and allied military operations there. 38 U.S.C. § 1116(a)(3); 38 C.F.R. § 3.307(a)(6)(i). A second type of presumption established by Congress or the VA is a presumption regarding the connection between certain injuries or diseases and military service. For instance, the VA will presume a nexus between exposure to toxic herbicides during military service and certain enumerated disabilities or diseases. 38 C.F.R. § 3.309(e). To become entitled to disability benefits, therefore, veterans who served in Vietnam need only provide medical evidence that the veteran currently suffers from one of the diseases which VA presumes results from exposure to toxic herbicides like Agent Orange. 38 U.S.C. § 1116(a); 38 C.F.R. § 3.307(a); 38 C.F.R. § 3.309(e).

Veterans who did not serve in Vietnam, while currently ineligible for the presumption of exposure, are entitled to a presumption of service connection for any disease presumed by the VA to

result from exposure to toxic herbicides by merely proving that they were exposed to a toxic herbicide agent during service. 38 C.F.R. § 3.309(e) (“[I]f a veteran was exposed to an herbicide agent during active military, naval, or air service, [those] diseases shall be service-connected if the requirements of § 3.307(a)(6) are met.”). An herbicide agent is defined as “a chemical in an herbicide used in support of the United States and allied military operations in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975, specifically: 2,4-D; 2,4,5-T and its contaminant TCDD; cacodylic acid; and picloram.” 38 C.F.R. § 3.307(a)(6)(i). The VA intended this presumption of service connection to extend to veterans who did not serve in Vietnam but were nevertheless exposed to herbicide agents. See 66 Fed. Reg. 23166 (May 8, 2001) (“[I]f a veteran who did not serve in the Republic of Vietnam, but was exposed to an herbicide agent defined in 38 C.F.R. § 3.307(a)(6) during active military service, has a disease on the list of diseases subject to presumptive service connection, VA will presume that the disease is due to the exposure to herbicides.”). Veterans who do not exhibit one of the designated diseases retain the right to establish service connection with proof of direct causation. *Combee v. Brown*, 24 F.3d 1039, 1042 (Fed. Cir. 1994); see also 38 C.F.R. § 3.303(d).

Under the applicable legal standards, veterans who served on Guam and suffer from a disability presumed by the VA to result from toxic herbicide exposure need only fulfill the first and second components of the service connection criteria—exposure to a toxic herbicide and the current presence of an enumerated disease or disability—as the nexus component is satisfied by the presumption of service connection. 38 C.F.R. § 3.309(e). Veterans who served on Guam and suffer from a disability *other* than those designated by the VA are not eligible for the presumption of service connection but may still establish service connection by submitting additional evidence that the disability was at least as likely as not incurred by toxic herbicide exposure during service.

## **II. The Evidence Strongly Shows that Veterans who Served on Guam From 1962 to 1975 Were Exposed to Herbicides Containing Dioxin**

### **A. Direct Evidence of the Use by the United States During the Vietnam War of Agent Orange and Toxic Herbicides**

Between 1962 and 1971, DoD sprayed toxic herbicides widely in Vietnam. The best-known tactical herbicide, Agent Orange, is a 50-50 mixture of two compounds: 2,4-Dichlorophenoxyacetic acid (2,4-D) and 2,4,5-Trichlorophenoxyacetic acid (2,4,5-T). The latter compound yields a highly toxic dioxin biproduct, 2,3,7,8-tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD), during the manufacture process. In addition to Agent Orange, other toxic herbicides used during this period also yielded 2,4-D, 2,4,5-T, and 2,3,7,8-TCDD. NATIONAL ACADEMIES OF SCIENCES, VETERANS AND AGENT ORANGE: UPDATE 11, at 27 (2018).

The biological effects of exposure to 2,4-D, 2,4,5-T and 2,3,7,8-TCDD are well-documented. Numerous studies have demonstrated that, even in very minimal amounts, exposure can cause myriad immune system disorders, types of cancer, reproductive health deficiencies that last for generations, neurologic disorders, metabolic and cardiovascular disorders, respiratory disorders, gastrointestinal and digestive diseases, kidney and urinary disorders, chronic skin disorders, eye problems, and bone conditions. See *generally id.* After the conflict, veterans who were exposed to herbicides containing 2,3,7,8-TCDD began to develop a host of serious diseases, such as cancer, Parkinson’s disease, and diabetes, which they believed were associated with exposure to herbicides during the war. See H. Rep. No. 98-592 (1984).

The Veterans Administration (now Department of Veterans Affairs) (VA) first received claims asserting disabilities stemming from Agent Orange and other toxic herbicide exposure from service in Vietnam in 1977. For years, the VA issued blanket denials to veterans seeking disability compensation and medical coverage for conditions arising from exposure to these toxic herbicides. See Barton F. Stichman, *Between the Courts and Congress*, in *THE LEGACY OF VIETNAM VETERANS AND THEIR FAMILIES: SURVIVORS OF WAR* 302 (Dennis K. Rhoades et al., eds. 1995).

Towards the end of the twentieth century, Congress enacted legislation in response to mounting scientific evidence that herbicides containing dioxin caused a slew of serious health conditions. The Veterans' Dioxin and Radiation Exposure Compensation Standards Act, Pub. L. No. 98-542, § 5, 98 Stat. 2725, 2727-29 (1984), and the Agent Orange Act of 1991, Pub. L. No. 102-4, § 2, 105 Stat. 11 (1991), established a presumption of exposure to Agent Orange and other toxic herbicides for veterans who served in Vietnam, including its inland waterways, and designated a list of diseases known to result from such exposure. Under the legal standard, if a veteran incurs a listed disease and served in Vietnam, that veteran is presumptively entitled to disability benefits. 38 U.S.C. § 1116(a)(3). This presumption was later interpreted to include Vietnam's territorial waters. *Procopio v. Wilkie*, 913 F.3d 1371 (Fed. Cir. 2019). The VA also promulgated regulations that extended the presumption of exposure to include veterans who served in or near the Korean DMZ or stateside on C-123 aircraft used to spray Agent Orange in Vietnam. 38 C.F.R. § 3.307(a)(6)-(7).

As veterans who served outside of Vietnam during the same period but came into contact with these toxic herbicides began to exhibit similar serious health conditions, the VA articulated a presumption of service connection. See 66 Fed. Reg. 23166 (May 8, 2001). Under this presumption, a veteran with a diagnosis that appears on the associated diseases list need only establish "as likely as not" exposure to become entitled to disability benefits. Those who do not receive this presumption may still establish service connection upon a showing of direct evidence of causation under an "as likely as not" standard. *Combee v. Brown*, 24 F.3d at 1042; see also 38 C.F.R. § 3.303(d).

In some individual cases, the VA has granted service-connected disability compensation and medical coverage for veterans exposed to toxic herbicides during service on Guam during the Vietnam era. See *infra* Section II.D.

## **B. Military Operations and Herbicide Use in Guam**

The United States Territory of Guam is a small island (210 square miles) in the western Pacific approximately 3,300 miles west of Hawai'i and 1,500 miles east of the Philippines. Since World War II, Guam has been a centerpiece of U.S. military operations in the Asia-Pacific region. See U.S. DEP'T OF DEF., *INDO-PACIFIC STRATEGY REPORT* (June 1, 2019). Guam is sometimes termed the "tip of the spear" for U.S. military capabilities in the Pacific, with nearly a third of the island's land area controlled by active U.S. military installations. See Neil Weare & Rodney Cruz, *Guam, America's Forgotten Front Line*, N.Y. TIMES (Aug. 14, 2017).

During the Vietnam conflict, Guam became "the site of the most immense buildup of air power in history." See Jeffrey N. Meyer, *Andersen AFB's Legacy: Operation Linebacker II*, ANDERSEN AIR FORCE BASE NEWS (Dec. 18, 2017). At the height of bombing operations during Vietnam, three-quarters of all

U.S. B-52 aircraft available for operations in Southeast Asia were based in Guam. *Id.* As a result of this rapid and massive buildup, service members on Guam “were packed into [] dorms, with spill-overs residing in temporary steel dorms called Tin City” or “Canvas Courts, a collection of tent shelters . . . . [E]ven the base gymnasium [was] converted to living quarters to house all of the Airmen.” *Id.*

Beyond housing shortages, the rapid airpower buildup in Guam presented an acute need to control fire risks using herbicides. With annual rainfall above 90 inches per year (more than quadruple the annual average at Pearl Harbor and nearly double that of Hanoi, Vietnam), the threat of brush fires during Guam’s dry season was a paramount concern for the island’s military leadership during the Vietnam conflict. On March 21, 1969, the U.S. Navy’s Guam-based newspaper ran a front-page story announcing a water shortage after firefighters and local volunteers responded to more than 40 fires in a single week. *See Take Fire, Add Water, Get Huge Water Shortage*, CROSSROADS PACIFIC (Mar. 21, 1969). The Commander of Naval Forces Marianas Guam advised residents to “cease such things as watering the lawns, washing cars, and any other water usage that consumes a large amount of water” as a result of these shortages. A month later, the Navy reported that a single military fire station had responded to 23 grass fires during a three-week period, noting that “the heat of an exhaust from a motorcycle was enough to start a fire.” *See Fire Threat Still Remains*, CROSSROADS PACIFIC (Apr. 25, 1969). Because of the unique climate conditions of the island, the high concentration of key military assets, and significant water shortages, the need to manage vegetation with herbicides was far greater in Guam than in other military installations elsewhere in the United States or Southeast Asia.

Similarly, DoD’s expedient and unregulated disposal of hazardous wastes on Guam during this period created significant exposure risk for 2,3,7,8-TCDD and dioxin-containing herbicides. *See* Section II.C, below. Prior to the Installation Restoration Program and Resource Conservation and Recovery Act of 1976, Guam’s military units disposed of large amounts of hazardous and other wastes by burying waste piles or pushing wastes over cliff-lines into makeshift dumpsites in low-lying areas near the ocean. *See* U.S. DEP’T OF AIR FORCE, EPA SUPERFUND RECORD OF DECISION: ANDERSEN AIR FORCE BASE (Dec. 2003), at 1-1. DoD also dumped military wastes into the Government of Guam-controlled Ordot Landfill into the 1970s. *See Guam v. United States*, 341 F. Supp. 3d 74, 76-78 (D.D.C. 2018). The Ordot Landfill, now an EPA Superfund site, was an uncapped, unlined landfill that leaked significant amounts of hazardous waste into Guam’s Lonfit River until 2011. *See id.* (noting that Agent Orange is among the chemicals that DoD disposed at Ordot). Improper hazardous waste disposal created additional exposure risks for large numbers of Guam veterans serving near these disposal sites, many of which are adjacent to housing and recreational areas. *See* U.S. DEP’T OF AIR FORCE, INSTALLATION RESTORATION PROGRAM (IRP) PHASE 1: RECORDS SEARCH ANDERSEN AIR FORCE BASE, GUAM, at 4-37-4-38 (1985).

In 2018, the Government Accountability Office (GAO) examined records and shipping logbooks in response to a House Report directing GAO to “review the government’s handling of Agent Orange on Guam.” GAO concluded that the use and storage of Agent Orange on Guam could neither be conclusively proved nor disproved based on available records, in part because some potentially relevant DoD records have been lost or destroyed.

### **C. Direct Evidence of TCDD-Containing Herbicide Exposure Among Guam Veterans: 1962-1975**

In light of GAO’s conclusions, the Jerome N. Frank Legal Services Organization of Yale Law School (“LSO”) and the National Veterans Legal Services Program (“NVLSP”) conducted a

comprehensive review of available evidence to determine whether it is “as likely as not”—the VA’s legal standard—that those who served on Guam were exposed to herbicide agents. For members of the armed forces who served on Guam from 1962 to 1975, LSO and NVLSP conclude that it is more likely than not that these veterans were exposed to herbicides containing dioxin.

The evidence supporting this conclusion includes official government documents describing widespread practices of herbicide spraying, mishandling, and improper disposal prior to enactment of federal hazardous waste regulations in 1976. Those documents are supported by 1980s and 1990s soil testing conducted on Andersen Air Force Base—designated an EPA Superfund Site in 1992—revealing high concentrations of 2,3,7,8-TCDD and other dioxin pollution in areas where individual veterans recall disposing of Agent Orange and other toxic herbicides. Together, these official accounts confirm the numerous individual affidavits describing in detail the storage, spraying, and disposal of Agent Orange and other toxic herbicides in Guam, especially at the following sites:

- Guam cross-island fuel pipeline
- Andersen Air Force Base (AAFB) and AAFB annexes
- AAFB and AAFB Annex perimeters
- The Marianas-Bonins Command (MARBO) Annex
- AAFB flight line and surrounding areas
- USAF or U.S. Navy fuel storage facilities
- USAF or U.S. Navy power stations
- Areas near Urunao Beach or Ritidian Point
- Military landfills, waste piles, and over-the-cliff dumpsites
- Fire-fighter training areas

The federal government’s own accounts of military pollution in Guam evidence widespread herbicide exposure among veterans who served there during the 1960s and 1970s. These documents identify large-scale mishandling and improper disposal of herbicides in Guam during this period, and subsequent soil testing is consistent with veteran claims that tactical herbicides including Agent Orange were used on the island.

