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I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) REGULAR SESSION

Resolution No. *258-30(COR)*

Introduced by:

J.P. Guthertz, DPA *[Signature]*

R.J. Respicio *[Signature]*

J.T. Won Pat, Ed. D. *[Signature]*

B.J.F. Cruz *[Signature]*

T.R. Muña Barnes *[Signature]*

Relative to expressing the strong and abiding opposition of *I Liheslaturan Guåhan* and the People of Guam to any use of eminent domain [condemnation] for the purpose of obtaining Guam lands for either the currently planned military buildup or other U.S. Federal Government purposes, or both.

1 **BE IT RESOLVED BY THE *I MINA'TRENTA NA LIHESLATURAN***
2 ***GUÅHAN*:**

3 **WHEREAS,** the island of Guam has only 147,000 acres of land
4 available to it for all purposes; and

5 **WHEREAS,** the Department of Defense currently possesses 40,000
6 acres, constituting 27.21 percent of the island's land mass; and

7 **WHEREAS,** the United States National Park Service currently
8 possesses 695 acres for 0.47 percent of the island; and

9 **WHEREAS,** the United States Fish & Wildlife Service currently
10 possesses 385 acres for 0.26 percent of the island; and

11 **WHEREAS,** the Government of Guam currently possesses 37,673.36
12 acres for 25.6 percent of the island, and;

13 **WHEREAS,** the private lands of Guam consist of only 68,246 acres
14 for 46.43 percent of the island; and

15 **WHEREAS**, the Federal Government, in its draft Environmental
16 Impact Statement (DEIS) for the military buildup has stated it desires
17 additional land for it's buildup for a Proposed Training Range Complex,
18 offering two alternatives: Alternative A, identified as the preferred
19 alternative, calls for acquiring by lease or condemnation 921 acres for this
20 training range complex, which apparently is limited to public lands
21 belonging to the Chamorro Land Trust Commission and the Ancestral
22 Lands Commission, and Alternative B, east of Andy South, that calls for
23 acquiring by long term lease or condemnation 1,129 additional acres, some
24 private and some public; and

25 **WHEREAS**, the DEIS also states that the military desires the Former
26 FAA Housing Area, comprising of 680 acres of Ancestral Lands, which
27 would fill in a gap in the future Marine Corps base between NCTS
28 Finegayan and South Finegayan; and

29 **WHEREAS**, the Joint Guam Program Office (JGPO) has declined to
30 be clear regarding the possibility of eminent domain/condemnation being
31 used as a tool to acquire the desired access to additional land in Guam,
32 either directly or indirectly as a threat to back up "negotiations;" and

33 **WHEREAS**, the Joint Guam Program Office has stated that all
34 options "are on the table" when it comes to additional land needed by the
35 military and that there is such a thing as "friendly condemnation;" and

36 **WHEREAS**, it appears that the Federal Government has no
37 appreciation for the history of federal land takings in Guam or the
38 importance of land to the people of Guam; and

39 **WHEREAS**, the history of land takings and the importance of land in
40 the local culture of a tiny island have resulted in a significant sensitivity to
41 federal land takings on the part of the local people; and

42 **WHEREAS**, Chamorro historian Reverend Joaquin Flores Sablan
43 wrote that land and family lineage continued to be the basis of wealth and
44 prestige: “Land ownership was the greatest security, particularly inherited
45 property which they treated as a sacred trust from their parents. To part
46 with the land was the same as committing suicide.” [Destiny’s Landfall: A
47 History of Guam, by Robert F. Rogers, University of Hawai’I Press, 1995,
48 page 142]; and

49 **WHEREAS**, the naval government, from 1898 until 1950 completely
50 ignored the Chamorro people’s devotion to the land, issuing their second
51 order, on January 30, 1899, to confiscate land in the Piti area to use for a
52 coaling site and navy yard. The people of Guam were never compensated
53 for that very first land taking, just the “first of a long series of controversial
54 steps whereby United States governmental agencies acquired large
55 portions of land on Guam” [Rogers, page 115]; and

56 **WHEREAS**, the naval government, held over one-third of the island
57 of Guam on the eve of World War II, and within three months of the
58 liberation of the island in 1944 five airfields were built; and

59 **WHEREAS**, by Public Law 594, the Land Acquisition Act passed by
60 the U.S. Congress on August 2, 1946, the Navy Department was authorized
61 to acquire private land needed for permanent military installations on the
62 island, but compensation was inadequate, due in part to a lack of proper
63 land valuation in the largely agrarian island, amounting to only pennies on
64 the dollar for the actual value of the land; and

65 **WHEREAS**, from 1947 to 1950, the main mission of Guam’s military
66 command was to complete building facilities, and for this purpose large
67 pieces of land were taken; and

68 **WHEREAS**, the postwar land takings were mixed in time and
69 process with limited and inadequate compensation for personal injury and
70 death and property damage under the federally created Land and Claims
71 Commission; and

72 **WHEREAS**, the United States Federal Government still has not
73 appreciated the connection between compensation for the sufferings of the
74 people of Guam at the hands of the Japanese occupiers and the takings of
75 land; and

76 **WHEREAS**, the Land and Claims Commission condemned land, but
77 became bogged down in the legal complexities of hundreds of property
78 transactions. Rogers states [p. 215] that, “The commission was understaffed
79 as well as inexperienced in real estate matters. Higher commands
80 nonetheless pressured the staff to meet tight deadlines for land transfers in
81 order for construction of new military projects to proceed...;” and

82 **WHEREAS**, when former landowners or their heirs attempted to
83 take these injustices to federal court for redress of the situation, they were
84 told that the statute of limitations had been exceeded; and