Prior to the passage of the Resource Conservation and Recovery Act of 1976 (RCRA), disposal and remediation of toxic wastes on Guam was effectively unregulated. In 1987, ten years after RCRA took effect, GAO found that Guam’s DoD installations were “not in compliance with RCRA requirements,” and that, on AAFB in particular, “[m]ost of the violations causing noncompliance were of a serious nature, and many were repetitive.” U.S. GOV’T ACCOUNTABILITY OFF., GAO 87-87, HAZARDOUS WASTE: DOD INSTALLATIONS IN GUAM HAVING DIFFICULTY COMPLYING WITH REGULATIONS 12 (1987). Into the 1980s, DoD regularly mishandled and improperly disposed of massive quantities of herbicides and other chemicals, often with no records or remedial action addressing risks to human health. *Id.* at 17 (concluding that, as of 1987, eight of nine maintenance shops and facilities toured by GAO were still discharging hazardous pollutants directly into storm drains or onto the ground, leading directly into an aquifer).

Official accounts of improper herbicide and toxic waste disposal prior to RCRA are the strongest indicator of dioxin exposure pathways affecting large numbers of veterans who served on Guam. EPA

and DoD documents describe a widespread practice among Guam-based military units of disposing of military wastes by pushing them over the edge of cliff-lines into low-elevation areas adjacent to military sites after World War II. See U.S. DEP'T OF AIR FORCE, EPA SUPERFUND RECORD OF DECISION: ANDERSEN AIR FORCE BASE (Dec. 2003); see also Robert A. Underwood, *News Release: Contamination Study to Narrow its Focus to Guam*, Office of Congressman Robert A. Underwood (Nov. 27, 2001) (noting GAO inquiry into contaminated cliff-line properties formerly used by the U.S. military at Ritidian Point and Harmon, Guam). The two best-documented over-the-cliff dumpsites are at Urunao Beach, at the base of the cliff-line marking the westernmost boundary of AAFB. See U.S. DEP'T OF AIR FORCE, DRAFT ENVIRONMENTAL IMPACT STATEMENT: GUAM CLEANUP OF URUNO [sic] BEACH (Feb. 1987), at II-1-2. An initial government inspection of these Urunao dumpsites identified, in addition to many other types of waste and unexploded munitions, dozens of fifty-five-gallon drums, remnants of rusted storage drums, and large amounts of other military wastes “rusted beyond recognition.” *Id.* at II-1. USAF noted that “[t]he 55-gallon drums are in such deteriorated condition that the contents no longer remain and have evaporated or leached into the ground.” *Id.* at IV-14. The Board of Veterans’ Appeals has awarded service connection to at least one Guam veteran who described pushing herbicide barrels, including barrels of Agent Orange, off these cliffs into the dumpsites at Urunao. See No. 10-21 420, 2013 WL 6992004, at \*2 (BVA Nov. 14, 2013).

Official government accounts also demonstrate widespread mishandling of herbicides amidst widespread spraying, often without documentation or attempts to mitigate public health risks. A 1985 Environmental Impact Statement related to Air Force cleanup efforts in Guam offers concrete examples of herbicide and pesticide mishandling by military units or activities on the island, including a 100-gallon herbicide spill from a tank trailer near Tarague Beach in 1972 and a 1,500-gallon herbicide spill at the Harmon tank annex in 1984. See U.S. AIR FORCE, INSTALLATION RESTORATION PROGRAM (IRP) PHASE 1: RECORDS SEARCH ANDERSEN AIR FORCE BASE, GUAM, at 4-37-4-38 (1985). With respect to the 1972 herbicide spill at Tarague, the EIS notes that “no report of this incident or related action is available.” *Id.* at 4-38. GAO’s 1987 investigation of DoD’s noncompliance with federal hazardous waste laws found that even after developing and implementing hazardous waste regulations for Guam, Air Force and Navy officials failed to “ensure that all personnel handling hazardous wastes know the proper procedures” for handling, storing, and disposing of hazardous wastes, and eliminate “significant discrepancies” on disposal documents. See GAO 87-87, at 23. GAO also concluded that the Navy and Air Force had “inadequate . . . education and training programs for personnel on the dangers of mishandling these wastes.” See *id.* at 27.

Records of EPA soil testing for 2,3,7,8-TCDD/dioxin near the Urunao dumpsites confirm veteran accounts that Agent Orange and other tactical herbicides were disposed at this site. In 1997, USAF identified dioxins as a “Contaminant of Concern” at Urunao after taking notice of the large quantity of rusted 55-gallon drums found during initial inspection of these dumpsites. See U.S. DEP'T OF AIR FORCE, EPA SUPERFUND RECORD OF DECISION: ANDERSEN AIR FORCE BASE (Dec. 2003), at 1-1. In 1996, USAF—with the support of EPA—decided to undertake soil testing to evaluate the potential presence of hazardous wastes at the dumpsites. This testing revealed numerous sites with concentrations of 2,3,7,8-TCDD/dioxin exceeding EPA risk standards. See *id.* at 2-18-2-19 (“Dioxins and arsenic had cumulative [cancer] risks exceeding USEPA’s risk goal . . . . Dioxins were the only [contaminant of concern] with cumulative risks exceeding USEPA’s risk goal of  $10^{-6}$ .”).

According to EPA's official soil testing results, concentrations of 2,3,7,8-TCDD/dioxins exceeded EPA's risk standards and remediation goals by a significant margin. At the time of USAF and EPA testing, EPA Region IX's preliminary remediation goal ("PRG") for dioxins near residential areas was 3.90 nanograms per kilogram. *See id.* tbl. 2-3. USAF and EPA's soil testing maps show sites with dioxin levels as high as 513.03 nanograms per kilogram, more than 150 times greater than the EPA PRG. *See id.* figs. 2-4 to 2-10 (site AAFB06UBS015). Dozens of sites where USAF conducted surface and subsurface testing for dioxins show well above EPA PRGs. *See id.* These dumpsites are fewer than three miles from two of AAFB's most frequented recreation sites during this period: NCS beach (recreational swimming hole created by controlled detonation in 1968), and Ritidian Point. *See UDT Men Stage Big Blow-up on NCS Beach: Deep Hole Dug by Explosives*, NCS GUAM COMMUNICATOR (Nov. 1, 1968).

The record of herbicide contamination on AAFB itself indicates widespread dioxin exposure among Guam veterans. AAFB, which has been a Superfund site on the EPA National Priorities List (NPL) since 1992, has dozens of sites where federal authorities have identified improper disposal of chemicals and other military wastes. *See U.S. ENVTL. PROTECTION AGENCY, Superfund Site: Andersen Air Force Base, Yigo, GU.* According to a 1996 USAF Installation Restoration Program investigation, AAFB had identified no fewer than 50 sites around the base where chemicals may have spilled, leaked, or been stored or disposed of. *See U.S. DEP'T OF AIR FORCE, INSTALLATION RESTORATION PROGRAM (IRP) PHASE 1: RECORDS SEARCH ANDERSEN AIR FORCE BASE, GUAM (1985).* This includes large amounts of military waste "buried in two landfills at the south end of the North Field runways from 1946 to the late 1970s." AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY, U.S. DEP'T HEALTH AND HUMAN SERVS., PUBLIC HEALTH ASSESSMENT FOR ANDERSEN AIR FORCE BASE GUAM (Jan. 4, 2002).

A 2002 Public Health Assessment of AAFB by the Centers for Disease Control ("CDC") reported dioxin levels thousands of times above CDC's levels of concern for dioxin in soil near residential areas (1 part per billion). *Id.*; *see U.S. ENVTL. PROTECTION AGENCY, DIOXIN FACTS (July 1984).* For example, at Site No. 31, identified as a "Chemical Storage Area," CDC reported dioxin levels as high as 130ppm, 130,000 times above CDC's level of concern. AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY, PUBLIC HEALTH ASSESSMENT FOR ANDERSEN AIR FORCE BASE (Jan. 4, 2002), at A-15. At Site No. 5, a former Main Base Landfill, "[d]ioxin was detected at concentrations above CVs in surface soil." *Id.* at A-3. And at another site, Site No. 26, CDC reported dioxin levels as high as 19,000 ppm, 19 million times above CDC's residential level of concern. *Id.* at A-12. This last statistic led AAFB to be labeled "one of the most toxic places on the planet." Jon Mitchell, *Poisons in the Pacific: Guam, Okinawa, and Agent Orange*, JAPAN TIMES (Aug. 7, 2012).<sup>1</sup>

Similarly, a 2010 remedial investigation by the U.S. Navy identified a drum disposal area and burn pit (IRP Site No. 78) where dioxin levels exceeded both residential and industrial remediation goals by significant margins. *See U.S. DEP'T OF NAVY, FINAL REMEDIAL INVESTIGATION FOR IRP SITE 78 (June 2010)*, at 3-3. The Navy noted that "several areas of empty drums were identified on the eastern boundary of the site" and that "TCDD TEQ was detected at 17 surface soil samples at concentrations

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<sup>1</sup> Years later, CDC issued a correction claiming that the 19,000ppm dioxin statistic reported for AAFB Site. No. 26 was published in error. Even accepting CDC's errata correction, there is abundant evidence of dioxin contamination across AAFB resulting from mishandling and improper storage or disposal of chemical wastes such as herbicides.

ranging from 5.59 to 121 nanograms per kilogram,” significantly above both the residential (3.9 ng/kg) and industrial (16ng/kg) remediation goals. *Id.* IRP Sites No. 26 & 78 are just two among dozens of waste piles, chemical disposal areas, burn pits, and other makeshift landfills where herbicides are likely to have been improperly disposed. See U.S. DEP’T OF AIR FORCE, PRELIMINARY ASSESSMENT/SITE INSPECTION WORK PLAN FOR IRP SITES 56, 57, 58, 70, 71, 72, 73, 74, 75, AND 76 AT NORTHWEST FIELD (2006) (noting—on Northwest Field alone—buried waste piles and disposal sites containing chemical drums at Sites 57, 58, 72, 73, 75, and 76). Many more sites have been identified in official federal government documents assessing military pollution in Guam.

Together, these official government accounts of herbicide mishandling, improper hazardous waste disposal, and high concentrations of 2,3,7,8-TCDD/dioxin across this small tropical island establish exposure pathways to support claims of service connection based on herbicide exposure, and are consistent with veteran accounts of both tactical and commercial herbicide spraying, storage, and disposal during the 1960s and 1970s.

#### **D. Board of Veterans’ Appeals Decisions Finding that Veterans Who Served on Guam Were Exposed to Herbicides Containing Dioxin**

The Board of Veterans’ Appeals (“BVA”) has credited veteran testimony describing toxic herbicide spraying on Guam on numerous occasions, granting service connection for disabilities linked to toxic herbicide or dioxin exposure on Guam from 1962 to 1975. These decisions, though non-precedential, demonstrate the BVA has found veteran testimony persuasive regarding the presence of Agent Orange and Agent Blue on Guam, among other toxic herbicides. Toxic herbicides were regularly sprayed on Guam by veterans both on foot and from trucks with trailers. The locations sprayed included the cross-island pipeline, the perimeter of AAFB, the perimeter of the AAFB flight line, and fuel storage facilities.

A veteran stationed at AAFB from 1972 to 1973 testified it was his responsibility to load and unload drums of Agent Orange from trucks. No. 10-21 420, 2013 WL 6992004, at \*2 (BVA Nov. 14, 2013). This testimony is specific: the veteran recalls that drums were often black with an orange or blue band around them, and that his superiors specifically instructed him to pick up “drums of Agent Orange.” *Id.* The veteran also recounts dumping these drums off of the Urunao cliffs, an account substantiated by an EPA December 2003 Superfund Record of Decision which states that waste was dumped at Urunao. U.S. DEP’T OF AIR FORCE, EPA SUPERFUND RECORD OF DECISION: ANDERSEN AIR FORCE BASE (2003). Another veteran who worked as a vehicle mechanic while stationed at AAFB from 1966 to 1967 described performing maintenance on the trucks used for Agent Orange spraying. No. 11-23 141, 2015 WL 6946958, at \*1 (BVA Sept. 24, 2015). This veteran stated the herbicide was sprayed on the perimeter of the base.

Additional veterans granted service-connection also provide testimony to substantiate the specific locations of herbicide spraying and disposal on Guam in the period from 1962 to 1975. One veteran, stationed on Guam from 1968 to 1970, testified that he was tasked with spraying “toxic chemicals” on the surrounding flight line of AAFB, along with airplanes. No. 14-04 080, 2016 WL 2648416, at \*4-5 (BVA Mar. 3, 2016). This veteran’s responsibilities were similar to the vegetation control duties of another veteran who served on Guam and who was required to spray Agent Orange and other toxic herbicides on the perimeter of the flight line. Another veteran stationed on AAFB from

1970 to 1971 witnessed herbicide spraying to clear vegetation around the perimeter of the airbase and around the MARBO housing complex, where he slept. No. 09-13 094, 2015 WL 9696592, at \*4 (BVA Nov. 12, 2015). A fuel specialist stationed at AAFB intermittently from 1968 to 1978 testified in this veteran's case that he mixed Agent Orange and other toxic herbicides (both tactical and commercial) and sprayed them on the flight line, around the security fences, and at the MARBO complex. *Id.* This testimony substantiates both the locations and specific protocol for spraying. Another veteran who was stationed at AAFB from 1964 to 1966 testified that he witnessed spraying outside of the barracks and around the runways. No. 04-07 278, 2013 WL 6575790, at \*4 (BVA Oct. 30, 2013).

These veterans' accounts of herbicide spraying and disposal on Guam from 1962 to 1975 and BVA grants of service-connection construct a consistent narrative of exposure to Agent Orange and other toxic herbicides among Guam veterans.

### **E. Consistent Veteran Accounts of Herbicide Spraying in Guam**

Additional accounts of exposure to Agent Orange and other herbicide spraying on Guam are recounted in declarations and affidavits. These accounts create a consistent and credible record of toxic herbicide spraying on Guam from 1962 to 1975 that is supported by official accounts of herbicide handling and disposal during this period. *See* Section II.C, *supra*. Consistent with the BVA accounts, these declarations and affidavits corroborate reports of routine toxic herbicide spraying on Guam by veterans both on foot and from trucks with trailers. Locations of spraying recounted in these affidavits are consistent: the cross-island pipeline, the perimeter of AAFB, the perimeter of the AAFB flight line, and fuel storage facilities.

One veteran in particular, Master Sergeant Leroy G. Foster, recounts in an affidavit that he was tasked with spraying both Agent Orange and Agent Blue on Guam while serving in the Air Force. Foster Aff. ¶ 1-4, Sept. 15, 2009. MSgt. Foster was stationed on Guam at AAFB from 1969-1971, where he was responsible for vegetation control. He recounts preparing, mixing, and spraying the herbicides in multiple locations across Guam, using a truck with a tank trailer for spraying. The locations that MSgt. Foster attests to spraying regularly include the entire cross-island pipeline, the fuel valve pits, the security fences surrounding the flight line, and the fuel storage facilities. Foster Aff. ¶ 3, Sept. 15, 2009.

This account is corroborated by institutional records. First, MSgt. Foster's health record shows treatment for acne due to herbicide exposure while stationed at AAFB in 1968. Foster Aff. at 2, Sept. 15, 2009. Chloracne is linked directly to dioxin exposure. *See* Andrew T. Patterson et al., *Skin Diseases Associated with Agent Orange and Other Organochlorine Exposures*, 74 J. AM. ACAD. DERMATOLOGY 143, 146 (2016). As chloracne has a short latency period after dioxin exposure, this contemporaneous medical record lends considerable support to MSgt. Foster's account. *Id.* Second, MSgt. Foster's performance report documents that one of his official duties was ensuring continuous vegetation control on a scheduled basis. Foster Aff. at 3-5, Sept. 15, 2009. Finally, a U.S. Navy Draft Environmental Impact Statement confirms that 2,4,5-Trichlorophenoxy acetic acid (2,4,5-T) was used for weed control along power lines and power substations. DEP'T OF NAVY, DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE DISPOSAL AND REUSE OF SURPLUS NAVY PROPERTY IDENTIFIED IN THE GUAM LAND USE PLAN (GLUP '94) (1999), at 3-82. 2,4,5-T is an herbicide agent for the purposes of presumptive service connection, 38 C.F.R. § 3.307(a)(6)(i), and a component of Agent Orange.

MSgt. Foster's account is further substantiated by other veterans' affidavits. SSgt. Ralph A. Stanton recounts witnessing MSgt. Foster regularly spraying Agent Orange and other herbicides during this time period. Stanton Aff. ¶ 2-4, Sept. 14, 2009. SSgt. Stanton was stationed at AAFB from 1969-1970 and came in contact with Foster's spraying on multiple occasions. They both went on to develop conditions associated with toxic herbicide exposure including chloracne and heart disease. See 38 U.S.C. § 1116(a)(2). SSgt. Stanton further describes witnessing Foster spraying near the MARBO Annex Barracks, where many service members stationed in Guam lived. A highly-contaminated part of the AAFB EPA Superfund Site, the MARBO Annex has been unoccupied since 1996. See U.S. DEP'T OF AIR FORCE, SECOND FIVE-YEAR REVIEW OF RECORD OF DECISION FOR MARBO ANNEX OPERABLE UNIT, USAF INSTALLATION RESTORATION PROGRAM (Aug. 2009). SSgt. Stanton also identified the location where MSgt. Foster mixed and prepared the herbicides prior to spraying EPA Super-fund Site Number 27. Stanton Aff. ¶ 1, Jan. 15, 2013. Included in this affidavit is a photo circa 1970 showing the drum storage lot, in which an Agent Blue drum is clearly identifiable, further confirming Foster's account. Another Guam veteran from this period, Brian Moyer, was stationed at Naval Base Guam, Guam from 1974-1976 and also recounts seeing sailors spraying herbicides along the fence line with a small trailer spray rig. Moyer Aff. ¶ 11, Jan. 24, 2017. This matches statements by both Foster and Stanton.

As described above, this narrative is consistent with the federal government's own accounts of herbicide and other toxic waste handling and disposal on Guam, as well as soil testing indicating high concentrations of 2,3,7,8-TCDD and dioxins at specific sites where these veterans claim to have used or disposed of Agent Orange.

### **III. Loss of Records Cannot Rebut the Abundant Evidence Above That Veterans Who Served on Guam from 1962 to 1975 Were Exposed to Herbicides Containing Dioxin**

As discussed above, the existing evidence establishes that it is as likely as not, indeed more likely than not, that veterans who served in Guam from 1962 to 1975 were exposed to herbicides containing dioxin. Some government officials, however, have attempted to rely on the loss of military records or the absence of other evidence to reach the conclusion that veterans who served in Guam from 1962 to 1975 were not exposed to Agent Orange or other herbicides containing dioxin.

The law is clear, however, that in assessing whether a veteran who served on Guam was exposed to herbicides containing dioxin, the VA cannot validly rely on the *absence* of records or other evidence as *negative* evidence. See *Fountain v. McDonald*, 27 Vet. App. 258, 273 (2015); *Buczynski v. Shinseki*, 24 Vet. App. 221, 223-24 (2011) ("the Board may not consider the absence of evidence as substantive negative evidence"); *McClendon v. Nicholson*, 20 Vet. App. 79, 85 (2006). Thus, the VA cannot rely on this evidence to rebut the showing above that those who served on Guam from 1962-75 were exposed to Agent Orange or other toxic herbicides.

As discussed below, some government officials have seized on lost military records and the inherent limitations on Agent Orange soil sampling decades after-the-fact in an effort to rebut claims of exposure. Loss of records has compounded the injustice of VA's refusal to recognize a presumption of exposure for Guam veterans. Individual veterans should not be penalized for an incomplete evidentiary record when DoD has failed to maintain this record, or to resolve and refute extensive

claims of Agent Orange and other toxic herbicide exposure.

### **A. Incomplete Documentary Record**

DoD failed to maintain a complete documentary record relevant to whether Guam veterans were exposed to herbicides containing dioxin. A thorough analysis of DoD Agent Orange records by the GAO in November 2018 concluded that the surviving documentary record neither proves nor disproves the presence of Agent Orange on Guam. U.S. GOV'T ACCOUNTABILITY OFF., GAO-19-24, AGENT ORANGE: ACTIONS NEEDED TO IMPROVE ACCURACY AND COMMUNICATION OF INFORMATION ON TESTING AND STORAGE LOCATIONS 20 (2018). DoD procured approximately 13.9 million gallons of Agent Orange between 1963 and 1968—shipping 12.1 million gallons, or approximately 87%, to the Vietnam theater almost exclusively by sea. *Id.* at 25. At least one of these cargo shipments is known to have stopped in Apra Harbor, Guam while transiting to Vietnam, and three more stopped in Guam while returning to the United States. GAO was unable to procure all of the logbook records for their review and could not reach a definitive conclusion on the presence of Agent Orange on Guam. Furthermore, these logbooks cannot account for cargo offloaded or unloaded by crews at these port calls, nor for smaller-scale transfer and supply operations among the thousands of vessels that transited between Guam and the Southeast Asia theater of operations during this period. *Id.* at 27.

The documentary record does, however, confirm both DoD storage and use of commercial herbicides on Guam during the conflict in Vietnam. A 1968 report by the Naval Supply Depot states that Public Works sprayed herbicides semi-annually for vegetation control along the fuel pipeline between AAFB and the Supply Depot. *Id.* at 33. Some of these commercial herbicides likely contained the same dioxins present in Agent Orange, namely n-butyl 2,4,5-T and its toxic byproduct 2,3,7,8-TCDD. A 1974 Navy manual on commercial herbicide use for public works and installation managers lists multiple herbicides containing n-butyl 2,4,5-T. U.S. NAVY DISEASE VECTOR ECOLOGY AND CONTROL CENTERS, RECOMMENDATIONS FOR CHEMICAL CONTROL OF DISEASE VECTORS AND ECONOMIC PESTS 23 (1974). Draft environmental assessments from 1999 and 2009 by Naval Facilities Engineering Command, Pacific confirmed the presence on Guam of dioxins common to both Agent Orange and commercially-available herbicides. While use of these herbicides on Guam is unassailable, records of procurement and use are not available due to short retention requirements for such routine transactions and applications. *See* GAO-19-24, *supra*, at 34.

GAO concluded that the documentary record available to veterans today is capable of neither proving nor disproving the presence of Agent Orange on Guam during the conflict in Vietnam. Because of an incomplete documentary record, GAO did not offer a conclusion on the presence of Agent Orange on Guam. Shipment records of Agent Orange between the United States and Vietnam are incomplete. Records of commercial herbicide purchase, storage, and use with toxic dioxins common to Agent Orange are also not available, but their use is not questioned. Under the law, the incomplete documentary record cannot validly be relied upon to prove that Agent Orange or other toxic herbicides were not present on Guam.

### **B. Limitations on Testing**

Because DoD's shipping and herbicide records are incomplete, soil sampling for chemicals associated with Agent Orange has been employed in more recent attempts to prove or disprove Agent

Orange presence on Guam during the 1960s and 1970s. However, several factors limit the probative value of recent soil sampling on Guam. The half-lives of Agent Orange's two chemical constituents—n-butyl 2,4-D and n-butyl 2,4,5-T—range from days to a few months. Guam's tropical climate, with intense rain, winds, and sunlight coupled with frequent typhoons, accelerates deterioration to further limit their time-range for detectability. The half-life of the dioxin 2,3,7,8-TCDD is significantly longer, but DoD and EPA's most recent soil sampling did not test for this contaminant. And as GAO has noted, the probative value of its detection is limited by multiple alternative sources of production, including waste incineration. *Id.* at 46.

Fifty years after the time period in question, 2,4-D or 2,4,5-T soil sampling is no longer a viable method for confirming or disproving the presence of Agent Orange on Guam. Agent Orange's own chemical composition and the scope of time elapsed since application limit the practicality of sampling techniques. Short half-lives for detectability, as well as easily explicable alternative origins on Guam—namely commercial herbicides and waste incineration—undermine drawing any definitive conclusions. 2,4-D or 2,4,5-T sampling for Agent Orange on the current timeline is inherently indeterminate; a failure to detect these two compounds after five decades cannot disprove the presence of Agent Orange on Guam.

Despite limitations, DoD, U.S. EPA, and Guam EPA carried out 2,4-D and 2,4,5-T soil sampling in 2018. Critics challenged both the selection of sampling sites and decision to not test for 2,3,7,8-TCDD. The results of the sampling found trace amounts of n-butyl 2,4,5-T. John O'Connor, *Soil Sampling Finds Traces of Agent Orange Components*, GUAM DAILY POST (Dec. 24, 2019), [https://www.postguam.com/news/local/soil-sampling-finds-traces-of-agent-orange-components/article\\_6501a1c4-255e-11ea-9047-537889adf9f9.html](https://www.postguam.com/news/local/soil-sampling-finds-traces-of-agent-orange-components/article_6501a1c4-255e-11ea-9047-537889adf9f9.html). While this detection increases the likelihood that Agent Orange was present on Guam, the sampling methodology limits any definitive conclusions. These methodological challenges would still pose challenges even if the government were to test for 2,3,7,8-TCDD. A positive result for 2,3,7,8-TCDD would confirm the presence of a toxic health threat to veterans and likewise increase the probability of Agent Orange presence, but without meaningful documentary or other evidence ruling out alternative sources of environmental pollution, it would remain difficult to definitively prove that any detected concentrations of 2,3,7,8-TCDD are attributable to Agent Orange specifically.

### **C. Legal Implications**

Incomplete or destroyed DoD records do not disprove the use of Agent Orange on Guam. Neither DoD's incomplete storage and shipping records nor inherently limited soil testing methodologies can be treated as negative evidence in assessing an individual veteran's claim for disability compensation for Agent Orange-related illnesses through service on Guam. *See Fountain*, 27 Vet. App. at 273; *Buczynski*, 24 Vet. App. at 223-24; *McClendon*, 20 Vet. App. at 85. Individual veterans cannot lawfully be penalized for DoD's incomplete recordkeeping and retention.

#### IV. Conclusion

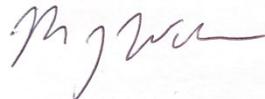
The evidence presented above demonstrates that veterans who served on Guam from 1962 to 1975 were “as likely as not” exposed to Agent Orange and other toxic herbicides. Both scientific and lay evidence, including the sworn statements of numerous veterans already credited by the BVA, establishes the exposure of these veterans to tactical and commercial herbicides. The accompanying appendix compiles relevant sources supporting this white paper’s legal conclusions. Under the relevant VA legal standard, these veterans are therefore entitled to presumptive service connection for diseases associated with Agent Orange.

Respectfully,



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Bart Stichman, Executive Director  
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117TH CONGRESS  
1ST SESSION

# H. R. 3368

To amend title 38, United States Code, to provide for a presumption of service-connection for certain veterans exposed to certain herbicides while serving in the Armed Forces, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2021

Mr. SAN NICOLAS (for himself, Mr. BILIRAKIS, Ms. CHU, Mr. DEFazio, Mrs. DEMINGS, Ms. ESCOBAR, Mr. FOSTER, Mr. GALLEGRO, Mr. HARDER of California, Mr. KATKO, Mr. KILMER, Mr. KIM of New Jersey, Mrs. KIRKPATRICK, Mr. MAST, Ms. NORTON, Ms. OMAR, Mr. PALLONE, Mr. PAPPAS, Ms. PRESSLEY, Mrs. RADEWAGEN, Mr. RUSH, Mr. RUTHERFORD, Mr. RYAN, Mr. SOTO, Ms. SPANBERGER, Mr. SUOZZI, Mr. THOMPSON of California, Ms. TLAIB, Mr. VEASEY, Mr. WELCH, Mr. ZELDIN, Mr. MASSIE, Mrs. AXNE, and Mr. FITZPATRICK) introduced the following bill; which was referred to the Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, to provide for a presumption of service-connection for certain veterans exposed to certain herbicides while serving in the Armed Forces, 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 “Lonnie Kilpatrick Cen-  
5 tral Pacific Relief Act”.

1 **SEC. 2. PRESUMPTIONS OF SERVICE-CONNECTION FOR**  
2 **CERTAIN VETERANS EXPOSED TO CERTAIN**  
3 **HERBICIDES WHILE SERVING IN THE ARMED**  
4 **FORCES.**

5 (a) **EXPANSION OF PRESUMPTIONS.**—Section  
6 1116(a)(1) of title 38, United States Code, is amended—

7 (1) in subparagraph (A), by inserting after  
8 “1975” the following: “, served on Guam or Amer-  
9 ican Samoa, or in the territorial waters thereof, dur-  
10 ing the period beginning on January 9, 1962, and  
11 ending on July 31, 1980, or served on Johnston  
12 Atoll or on a ship that called at Johnston Atoll dur-  
13 ing the period beginning on January 1, 1972, and  
14 ending on September 30, 1977”; and

15 (2) in subparagraph (B), by inserting after  
16 “1975” the following: “, served on Guam or Amer-  
17 ican Samoa, or in the territorial waters thereof, dur-  
18 ing the period beginning on January 9, 1962, and  
19 ending on July 31, 1980, or served on Johnston  
20 Atoll or on a ship that called at Johnston Atoll dur-  
21 ing the period beginning on January 1, 1972, and  
22 ending on September 30, 1977.”.

23 (b) **ELIGIBILITY FOR HOSPITAL CARE AND MEDICAL**  
24 **SERVICES.**—Section 1710(e)(4) is amended by striking  
25 subparagraph (A) and inserting the following new sub-  
26 paragraph (A):

1           “(A) The term ‘Vietnam-era herbicide-exposed  
2 veteran’ means a veteran who—

3           “(i) served on active duty—

4           “(I) in the Republic of Vietnam dur-  
5 ing the period beginning on January 9,  
6 1962, and ending on May 7, 1975;

7           “(II) on Guam or American Samoa,  
8 or in the territorial waters thereof, the pe-  
9 riod beginning on January 9, 1962, and  
10 ending on July 31, 1980; or

11           “(III) on Johnston Atoll or on a ship  
12 that called at Johnston Atoll during the  
13 period beginning on January 1, 1972, and  
14 ending on September 30, 1977; and

15           “(ii) the Secretary finds may have been ex-  
16 posed during such service to dioxin or was ex-  
17 posed during such service to a toxic substance  
18 found in a herbicide or defoliant used for mili-  
19 tary purposes during such period.”.

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# Office of the Speaker **THERESE M. TERLAJE**

*I Mina'trentai Sais na Liheslaturan Guåhan* | 36th Guam Legislature

## **AUTHOR'S REPORT DIGEST**

### **I. OVERVIEW**

Resolution No. 200-36 (LS) was introduced on October 28, 2021, by Speaker Therese M. Terlaje, and Senator Sabina F. Perez, and was subsequently referred by the Committee on Rules to Speaker Therese M. Terlaje, Prime Author, on October 29, 2021. The authors convened a joint virtual public hearing on November 9, 2021, at 4:00 p.m. utilizing the Guam Legislature's virtual hearing platform.

#### **Public Notice Requirements**

Notices for this Public Hearing were disseminated via email to all senators and all main media broadcasting outlets on Monday, November 1, 2021 (5 - Day Notice) and again on Friday, November 5, 2021 (48 Hour Notice). The notice was also published in the Guam Daily Post on Monday, November 1, 2021, and Friday, November 5, 2021.

#### **Senators Present**

Speaker Therese M. Terlaje, Prime Author  
Senator Sabina F. Perez, Co-Author  
Senator Joanne M. Brown

#### **Appearing before the Committee**

Attorney John Wells, on behalf of Military-Veterans Advocacy, Inc. (MVA)  
Brian Moyer, Founder, Agent Orange Survivors of Guam Organization  
Robert Celestial, President, Pacific Association of Radiation Survivors (PARS)  
Thomas Vasapolli, Guam Veteran

**Written Testimony Submitted**

Attorney John Wells, on behalf of Military-Veterans Advocacy, Inc.  
Brian Moyer, Founder, Agent Orange Survivors of Guam  
Susan Olivares Uncangco  
Mary Schlumpberger  
Michael Ulasich, Guam Veteran  
Thomas Vasapolli, Guam Veteran

**II. SUMMARY OF TESTIMONY & DISCUSSION**

The Joint Virtual Public Hearing was Called-to-Order at 4:05 p.m. Testimony and discussion on Resolution No. 199-36 (LS) and Resolution No. 200-36 (LS) were received simultaneously.

**SPEAKER THERESE M. TERLAJE, PRIME AUTHOR:** Hafa Adai. I'd like to acknowledge the presence of Senator Sabina Perez who is with us today. Thank you. She is the co-chair of the committee on health, land, justice and culture. Who is co-hosting the public hearing with me this afternoon as she is also on both resolutions that we will be discussing today.

I would also like to thank all of you who have joined us today on the zoom platform and we have one agenda. We have two agenda items. One is the resolution 199-36 LS. This is introduced by Senators Therese Terlaje, Sabina Flores Perez, Jose "Pedo" Terlaje, Tina Muna-Barnes, Clynton E. Ridgell, Telen Cruz Nelson, Amanda L. Shelton, Joe S. San Agustin, Joanne Brown, Telo Taitague, Mary Camacho Torres, V. Anthony Ada, Frank Blas Jr., Christopher M. Duenas and James C Moylan. It's relative to expressing the support of the *I Mina'trentai Sais na Liheslaturan Guåhan*, the 36th Guam Legislature for HR 3 9 6 7. The honoring our promise to address the comprehensive toxics act of 2021 because it recognizes Farm's Agent orange

exposure and advocating for the expansion of the toxic exposure definition of covered veteran under title three to include a Veteran who honor after October 30th, 1980 performed active military Naval or air service while assigned, to a duty station in Guam because of the US military open air burn pit activity in the island.

The second item on our agenda is Resolution 200-36 (LS) introduced by Therese M. Terlaje and Sabina Flores Perez. This is relative to expressing the support for the passage of HR. 3 3 6 8, Ilani Kilpatrick central Pacific herbicide relief act introduced by the honorable Michael San Nicolas in the United States house of representatives on May 2021, Which seeks to correct injustice, clarify the eligibility of affected veterans and expedite the processing of veteran claims of health conditions caused by agent orange exposure on Guam.

Before we hear testimony on the resolutions, I'll briefly introduce these resolutions being the primary sponsor. The agent orange is a herbicide widely used during the Vietnam war, by the US military to eliminate forest cover and crops. This herbicide contains active ingredients and significant amounts of 2 3 7 8 tetrachlorodibenzo p, TCDD, the most dangerous of all the dioxins. Human exposure to TCDD has immediate and long-term effects. The recognized diseases related to agent orange exposure include, we have a slide for this. Chloracne or other acne form diseases consistent with chloracne. Type two diabetes, also known as type two diabetes mellitus or adult onset diabetes Hodgkin's disease, multiple myeloma, non-Hodgkin's lymphoma, acute and subacute peripheral neuropathy, Porphyria cutanea Tarda, prostate cancer, respiratory cancers, which include cancer of the lung, bronchus, larynx, or trachea, soft tissue sarcomas.

The United States federal government continues to deny its use of Agent orange outside of Vietnam and Thailand. During the Vietnam war testimony of many veterans who served in the offshore waters of the Republic of Vietnam between January 9th, 1962 and many Guam Veterans such as the late Leroy Foster, who was afflicted with debilitating diseases and cancers reportedly as a result of being exposed to the toxic chemicals, who provided sworn testimony that he had sprayed Agent Orange and other toxic chemicals along the entire pipeline from the Sasa Valley Fuel Farm which runs through civilian villages to Andersen Airforce Base to Naval station while stationed here during the Vietnam war in the 1960's-70's.

In January of 2017 we were encouraged to hear that efforts were underway to test for traces of Agent Orange at sites on Guam historically known to be affected by the sprayed application of herbicides, and that investigations were underway by the Guam EPA to pinpoint any and all areas where hebrides may have been used on island, as well as the visit to Guam by the US GOA to conduct independent review of US Government handling of Agent Orange on Guam in December 2017.

In February of 2018, upon learning of upgrades being made to the pipeline, I urged the Guam EPA to conduct soil sampling prior to the soil being removed or disturbed. At that time, I was informed by the Guam EPA that a peer review of the Quality Assurance Project Plan was underway and that although Herbicide Orange sampling and testing will occur within the boundaries of AAFB, the Guam EPA has not overlooked areas located outside the fence, and had found reasonable evidence through their investigations to justify off-base sampling.

However, in 2018 sampling and testing of herbicide orange did not take place outside of DOD properties and did not include testing for TCDD. Preliminary soil sampling results of that effort were released in January 2019, indicating the presence of 2,4-D and 2,4,5-T, the primary components of Agent Orange, at nontoxic levels in one sample location.

In October 2019, upon the continuous advocacy of Guam Veteran Brian Moyer and my office, a testing effort was conducted as a followup to the 2018 testing. Mr. Moyer assisted the Guam EPA and the U.S. EPA Superfund Technical Assessment and Response Team with planning and soil sampling at various locations outside the fence, along the old fuel pipeline.

Project Scientist Amanda Wagner, in the report summary, on samples collected at the Tiyan Junction location, which yielded higher concentrations of 2,4,5-T and 2,4,5-TP than other areas sampled, stated, "It is probable that TCDD dioxin congener concentrations detected in soils are associated with chlorinated herbicides. Records of chlorinated herbicide use by the military on Guam (Navy, 1958) and veteran affidavits documenting the use of 2,4,5-T and 2,4,5-TP along with data collected from previous soil sampling events suggest the presence and use of chlorinated herbicides was likely. Finally, the herbicides in question were known to contain TCDD," unquote.

The EPA teams stated that they needed to collect more samples to come to a clearer conclusion but were denied bases access for testing. At that time, the Guam EPA had stated their intent to write to the Department of Defense to express concerns for the testing results and request on-base access for more testing.

Additionally, the 2020 white paper was published by the national veterans legal services program and the veterans legal services clinic at Yale law school. Reporting researchers concluded that veterans who served on Guam from 1958 to 1980, were exposed to agent orange and other dioxin containing herbicides. Amongst the researchers spearheading the effort with Guam natives, James Campbell, Kyla Esling and Mathew Linsley, who were assisted by my office with locating documents, landowners and also assisted by other veterans and civilians on Guam, including Mr. Robert Celestial, who we will be hearing from later today.

This conclusion was made using evidence from official government documents describing widespread practices of herbicide spraying, mishandling, and improper disposal prior to enactment of federal hazardous waste regulations in 1976 and official documents, empirical studies and numerous individual affidavits confirming in detail, the storage, spraying, and disposal of agent orange and other toxic dioxin containing herbicides in Guam.

The report also states that incomplete or destroyed DOD records does not disprove the use of agent orange in Guam and relies on veterans administration findings. And in individual cases confirming that veterans who in Guam were deemed eligible for presumption of exposure. Because of these facts, the US federal government should give presumption of exposure to veterans from 1962 to 1975.

Today's hearing is for two resolutions supporting two bills in the US House of Representatives that seek to give that presumption of exposure.

The first resolution, Resolution 199-36 (LS) introduced by myself, Senator Sabina Perez, and the rest of our colleagues on October 27, 2021, is an act “Relative to expressing the support of *I Mina'trentai Sais na Liheslaturan Guåhan* (the 36<sup>th</sup> Guam Legislature) for H.R. 3967, the ‘Honoring our Promise to Address Comprehensive Toxics Act of 2021’ because it recognizes Guam’s Agent Orange exposure, and advocating for the expansion of the toxic exposure definition of ‘covered veteran’ under Title III to include ‘a veteran who on or after October 30, 1980, performed active military, naval, or air service while assigned to a duty station in Guam’ because of the U.S. military’s open-air burn pit activity in the island.”

H.R. 3967, introduced by Congressman Mark Takano (D-California), hopes to federally recognize Guam’s exposure to Agent Orange. The bill is titled the “Honoring Our Promise to Address Comprehensive Toxics Act of 2021” or “Honoring Our PACT of 2021” and to-date has 60 co-sponsors, including Guam’s Delegate Michael F. Q. San Nicolas.

H.R. 3967 includes seven Titles whose main purposes are to improve health care and benefits for veterans exposed to toxic substances. The more notable amendments within H.R. 3967 include: a compensation clause for veterans who were part of the nuclear fallout clean-up of Enewetak Atoll in the Marshall Islands; the recognition of Guam’s exposure to Agent Orange, which would provide health care and benefits for those veterans present on island from January 9, 1962 to July 31, 1980; and definitions of ‘covered veterans’ and locations affected by toxic exposure due to the U.S. military’s use of burn pits.

In addition to supporting H.R. 3967, Resolution 199-36 (LS) also advocates for the inclusion of veterans who served on Guam who were subjected to toxins created during U.S. military open-air burn pit practice. We suggest that an amendment be made to Section 103 of Title III of the bill to expand

the definition of 'covered veteran' to include 'a veteran who on or after October 30, 1980, performed active military, naval, or air service while assigned to a duty station in Guam.'

The second resolution, Resolution 200-36 (LS) was introduced by myself and Senator Perez on October 28, 2021, and is an act "Relative to expressing the support of *I Mina'trentai Sais Na Liheslaturan Guåhan* for the passage of H.R. 3368, the "Lonnie Kilpatrick Central Pacific Herbicide Relief Act" introduced by the Honorable Michael San Nicolas in the United States House of Representatives on May 20, 2021, which seeks to correct injustice, clarify the eligibility of affected veterans, and expedite the processing of veteran claims of health conditions caused by Agent Orange exposure on Guam."

H.R. 3368 was introduced into the 117<sup>th</sup> Congress by Delegate Michael San Nicolas and is an Act cited as the "Lonnie Kilpatrick Central Pacific Relief Act". Similar to H.R. 3967, H.R. 3368 will federally recognize Guam as an area affected by Agent Orange exposure. It is with great hope that these two bills pass to finally bring justice, compensation, and health care benefits to our veterans.

I'll call upon the co-sponsor Senator Sabina. For any statements you would like to make from the beginning of the hearing. Senator Perez.

**SENATOR SABINA F. PEREZ, CO-AUTHOR:** Thank you so much Speaker and I want to thank you for allowing me to be a co-sponsor on both of these amendments. I think you highlighted the efforts that have been made by your office and by many of the veterans here to recognize all those that have served on Guam and that happened to be exposed to agent orange.

So thank you for all your work. I do want to highlight a little bit more about open burn, open detonation pits on Guam, which have been permitted since 1980 and the OBOD units are cited in the Northern part of our island which is near to our most populated village *Yigo* and *Dededo*. The continued operation of the open detonation and the resumption of open burning would allow the release of hazardous chemicals such as lead, which has been banned in Guam since the 1990s and other highly carcinogenic substances, such as strontium and uranium. Dioxin which is an endocrine disruptor, and also carcinogenic in small quantities and a persistent, organic pollutant has been known to be released as part of the emissions and has been detected in soils at OBOD sites.

The most vulnerable, such as our children and people with pre-existing heart and lung conditions are most at risk from exposure to particulate matter. Long and short term exposures to fine particles can harm people's health, leading to heart attacks, asthma and premature death. Additionally testimony provided by rec during a recent informational here revealed that PFAS is found in many of the military flares which cannot be broken down naturally and in fact, they would be just released and dispersed using this type of technology. In fact, open burn, open detonation pits are based on a dirty technology with virtually no emission controls and have results in an extensive contamination and staggering cleanup costs that can reach more than half a billion dollars at a single site across the U S the sites of open burning of hazardous waste have led to 54 separate federal Superfund declarations, and have exposed the people who live near them to the dangers that persist for generations on Guam.

In fact, one of the Superfund sites was a former OB site, open burning site of hazardous waste and to this day, it is recognized as one of the most contaminated sites. I think these resolutions are so important to be able to

compensate our veterans and those that have manned these pits, these open burn, open destination pits.

We hear about in Afghanistan and Iraq, and I think those that live in that were working and living on Guam at the time should also be compensated and I also want to thank Robert Celestial for bringing to light this important part to add, to include covered veterans for those that were operating open burn, open detonation pits on Guam. So thank you.

**SPEAKER THERESE M. TERLAJE:** Thank you, Senator Perez. We will now accept testimony and several people signed up to testify. So we will begin with attorney John Wells on behalf of military veterans advocacy, Inc. Mr. Wells, if you could please unmute.

**ATTORNEY JOHN WELLS, MVA:** My apologies. It's still early here. Speaker Terlaje and Senator Perez, thank you for the opportunity to address you today. On commander John Wells, United States, Navy retired, I'm the chair of military veterans advocacy, which includes five sections, including the agent orange survivors and Guam represented here today by Mr. Brian Moyer, probably more than any other person has taken the action to bring the issue of herbicide and other toxic exposure on Guam to light. I've been working with him for several years, and I think we're making some progress.

We do have a couple of technical recommendations that you might want to incorporate into the resolutions. One is while HR 3967, the PACT ACT is certainly important, there is a Senate Bill S3003 introduced by Senator John Tester of Montana which for purposes of Guam is basically identical to the HR 3967. We would recommend that you consider modifying your

resolution to include the S 3003, HR 3368 of course was introduced last Congress is HR 1713. That was reintroduced this year with a few changes. We work very closely with Congressman San Nicolas office. In fact, a military veterans advocacy actually wrote HR 1713 and made recommended changes to 3368. All three of those bills have one flaw, which I've mentioned in my written testimony.

As they have a start date of January 1962 times bills were written, that's what we thought it was. Since then we've found publications, including Navy, public works publications, which show a start date as early as August 15th, 1958 and that was the date of the public works publication.

And we have anecdotal evidence from some veterans to say that, yes, it was pretty that far back. So we would recommend that in your resolution. You ask them to change that date. Yeah. We have addressed that with Chairman Takano, we've addressed it with Senator Tester and certainly with Congressman San Nicolas as well. And I think everybody is aware of it, but in the Russian hub rub of Congress, which sometimes convinces me, it's like the military of hurry up and wait, and then, oh my gosh, let's start, really hurry. Sometimes things get overlooked. We found that with the blue water Navy. Military veterans advocacy has also taken the lead in litigation efforts and that was actually how we won the blue water Navy was by going to court first and after that, we were able to get a bill passed. Currently we have a bill that covers Guam, American Samoa, Johnson island. I said a bill I'm in a court case, we have a separate court case that covers Thailand and the airspace over Vietnam. As well as trying to expand the blue water Navy line. Both of those court cases come up for hearing, oral argument hearing on December the ninth.

I never want to predict what a court is going to do because I've walked in and sometimes feeling, oh, we've got this one and walked out saying what happened and other times walking in and saying this is probably not going to go so well, and coming out smelling like a rose. But we feel optimistic, especially as on Guam, we have provided a lot of information. A lot of it was determined by Mr. Moyer to show the definite use of herbicide coordinated herbicides on Guam.

In 2018, of course we had the first EPA study with the soil samples and showed the 2-4-5-T and 2-4-D. We went back with the EPA and Guam EPA. Mr. Warner, of course, was integral in that to say, look, we need to actually test for the TCDD. The problem with the 2018 study was also, it was completely random, it was just, okay, let's go ahead and take a cell sample here. So Military Veterans Advocacy sent Mr. Moyer who's on our ward to Guam to actually have them take the EPA by the hand and point out spraying locations. And if I remember the report correctly, 8 of the 10 showed us the levels of herbicide and the problem that we're facing here folks is this is 40 years after the last known use.

The last known use was in 1980. So if we are finding detectable levels at this point, you've got to believe that it was extensive at that back in the 1960's, 70's and 80'. Now, the problem we're also facing is that the government through the VA has really made a made up distinction without a difference. They say well, tactical herbicides were not used on Guam commercial herbicides were. Who cares? And this is one of the points we're bringing up in court because the Agent Orange Act of 1991, which by the way, is a misnomer, applies to all herbicides. The Agent Orange Act of 1991, says, if there's a herbicide that has 2-4-D or dioxin in it, it's covered. We brought this to the attention of the court. We brought it to the attention of the Congress. In fact, I had a discussion with the VA Tom Murphy, Acting

Under Secretary of Benefits a couple of weeks ago and we raised that issue. There is no real difference in the chemical components of tactical herbicides and the commercial herbicides. The Act does not address that loosely. Hearings did not address it and in fact the rule issued by the VA does not address it. So yeah, we think that's a red herring and we're hopeful that the court is going to agree with us. Where do we stand on this?

We're here for the long haul. Military veterans advocacy is going to force this issue, both through Congress and the courts and also through education. And by the way, one of our missions is to train our attorneys in veterans law. We teach continuing legal education courses and Guam is one of the forefront of that changing legal education. We're here for the long haul. Even once we get this covered for veterans, we have to come back and we have to look at the dependents of veterans and we have to look at the Chamorro population.

It seems to me that this goes beyond the veterans now, our scope, our wheelhouse veterans. But I can assure the legislature, every piece of information that we have obtained will be made available to Congressman San Nicolas, and Speaker Terlaje to try to get coverage for everybody on Guam because folks Guam is one big Superfund site.

Now we're also happy to see the fact that you're taking an interest in the Eniwetok and some of the other radiation areas. That was a group of folks that were just completely left out of the clean up evidence and the DOD response was gee, everybody was there and we have pictures of them there. The PPA consisted of cutoff shorts, flip flops, and bare chests for the guys. Anyhow. All right. So it was definitely not protected and we found the same place and other radiation issues such as the Palmaris cleanup. It's both the Senate and the House Bill 3967 and 50 and S003, however that. And we

support that, burn pits on Guam. Burn pits have been just something that's used throughout the world by the United States military and in most cases, it's due to laziness. At Camp Leatherneck Afghanistan, for example, we had all kinds of incinerators with proper filtering installed and it was due to one of our members who unfortunately has passed away due to exposure to burn pits.

They had the incinerators, they still used the burn pits. Why? Because it was easy. We've gone to get DOD to understand that there are effects and what they do has an impact throughout the environment that includes Guam and includes all over the place all over the world. So we certainly support what you're doing on that. And there are a couple of bills in Congress now, but primarily the War Fighter bill by Senator Gillibrand and Congressman Ruiz would provide compensation again for the veterans.

But we cannot forget our friends and our supporters today. Speaker Terlaje, Madam Speaker you've been just such a fantastic supporter of what we're doing. Nobody could ask for a better ally. We pledge to you that as we continue to fight, everything that we can do to support you, we will do. And then I think we owe that to you certainly. As I said, we couldn't ask for a better ally. My written testimony should be part of the record. And I will stand on the testimony at this point, unless y'all have any questions for me.

**SPEAKER THERESE M. TERLAJE:** Thank you very much, Commander Wells, and I very much appreciate your advocacy on this issue and on many issues for veterans, and your support for them, your lobbying for them, your lawsuits that you have actively engaged in, and that have moved the bar. They've actually moved to veterans administration and Congress.

So I want to thank you for all of that work and remembering Guam in this work especially. Senator Perez, I'm going to hand the floor to you to continue with the testimony.

**SENATOR SABINA F. PEREZ, CO-AUTHOR:** Okay. All right. Thank you, Speaker. So now we'd like to recognize Brian Moore Moyer to provide his testimony on both resolutions.

**BRIAN MOYER, FOUNDER. AGENT ORANGE SURVIVORS OF GUAM:** Hey, Mic is un-muted and I'm just going to read from a prepared statement and then I'll go freelance so to speak towards the end. but okay.

*(See attached testimony read into the record)*

I have one other little thing that I received today and it was an email from a lady by the name of Linda Joe Hefner, whose husband was a sailor Bluewater Navy sailor but his ship also pulled in Guam and she authored a book titled *Tainted Seas*. And again, I'm not here to promote the book. I haven't even read it. I didn't order it. I'm not here to sell books for anybody or at least make it appear that way. We had a seminar again and it was the very first one that Commander Wells happened either on the Blue Water Navy. And I also spoke for a half an hour about Guam and I used Polaris Point and everything else and the data that we had on the screen. And we had, I think there were approximately 150 people present. And anyway, I'm just going to read her email. Bear with me. I gotta put my glasses on. I apologize.

*"Thank you, Brian. You have no idea how the Tampa presentation impacted me. My ride home was hell. On Route 75 south, I almost had an accident and then I sat in the SkyBridge rest area for over an hour, frozen in place, staring at the water,*

*dysfunctional. When I got home, I retreated to my bedroom from Saturday night until Tuesday morning.*

*During that time I stayed in my nightgown, no shower, no contact with anyone. I ate and then threw the dirty dishes in the sink. I was a mess. My emotions flew around my head like the balls on a pinball machine. The last emotion was anger. So I recalled my book from the editor, from my editor and rewrote it, adding the horrific details of both suffering and dying. I worked my butt off on it. I Want the world to know that my husband and so many veterans have been hosed big time and it still happens today. It must stop.*

*Both you, Susie and Commander Wells, I mentioned in my book at the end. Not to worry you are praised and again, thank you for purchasing 'Tainted Sea'.*

And I have other, I've gotten letters from other veterans thanking us and when I say thanking us, I'm including Military Veterans Advocacy, Guam legislature, Susan Olliveries, Speaker Terlaje and anybody and everybody who is getting behind us. And again, I think that would conclude my testimony unless anybody has any question.

**SENATOR SABINA F. PEREZ, CO-AUTHOR:** Thank you so much, Brian, for that heartfelt testimony. And thank you for advocating for all these years and working with our Speaker and ensuring that. If it hadn't been for you, We wouldn't have been able to really detect the dioxin in the ground and so we're still very grateful.

**BRIAN MOYER, AGENT ORANGE SURVIVORS OF GUAM:** If I may add, at the time of the testing one of the gentlemen, and I don't want to... Well he works for Guam EPA. He made multiple calls to Anderson Air Force

Base there to a public relations officer or whomever may be the contact up there. I was sitting right there and he kept repeating out loud, *you're not going to allow us on the base no matter what? You're not going through under those circumstances? Are you going to allow us on the base?*

And anyway, it was after the fifth or sixth time in the conversation that I asked for the map, the 1975, 1976 topical map of Guam. I saw a school on the map, read the map and it showed a school and that's when I told him, I said, you know, Leroy Foster told me that he sprayed along the outer fence line and that there were children playing on recess time out on the playground. And he started crying, wondering if he had possibly contaminated those children with over-spray. We were all angry that the staff at the Anderson Air Force Base refused to allow us in, in any given circumstances. I said let's go there and by saying that it was almost as if Leroy was talking to me from the grave. But long behold we had a positive detection for the dioxin and it's android congeners at the fence line, which was Anderson Elementary School and now Upi Elementary School. So this validates everything that we've said and have been saying. We have been telling the truth and I'll go to my grave defending and protecting the truth and I think that ought to do it for me.

**SENATOR SABINA F. PEREZ, CO-AUTHOR:** Thank you so much, Brian.

**BRIAN MOYER, AGENT ORANGE SURVIVORS OF GUAM:** Welcome Ma'am.

**SENATOR SABINA F. PEREZ, CO-AUTHOR:** So at this time, I'd like to recognize Thomas Vasapolli, I hope I'm pronouncing your last name correctly, to provide his testimony.

**THOMAS VASAPOLLI, GUAM VETERAN:** You pronounced it correctly.

I was stationed here in 1968 and 69. I was stationed at the Naval Hospital. I was an x-ray technician. I played football for the Naval Air Station and there was a building located there that I believe still stands today. It's sitting between the football field and the newer baseball field that's up there. That's the building we kept our uniforms in. That's where we changed into our football equipment, and they also stored drums of chemicals. What kind of chemicals were they? I don't know. We were told to stay away from them as they were used for ground maintenance and I guess what they probably, from what I know today, they probably used it spraying the pipelines because that building's very close to them.

Other than that, I don't have anything else to offer other than that I've been told the same thing about going to put in claims for Type 2 Diabetes. They're telling me that I can't, as I was stationed at Anderson. There was no proof that Agent Orange was there, every bit of the things that they're saying everywhere else I guess. And only one other thing I want to bring up. You were talking about burn pits. I don't know if anybody could remember, but at the naval hospital back then, they had an incinerator where they burned. It was right across the road from the Naval Hospital. That's been torn down now for quite a while, and I don't know when it was last used but other than that, that's all I have.

**SENATOR SABINA F. PEREZ, CO-AUTHOR:** Thank you so much, Thomas, for your presence and your participation today and any and all the information and support that you've lended throughout the years.

I sincerely apologize. I want to recognize Senator Joanne Brown. She was here earlier. But yes, thank you for being here. So now I would like to

recognize Robert Celestial, who's the President of PARS. to provide testimony.

**ROBERT CELESTIAL, PRESIDENT, PARS:** Thank you. My name is Robert Celestial and I'm in support of a Resolution 199-36 (LS) and Resolution 200. Thank you Speaker Terlaje for having me today and Senator Sabina Perez. How are you doing Senator Brown? I want to really thank our Attorney and Commander JB Wells, who has been instrumental in moving this forward to where it is today, and Brian Moyer. You've also been so instrumental in having this issue brought up in Congress. There's a lot of people who benefit from this healthwise, the veterans and not only the Agent Orange on Guam, but I'm a retired Sergeant from the United States Army and stationed on Enewetak Island. This is a combination of bills and it's a great bill from Congressman Takano. It recognizes the Agent Orange veterans on Guam and recognizes cleanup veterans and veterans for burn pits.

I'll make it short. We talked about cleanup veterans. We hope and pray that this bill gets through because we've been waiting for so many years. And I was there in Enewetok in 1977 to 1980 cleaning up and transporting the contaminated soil from one island to another island. And I also worked all over the island. I was stationed up north on lojo island. On the atoll, there's a true distinction between Enewetak island and lojo island. And so I hope and pray that this bill gets through for the burn pits, Agent Orange on Guam and Enewetok. We are all clean up veterans. I just want to recognize that if it wasn't also for a no-name individual called Dr. Louis Szyfres who wrote the report, *'Guam, The Land of the Rosaries,* because when he was here in Guam, he couldn't understand why we had a funeral almost every day or every weekend and so that's why he named it the rosaries. So he wrote that report and it was through his report that some of the veterans took it before the Courts of Appeal and were actually given compensation for his report.

And that's why I really want to thank all the individuals, especially the Attorney JB Wells. Thank you for your group. You're a blessing and thank you so much. This is going to benefit all those people who wondered why they're sick today that don't have enough idea and clue, but now they do through Brian Moyer, yourself and Speaker Therese Terlaje. So thank you so much and God bless you guys. That's all I have. Thank you.

**SENATOR SABINA F. PEREZ, CO-AUTHOR:** *Si Yu'os ma'åse'* Robert we also receive testimony from Susan Olliveras Uncangco, Mary Schlumberger, and Michael Ukasich in support of the resolutions that we have here today. So I think at this point we open up to questions for anybody here present. Maybe I could start with the Speaker. She has any questions or comments.

**SPEAKER THERESE M. TERLAJE, PRIME AUTHOR:** I don't have any questions, but I am very grateful to all of you who have provided testimony and just like with Commander Wells, I am so grateful to Mr. Moyer and I was so happy to meet him in person because we had been communicating for so long.

So when he came to Guam, we went out in the field together. And I'll never forget this in my life because we went out in the field and he was so determined and he was basing it on testimony he had received from other veterans. And I just really received a lesson there in perseverance. a lesson in respecting the testimony of veterans and their memories of what they did for years, how they worked. They remember Guam very well and they remember the details. It was amazing to me that most of the places we talked about, we were able to go to and locate exactly what they remembered except for those where we were denied access on the base. I remember this also very clearly because I was astounded that we had a team from the US EPA on Guam at that time to assist us in this soil sampling. They had said

they sent like their rapid response team to help us with soil sampling because it's of course toxic and even they were denied access.

So I just found that quite appalling and not really in the spirit of, assisting us with proving these claims or disproving these claims. And so we have huge gaps in the records and I think if not for the testimony of these veterans and their memories. And even you, Mr. Vasapolli. Your memory, I'm very impressed. It's that they remember very clearly and so I think we should all respect their testimony and what they have said.

In fact it's the same thing that happened to Guam with radiation. Mr. Celestial, found the witness in the radiation exposure to show what the Geiger counters were at the time and it was this person's testimony that was very instrumental again in convincing people in Guam, people in Congress, people in the academies of science as to exposure.

So it's no secret that Guam as Commander Wells mentioned, and it's unfortunate, that we are a huge Superfund site. We have suffered from past military practices with contamination and so what I'm trying to do is to get these older issues resolved so that we can prevent this going forward.

So I really want to thank Senator Perez for her advocacy as to burn pits going forward, because it's not an issue of the past. They intend to continue burn pits on Guam and we want, by hopefully an amendment here, to prevent that. Or at least if they are going to continue that over our objection, that the veterans who are exposed to the toxins from those burn pits are also compensated.

Before I became a Senator, Mr. Celestial was instrumental in advocating as to exposure on Guam from Agent Orange and as to educating senators

before me. And I know the three of you probably have experienced advocating before Congress. Mr. Celestial has advocated before senators way before me, who knew nothing about it, didn't believe it and he was sounding, like not believable back then. But because of his perseverance and work, and, he's famous for putting the facts on the table and gathering veterans, really getting them to be bold enough to present their testimony as well. Over the years we've received so much testimony, so much testimony from different veterans and their cases when they advocate and they reached success with the Veterans Administration. It's great news and I hope that type of success for all the veterans. So I'm very much grateful to all of you. *Si Yu'os Ma'åse'.*

**SENATOR SABINA F. PEREZ, CO-AUTHOR:** All right, thank you so much, Speaker. It's well said. it's hard to add anything to that but I just want to acknowledge that, Agent Orange, radiation exposure, burn pits, and our veterans have been exposed to that firsthand and they know the true cost of war and I think it's high time that the military really integrates the effects of war and the effects of illnesses that come with the exposure of many of these chemicals. Many of which we don't know the true health impacts until much later on. And so all the work that you're doing is so very critical and we thank you on the bottom of our hearts.

We thank you on behalf of the people of Guam for persisting so long to seek justice, to seek compensation for all the health elements that you and many others have experienced, and like the Speaker said, burn pits. It has been in existence for so long here on Guam, and the intent is to use it to a greater extent and we definitely need all your support to make sure that this amendment is included to ensure that anybody who is exposed to burn pits no matter where in the world, whether it's an Afghanistan, Iraq, or on US soil, that everybody who all veterans, all service members first of all, that

there are alternatives that exist that would minimize or remove the impacts of exposure to these harmful chemicals. Again, many of which we don't know the full health impacts yet. And it's an old technology, burn and debt, open burn, and open detonations. They're old technology, outdated technology and in 2019 a report was created that there are safer alternative technologies that exist. It's only fair that our people, our service members, our veterans are protected and this should become part of best practices for everyone. So again, thank you so much. I would like to now recognize Senator Joanne Brown for any comments or questions.

**SENATOR JOANNE BROWN:** Thank you very much. Madam Chair. I certainly appreciate also the testimony that's been provided and all the long-term efforts that have been invested over the years to bring these issues to light. Certainly the efforts also of our Speaker and being persistent on these issues because we've heard about them for so many years and our veterans that are affected by these health-related issues, these things sometimes have not come up until later in life, many years after they've either retired or separated from service and are adversely affected by their health and their quality of life. Now as time has gone on, on Guam, we always hear about the high rate of illnesses that our people have cancer in particular.

That we're looking at as being connected now to radiation fallout, and then also this issue for our veterans or even our residents that might have been exposed to agent orange, which obviously was used as a defoliant in Vietnam. I certainly appreciate the testimony because I'm the daughter of a combat veteran.

My dad served in Vietnam and was in the Navy. He was in the river reinforcements. And as a result of his service, years later suffered a number of health-related issues and was ultimately determined to be a hundred

percent disabled as a result of service related illnesses. And, we wonder, as I'm sure many veterans do, and other family members of veterans, where their quality of life, obviously because of their health, is adversely affected because of their exposure and while, you can receive and certainly he did as because he could connect these illnesses to his service in the military and in Vietnam, in particular. The impact that it has on your quality of life and the suffering that you endure as a result of it is very difficult and money cannot buy that. All the money in the world cannot buy that and cannot buy health and quality of life. Especially because, they were exposed to these many cases unknowingly, and back then the practices of using these chemicals, handling these chemicals and even on Guam, as we know, disposing of these chemicals it's only since the 1970s. We have a greater awareness nationwide about the importance of environmental protection for human health and the environment.

But prior to that, a lot of these practices, these adverse practices we've seen on Guam. I served for 14 years in the restoration advisory board for Anderson, primarily because it isn't so much to take away from the improper practices of disposal by the military but, as a resident of Guam, I want to do what I can to contribute, to addressing the cleanup and remediation of these sites so they don't continue to be a threat to our people, particularly our Northern aquifer, where we depend on a large portion of our drinking water on Guam. But actually going out on the field and seeing the cleanup process that has happened and unfortunately, yes, in many ways we can attack the military for this, but at the same time, a lot of time and effort has also been invested in addressing the remediation and cleanup of these sites.

Then when you go out in the field and trenches that were dug and equipment and chemicals that were buried in the ground and simply covered and left there for so many years, then of course, we're wondering

what impact that has on our people? What's impact is happening on our environment, our drinking water? Those things now we're becoming much more conscientious about, and I'm happy that's happening.

But it's unfortunate because of our history in such a small population on our island that so many of our people suffer, have suffered and continue to suffer with so many health-related issues that, in many ways we're starting to look into, connecting it to, misuse of these chemicals in our community. And so I'm very supportive of both of these resolutions that have been put forth by our Speaker and certainly you our Chairperson. Senator Sabina.

I hope to also be included in Resolution 200, also as a co-sponsor so that we can continue to bring these issues to light. Because we can't undo the suffering of our people and particularly, those veterans that now in their later years are suffering with health-related impacts of their exposure and at the time probably unaware of what they were doing or what they were asked to do in handling these chemicals, and now are suffering from it. And for me, because I've experienced this first hand with what my father had gone through I empathize and I'm saddened by the history.

I just hope, again, that what we know now that moving forward, we can continue to be very protective over our island, our resources and our people, because life is challenging. Having all these other layers of impact that are affecting our health and wellbeing. So many of our people are dying so young and our people are left to be made to feel that we're at fault. That we're at fault that we have so many health issues on Guam, our diet. You know all the things that they list up. Saying we don't exercise enough, our diet.

When you have perfectly healthy people that are very active and still come down with some of these cancers, you have to wonder. You really have to wonder that there's a bigger issue at play and I think as time has gone on, and certainly the efforts of Mr. Celestial as well for being persistent and bringing these issues forth, not just on our island, but pushing it at our nation's Capital in Congress. It's important that we do that to continue to get that voice out there and all the other veterans who have spoken up through their own life and experience to come and help us on Guam. Your efforts are also recognized and much appreciated.

So again, thank you madam Chair, I have no questions. I think everyone has articulated some very important points for the record, and I certainly want it to relay as a daughter of a combat veteran and like I said, going through my own experience. So I empathize and hope that we are successful with the passage of these legislations that are in Congress. With that, thank you, Madam chair for the opportunity to comment.

**SENATOR SABINA F. PEREZ, CO-AUTHOR:** All right. Thank you, Senator Brown. So I've been asked to read into the record testimony by Susan Olliveras Uncangco in support of resolutions 199 and 200. This was written November 9th, 2021.

*Hafa Adai. My name is Susan Olliveras Uncangco and I'm from the island of Guam.*

*I've met a lot of veterans through the Agent Orange Survivors of Guam site and Facebook, most notably Brian Moyer, who I have a lot of respect for. We have done a lot of research regarding Agent Orange and Guam, and I'm honored to be part of them. After reading a lot of the files in the site and doing some research, I've come to the conclusion that the chemicals sprayed on Guam contributed to my family's deaths and may be the reason we have so many health issues on the island. My father*

*arrived in Guam from the Philippines in 1959. He was part of a group of people that came to work and help rebuild the military base and Guam. After World War II, he was an electrician and stayed on Camp Rojas, now known as Camp Covington until he met my mother and married her. In 1972, Camp Rojas was shut down and my father worked on the Naval Station in Guam with PWC.*

*He continued to work as an electrician and his job required him to work on all bases on Guam from Naval Station, Naval Mag, Andersen Air Force Base, Naval Hospital, et cetera. My father was exposed to asbestos respiratory diseases and received very little compensation for his work-related illnesses.*

*Please note per files, Leroy Foster documented that he sprayed agent orange outside fences and outside the offices, etc. from 1968 through 1978. My father retired from the Navy and then worked for Pepsi Guam. My father died six years ago from lung cancer and high blood. I believe that he died of all the chemicals he worked around during his service at the Public Works Center.*

*A lot of the people he worked with had medical problems and most died of cancer. The ones alive are very sick. My stepmother also worked at Naval Hospital Guam and died of cancer. She worked for the daycare center in Naval Hospital that had asbestos in the building. My family also has 33 hectares of land in Tan havista, Piti.*

*The Navy took it away, but returned 13 hectares, I believe in 2015. My mother and stepfather lived on our side of the land for 20 years and they both died of cancer. At one point while clearing the land, I saw a few drums that were buried on our side of the land. We found out that the US Navy used 245 T, which is the key chemical in agent orange related herbicides for weed control, as stated in the U S Navy's publication, Guam land Use Plan of 1994. Which leads me to ask what else have my family members been exposed to on Guam?*

*In closing, I am hoping that the US government tells the truth and gives compensation not only for our veterans, but also civilian workers like my father, my family, and the many civilians in Guam affected by Agent Orange and other chemicals. Please pass resolution numbers, 199-36 and resolution 200-36. Thank you for taking the time to hear my story.*

**SENATOR SABINA F. PEREZ, CO-AUTHOR:** All right. So now I'd like to recognize the Speaker for any closing remarks.

**SPEAKER THERESE M. TERLAJE, PRIME AUTHOR:** Thank you Senator Perez and again, thank you Senator Brown for being here today at this hearing and for your support of these two resolutions and for your years of support, really for the addressing of contamination on Guam and the health of the people of Guam.

We're all trying to work, all of us, all of you who've testified, many who've testified before you, many senators who have come before us. We're all trying to work to take care of the veterans who were exposed and also to take care of the residents of Guam who were also exposed to contamination, in this particular case to the toxins and burn pits and the toxins in Agent Orange and the toxins during cleanup and in Enewetak.

You know there's many ways that the work has been done and I want to thank all of you for the different ways of work that you've done. Finding records, finding those records that have been denied, right? That has been, that we've been told, there are no such records or that's never happened. But you have found the records to help us to prove that's wrong and that this actually did happen. Testing, it's because of the steadfastness of Mr. Moyer and others and the Guam EPA, that testing has occurred. Also another effort to prove what they continue to deny is the testimony of individual veterans

in these types of hearings and also in their cases and their individual cases before the VA, where some of them have been successful.

And thanks to the help of lawyers, Military Veterans Advocacy, and many others who have assisted these veterans in getting their claims to be successful and their testimony to be recognized as to whether or not Agent Orange existed on Guam. There are, of course, as Commander Wells stated, lawsuits to force the VA to proceed with rulemaking and in this rulemaking to recognize the Agent Orange, the present the existence of presumption of Agent Orange on Guam.

And of course, here we are in our efforts to affect Congress to recognize a presumption for persons, veterans who served on Guam during these periods who suffered these illnesses, that they will be presumed to have been exposed to Agent Orange, and that they will not have to spend the years that they are suffering, arguing, and advocating and appealing to get recognition for the suffering that they are undergoing.

As we saw from the list of the cancers and illnesses that people who are exposed to Agent Orange, that the toxins that come from the burn pits, of course the radiation from the cleanup at Enewetak and other toxins, this is real suffering and this is the thing that I think binds us all. It's like we see these people, we see their suffering and we see that we all have a duty to do something.

And I really like when Mr. Moyer was here, he gave me a patch and on his patches, I see it on him today as well, for the Agent Orange survivors of Guam, it says, *Make it Count*. And I would just like to thank all of you for making it count and ask all of us that we continue to do everything we can during our lifetimes, during our service to make it count so that these

veterans can be taken care of, so that the residents of Guam can be taken care of.

I didn't realize it at the time, but I just want to thank my staff for scheduling this hearing today because it's two days before Veteran's Day and I think it's very timely that we remind ourselves and everyone who's listening, that our work is not done for veterans. Their work is done, our work is not done. We must support them. We must work to help them. We must advocate for them. We must find records for them. We must do everything that we can with the powers that we have and the skills that we have to improve their quality of life. And I want to thank all the veterans.

Thank you very much. *Dangkulo Na Si Yu'os Ma'åse'*. That's how we say it here in Guam. Thank you very much and again, please take care and I'm so proud to be called an ally of yours. *Si Yu'os Ma'åse'* and take care everybody.

There being no additional individuals present testimony on Resolutions, 199-36 LS and 200-36 LS, this public hearing is now adjourned. The time is 5:18 PM.

I want to thank those of you who've participated long distance because I know your time is like early morning hours. *Si Yu'os Ma'åse'*. Thank you. Take care.

The Virtual Public Hearing was adjourned at **5:18 PM**

### III. FINDINGS AND RECOMMENDATIONS

#### **Findings and Recommendations for Resolutions 199-36 (LS) and 200-36 (LS)**

29

The virtual joint public hearing for Resolutions 199-36 (LS) and 200-36 (LS) found that there exists great support within Guam's community, Military-Veterans Advocacy, Inc., and veterans abroad for the passage of any federal legislation that recognizes Guam's exposure to Agent Orange.

Attorney John Wells, Chairperson of Military-Veterans Advocacy, Inc., in addition to his support for the two Resolutions, recommended two additions to improve the fight for federal recognition of Guam's Agent Orange exposure:

1. Attorney Wells suggests including within Resolution 199-36 (LS) the support of S. 3003, the "Comprehensive and Overdue Support for Troops of War Act of 2021", which is a Senate Bill whose purpose is identical to H.R. 3967, the "Honoring our PACT of 2021".
2. Attorney Wells suggests including within Resolutions 199-36 (LS) and 200-36 (LS) amendment for H.R. 3967, S. 3003, and H.R. 3368 that expands the dates of Agent Orange exposure in Guam. Since the bills' publications, credible documents have been discovered which show the use of Agent Orange in Guam to have taken place as early as August 15, 1958. Therefore, Attorney Wells suggests the Resolutions include an amendment for the three congressional bills to reflect this important fact.

Attorney Wells and Brian Moyer, Founder and Section Leader of Agent Orange Veterans of Guam, section of Military-Veterans Advocacy, Inc., also alerted the public hearing panel that there are current litigations taking place which support the federal recognition of Guam's Agent Orange Exposure. The hearing date for these cases will be on December 9, 2021. Speaker Therese Terlaje filed an Amicus Curiae in support of petitions requesting rulemaking by the VA to give

presumption of exposure and necessary compensation and benefits to veterans who served on Guam during Agent Orange use.

Robert Celestial, a Chamorro veteran stationed in Lojwa Island in Enewetak Atoll who helped clean up debris from U.S. nuclear testing and helped build Runit Dome, supported the passage of Resolutions 199-36 (LS) and 200-36 (LS) and H.R. 3967's inclusion of clean-up veterans exposed to toxins and radiation.

Speaker Therese M. Terlaje hereby reports out **Resolution No. 200-36 (LS)**,- *Therese M. Terlaje / Sabina Flores Perez- "Relative to expressing the support of I Mina'Trentai Sais Na Liheslaturan Guåhan for the passage of H.R. 3368, the "Lonnie Kilpatrick Central Pacific Herbicide Relief Act" introduced by the Honorable Michael San Nicolas in the United States House of Representatives on May 20, 2021, which seeks to correct injustice, clarify the eligibility of affected veterans, and expedite the processing of veteran claims of health conditions caused by Agent Orange exposure on Guam,"* with the recommendation: [To do Adopt.](#)

***I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN***  
**2021 (FIRST) Regular Session**

**Resolution No. 200-36 (LS)**

Introduced by:

Therese M. Terlaje *Tmt*  
Sabina Flores Perez *SFP*

**Relative to expressing the support of *I Mina'Trentai Sais Na Liheslaturan Guåhan* for the passage of H.R. 3368, the “Lonnie Kilpatrick Central Pacific Herbicide Relief Act” introduced by the Honorable Michael San Nicolas in the United States House of Representatives on May 20, 2021, which seeks to correct injustice, clarify the eligibility of affected veterans, and expedite the processing of veteran claims of health conditions caused by Agent Orange exposure on Guam.**

1        **BE IT RESOLVED BY THE COMMITTEE ON RULES OF *I***  
2        ***MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN*:**

3        **WHEREAS**, the people of Guam have a long history of distinguished service in  
4        the U.S. armed forces, and an even longer history of strong support for all of the many  
5        veterans of American wars, ranking among the highest enlistment levels in the U.S.,  
6        and having suffered more casualties on a per capita basis than any other territory, state  
7        or insular area of the United States in both the Korean conflict and the Vietnam War;  
8        and

9        **WHEREAS**, the resources and location of the island of Guam, and the service  
10       of the people of Guam played a critical role in U.S. military strategy during the Korean  
11       War, the Vietnam War, and World War II; and

1           **WHEREAS**, it has been confirmed by the Agent Orange Act of 1991 Public Law  
2 102-4, that there exists a correlation between certain herbicide agents containing dioxin  
3 *or* 2,4-dichlorophenoxyacetic acid, such as Agent Orange, and diseases later contracted  
4 by veterans of the Vietnam War; and

5           **WHEREAS**, the Agent Orange Act of 1991 defines the scope of eligibility for  
6 compensation, to include all of those who were in active military, naval *or* air service  
7 in the Republic of Vietnam during the use of the herbicide Agent Orange; and a veteran  
8 who, during active military, naval, or air service, served in the Republic of Vietnam  
9 during the Vietnam era shall be presumed to have been exposed during such service to  
10 a herbicide agent, unless there is affirmative evidence to establish that the veteran was  
11 not exposed to any such agent during that service. 38 U.S.C.A. § 1116(a)(3); and

12           **WHEREAS**, veterans that did not serve in Vietnam were not entitled to a  
13 presumption of service connection for diseases associated with exposure to certain  
14 herbicide agents. However, the veteran may be entitled to service connection for this  
15 disease on a direct basis if the evidence establishes that his disease is related to the  
16 herbicide exposure; and

17           **WHEREAS**, the VA procedures resulted in withholding of benefits for “blue-  
18 water” veterans who served at sea, off the coast of Vietnam and airmen who served in  
19 the skies above the Republic of Vietnam and civilian workers in staging areas for the  
20 Vietnam War, such as Guam, through which military personnel, equipment, munitions  
21 and supplies, including herbicides containing Agent Orange, were shipped; and

22           **WHEREAS**, on January 29, 2019, a federal appeals court in Washington sided  
23 with “blue water” Navy Veteran Alfred Procopio, Jr. in an appeal filed against Robert  
24 Wilkie, Secretary of Veterans Affairs, to reverse a decision of the Court of Appeals for  
25 Veterans claims denying service connection for prostate cancer and diabetes mellitus,  
26 as a result of exposure to Agent Orange, during his Vietnam War-era service in the

1 United States Navy. Accordingly, thousands of Vietnam War veterans who were  
2 stationed offshore during the war and developed health problems linked to exposure to  
3 the toxic herbicide Agent Orange now are eligible for the same disability benefits as  
4 those who put boots on the ground or patrolled Vietnam’s inland rivers. The 9-to-2  
5 decision reversed a decade-old ruling by the court and applies to an estimated 52,000  
6 veterans nationwide; and

7         **WHEREAS**, the DOD continues to deny Agent Orange was ever used outside of  
8 Vietnam and Thailand during the Vietnam War, despite the veterans coming forth with  
9 claims of exposure outside of these areas, including Guam; and many of the Guam-  
10 based veterans point to studies about Vietnam’s Agent Orange contamination and say  
11 they show that the herbicides sprayed forty years ago still remain in Guam’s soil, water  
12 table and food chain—just as it does in Vietnam. These veterans blame the herbicide’s  
13 aftereffects for the diseases associated with exposure to certain herbicide agents,  
14 miscarriages and birth defects among military dependents as well as the civilian  
15 population on Guam; and

16         **WHEREAS**, if veterans’ diseases or exposure locations fall outside of the  
17 current VA list, the veterans must show an actual connection between the disease and  
18 herbicide exposure during military service. There is no presumption in such cases, and  
19 many claims are denied; and

20         **WHEREAS**, in the August 9, 2007 issue of the Marianas Variety, it was reported  
21 that “At least two (2) successful applications for benefit claims filed by veterans  
22 deployed to Guam constituted the VA’s virtual acknowledgement of the use of  
23 defoliants on island. In March of 2007, the VA approved the benefits claim filed by  
24 Robert L. Burgett, a Vietnam War veteran who developed cancer of the larynx,  
25 eventually causing his speech disability, as a result of his direct exposure to Agent

1 Orange when he was stationed at AAFB between 1968 and 1969. He received a full  
2 grant of benefits;” and

3 **WHEREAS**, the Marianas Variety report went on to state that “In 2005, the U.S.  
4 Court of Appeals for Veterans ruled in favor of an unidentified airman who was  
5 determined to have developed diabetes mellitus as a result of his exposure to defoliants  
6 while he was deployed on duty at AAFB from December 1966 to October 1968;” and

7 **WHEREAS**, in sworn testimony submitted in support of Ralph Stanton, Msgt  
8 LeRoy Glenn Foster specifies the extent of the spraying both on and off of Andersen  
9 Air Force Base: “My name is Msgt LeRoy Glenn Foster, USAF, Retired. I am writing  
10 this letter to testify in support of Ralph A. Stanton’s exposure to Agent Orange  
11 herbicides which I prepared, mixed and sprayed on Andersen AFB, Guam and all of  
12 the off base fuels facilities, cross country pipelines that spanned the island to the Naval  
13 Fuel Supply Depot underground storage tanks. I sprayed these herbicides in, on, and  
14 around all the places Sgt. Stanton had to work. I prepared, mixed and sprayed these  
15 herbicides to include Agent Orange and Agent Blue herbicides which were packaged in  
16 55 gallon drum containers identified with colored bands and 50 lb dry chemical bags  
17 with Monsanto on the bags. I was an A IC and a Sgt during the time frame of 1969 and  
18 1970 and 1971. I worked in the 43<sup>rd</sup> Supply Squadron Fuels Division and was assigned  
19 to on and off base fuels facility operations. I used a five ton blue tractor truck and a  
20 yellow 750 gallon tank trailer which was an old MK1 oil and Adi trailer to service C124  
21 Globemaster Aircraft which was converted into a herbicide spraying trailer. I often  
22 would have to spray the entire pipe lines, hydrant pump stations on the flight line, the  
23 Quonset huts storing the packaged oil for the B52 bombers, the fuel valve pits, the  
24 security fences surrounding the flight line, the fuel storage facilities at Andy I, Andy II,  
25 the Liquid Oxygen bldg, the Fuel operations office, the truck refueling hardstands, the  
26 refueling fleet checkout area, all of the off base fuel storage facilities at Potts tank farm,

1 Naval Air Station Fuel Booster pump station, Tumon Tank Farm and the entire Cross  
2 country pipeline. I also sprayed at the Yigo and Dededo Packaged Oil warehouse  
3 Quonset but where I operated forklifts to load and unload packaged oil for the B52  
4 bombers jet engine oil.”; and

5       **WHEREAS**, on February 1, 2017, Rep. Dennis Ross, R-Florida, introduced H.R.  
6 809, the *Fighting for Orange-Stricken Territories in Eastern Regions (FOSTER) Act*,  
7 named after Master Sgt. Foster, who suffered and died on October 23, 2018 from  
8 associated diseases and multiple cancers due to his exposure to Agent Orange in Guam.  
9 The FOSTER Act would have provided presumptive Agent Orange exposure status to  
10 Vietnam War-era veterans who served in specific areas, including Guam, the  
11 Commonwealth of the Northern Mariana Islands and American Samoa, and show  
12 symptoms of medical conditions currently associated with exposure to Agent Orange  
13 so they can receive U.S. Department of Veterans Affairs benefits. H.R. 809,  
14 the *Fighting for Orange-Stricken Territories in Eastern Regions (FOSTER) Act*, despite  
15 great effort, was not moved forward in the 115<sup>th</sup> United States Congress; and

16       **WHEREAS**, the late Lonnie Kilpatrick, a Navy veteran who was stationed on  
17 Guam in 1971 and 1972, working in electronic warfare during the Vietnam War,  
18 recalled living near a jungle area on Guam that was sprayed at night and had turned  
19 dead brown by the next morning. Kilpatrick, who had never been stationed in Vietnam,  
20 would later suffer from heart disease, kidney cancer and skin conditions that he believed  
21 were connected to herbicide exposure while stationed on Guam. The VA denied  
22 Kilpatrick’s 2010 and 2018 Agent Orange service connection claims until a reversal on  
23 April 17, 2018 that granted service connection by the VA for “*status post heart*  
24 *transplant, residual of ischemi cardiomyopathy and myocardial infarction (also*  
25 *claimed as ischemic heart disease) associated with herbicide exposure.*” According to  
26 the VA, since the initial claim denial, it had received additional service records

1 confirming Kilpatrick was exposed to Agent Orange while serving on Guam. After  
2 several years of struggling with the VA for service connection benefits and an initial  
3 VA misdiagnosis of his medical condition, Kilpatrick was granted service-connected  
4 compensation, one month before his death on October; and

5       **WHEREAS**, on March 13, 2019, in continued pursuit of VA recognition and in  
6 honor of Navy veteran Lonnie Kilpatrick, H.R 1713, the “*Lonnie Kilpatrick Central*  
7 *Pacific Herbicides Relief Act*,” was introduced into the 116<sup>th</sup> House of Representatives  
8 by Guam Congressman Michael San Nicolas; and

9       **WHEREAS**, on May 20, 2021, the “*Lonnie Kilpatrick Central Pacific*  
10 *Herbicides Relief Act*,” was re-introduced into the 117<sup>th</sup> House of Representatives by  
11 Guam Congressman Michael San Nicolas as H.R. 3368. The *Lonnie Kilpatrick Central*  
12 *Pacific Herbicides Relief Act* seeks to establish presumptive coverage for veterans who  
13 during active military, naval, or air service, served on the islands of Guam, Samoa or  
14 the Northern Mariana Islands, or within the harbors and territorial seas of those islands  
15 during the period beginning on January 9, 1962, and ending on July 31, 1980 or who  
16 served on Johnston Island during the period beginning on January 1, 1972, and ending  
17 on September 30, 1977; and

18       **WHEREAS**, diseases associated with exposure to Agent Orange include:  
19 chloracne or other acneform diseases consistent with chloracne; Type 2 diabetes (also  
20 known as Type II diabetes mellitus or adult- onset diabetes); Hodgkin's disease;  
21 multiple myeloma; non-Hodgkin’s lymphoma; acute and subacute peripheral  
22 neuropathy; porphyria cutanea tarda; prostate cancer; respiratory cancers (cancer of the  
23 lung, bronchus, larynx, or trachea); and soft-tissue sarcomas (other than osteosarcoma,  
24 chondrosarcoma, Kaposi's sarcoma, or mesothelioma). 38 C.F.R. § 3.309(e) (2004);  
25 see also 38 U.S.C.A. § 1116(f), as added by § 201(c) of the Veterans Education and  
26 Benefits Expansion Act of 2001, Pub. L. No. 107-103, 115 Stat. 976 (2001); and

1           **WHEREAS**, the proposed “*Lonnie Kilpatrick Central Pacific Herbicide Relief*  
2 *Act*” through H.R. 3368 will correct injustice, clarify eligibility and expedite the  
3 processing of claims of health conditions caused by Agent Orange exposure in areas in  
4 which direct exposure was proven to have taken place, such as Guam; now, therefore,  
5 be it

6           **RESOLVED**, that *I Mina'trentai Sais Na Liheslaturan Guåhan* does hereby, on  
7 behalf of *I Liheslaturan Guåhan* and the people of Guam, express its strong support for  
8 resolving the numerous health care needs of the many veterans of American military  
9 service who served in Guam and the health care needs of United States citizens residing  
10 on Guam; and be it further

11           **RESOLVED**, that *I Mina'trentai Sais Na Liheslaturan Guåhan* does hereby, on  
12 behalf of *I Liheslaturan Guåhan* and the people of Guam, respectfully request that the  
13 Congress of the United States correct injustice and amend 38 U.S.Code § 1116 to  
14 include Vietnam War staging areas, such as Guam, for which evidence exists that Agent  
15 Orange exposure has taken place; and be it further

16           **RESOLVED**, that *I Mina'trentai Sais Na Liheslaturan Guåhan* does hereby, on  
17 behalf of *I Liheslaturan Guåhan* and the people of Guam, express its support of H.R.  
18 3368, the *Lonnie Kilpatrick Central Pacific Herbicide Relief Act* introduced by the  
19 Congressman Michael San Nicolas in the United States House of Representatives on  
20 May 20, 2021, that seeks to correct injustice, clarify the eligibility of affected veterans,  
21 and expedite the processing of veteran claims of health conditions caused by Agent  
22 Orange exposure on Guam; and be it further

23           **RESOLVED**, that *I Mina'trentai Sais Na Liheslaturan Guåhan* does hereby, on  
24 behalf of *I Liheslaturan Guåhan* and the people of Guam, urgently petition the United  
25 States Congress to provide presumptive Agent Orange exposure status to Vietnam War-  
26 era veterans who served in specific areas, including Guam, and show symptoms of

1 medical conditions currently associated with such exposure, so they can justly and  
2 expeditiously receive U.S. Department of Veterans Affairs benefits to address those  
3 medical conditions; and be it further

4 **RESOLVED**, that the Speaker certify and the Legislative Secretary attest to the  
5 adoption hereof, and that copies of the same be thereafter transmitted to thereafter  
6 transmitted to the Honorable Joe Biden, President of the United States of America; the  
7 Honorable Kamala Harris, Vice President of the United States; to the Honorable Nancy  
8 Pelosi, Speaker, U.S. House of Representatives; to the Honorable Mark Takano,  
9 California Representative and Chairman of the Committee on Veterans' Affairs, U.S.  
10 House of Representatives; to the Honorable Michael F. Q. San Nicolas, Guam Delegate,  
11 U.S. House of Representatives; to the Honorable Elaine Luria, Chairwoman of the  
12 Subcommittee on Disability Assistance and Memorial Affairs, U.S. House of  
13 Representatives; and to the Honorable Lourdes A. Leon Guerrero, *I Maga'hågan*  
14 *Guåhan*.

**DULY AND REGULARLY ADOPTED BY *I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN* ON THE DAY OF 2021.**

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**THERESE M. TERLAJE**  
Speaker

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**AMANDA L. SHELTON**  
Legislative Secretary