85 **WHEREAS**, without consultation with Guam officials or owners of
86 leased properties, the new civilian governor, Carlton Skinner, signed a
87 quit-claim deed on July 31, 1950, the day before the Organic Act went into
88 effect, whereby the Government of Guam transferred all condemned
89 property to the United States of America “for its own use.” This left the
90 Navy and Air Force in direct control of about 49,600 acres, or over 36
91 percent of the island; and

92 **WHEREAS**, the very first case in the new court under the Organic
93 Act, which granted American citizenship to the Chamorros, was a retaking
94 of all of the previous takings, to ensure that no claim could be made that

95 land could not be taken from the Chamorros prior to their becoming
96 American citizens; and

97 **WHEREAS**, in 1977, creation of the new War in the Pacific Memorial
98 Park saw the condemnation of coastal land in the Agat area, thus
99 preventing the construction of the Agat Marina for many years; and

100 **WHEREAS**, in the 1980's, the U.S. Congress attempted to correct the
101 obvious injustice of the postwar land takings by authorizing the land
102 taking cases to be reopened and additional compensation be paid; and

103 **WHEREAS**, while many former land owners accepted the class
104 action settlement under this law, some previous land owners of large
105 holdings, such as those at Andersen Air Force Base and including the very
106 land at NCTS envisioned by the Federal Government for the new Marine
107 Corps base, opted out of the settlement and their claims against the Federal
108 Government under that law have not been settled to this day; and

109 **WHEREAS**, the final insult to the people of Guam came when the
110 385 acres of the former Naval Facility, Guam at Ritidian Point was declared
111 excess in the 1990's and was grabbed quietly, without fanfare or advance
112 notice, by the U.S. Fish & Wildlife Service rather than being returned to the
113 original land owners via the Government of Guam; and

114 **WHEREAS**, a former Assistant U.S. Attorney handling land matters
115 in Guam in 2000 and 2001, freely admitted that many Chamorro land
116 owners at the time were cheated out of their land by land agents telling
117 them that the paperwork to be signed was compensation for damage to
118 coconut trees or that the land would be returned to the owner once there
119 was no longer any need for it; and

120 **WHEREAS**, this sordid history of the people of Guam's most
121 precious resource, other than its children, needs to be and must be
122 appreciated by the United States Federal Government; and

123 **WHEREAS**, in response, *I Liheslatura* has specifically enacted
124 legislation addressing Federal acquisition of property, including:

125 **(a)** Public Law 29-113, specifically §15105 of Chapter 15, of Title
126 21 of the Guam Code Annotated, which calls for duly enacted
127 legislation by *I Liheslatura* to authorize “the acquisition by
128 condemnation *or* otherwise of private property” by means of
129 Congressional appropriation to acquire property for public
130 use; and

131 **(b)** Public Law 30-21, specifically § 2401 (c) of Chapter 24, of Title 1
132 of the Guam Code Annotated, which tasks the Guam First
133 Commission to determine which land the Federal Government
134 may intend to lease or sub-lease, exchange for other land, or
135 purchase, and to report their findings to *I Liheslatura* and *I*
136 *Maga’Lahi*, and also requires Legislative approval of any
137 Federal acquisition of GovGuam property, whether by lease,
138 sub-lease, exchange or sale.

139 Now therefore, be it

140 **RESOLVED**, that the people of Guam are absolutely opposed to the
141 use, or threat of use, of eminent domain/ condemnation, for any
142 acquisition of any additional Guam land, private or public, for any purpose
143 whatsoever related to the planned military buildup; and be it further

144 **RESOLVED**, that the people of Guam demand negotiations at arms
145 length, with a level table, and without undue pressure being exerted on
146 Guam landowners by the United States Federal Government/Department
147 of Defense, for the acquisition of any additional land, public or private;
148 and be it further

149 **RESOLVED**, that the people of Guam demand dealings concerning
150 land are held in good faith between the United States Federal
151 Government/Department of Defense and private landowners that are
152 willing to lease/sell their property to the Federal Government, and are
153 also held in good faith with the official representatives of the people of
154 Guam in discussing the potential lease of land from the Government of
155 Guam; and be it further

156 **RESOLVED**, that the people of Guam demand that the Federal
157 Government renounce any repeat of history and declare that
158 condemnation SHALL NOT be a tool available to the federal government,
159 either directly or through the use of intimidation, in relation to the Guam
160 military buildup; and be it further

161 **RESOLVED**, that the *I Mina'Trenta Na Liheslaturan Guåhan* does
162 hereby, on behalf of *I Liheslaturan Guåhan* and the people of Guam,
163 recognize and memorialize the many years of injustice and mistreatment of
164 the people of Guam as reflected in the foregoing history of federal land
165 takings; and be it further

166 **RESOLVED**, that the Speaker certify, and the Legislative Secretary
167 attest to, the adoption hereof, and that copies of the same be thereafter
168 transmitted to Barack Obama, President of the United States; to the
169 Honorable Nancy Pelosi, Speaker of the United States House of
170 Representatives; to the Honorable Robert Byrd, President Pro Tem of the
171 U.S. Senate; to the Honorable Ban Ki-moon, Secretary General of the
172 United Nations; to the Honorable Hillary Rodham Clinton, Secretary of
173 State; to the Honorable William Gates, Secretary of Defense; to the
174 Honorable Ray Mabus, Secretary of the Navy; to the Honorable Michael
175 B. Donley, Secretary of the Air Force; to the Honorable John M. McHugh,

176 Secretary of the Army; to the Honorable Ken Salazar, Secretary of
177 Interior; to the Honorable Anthony Babauta, Assistant Secretary of the
178 Interior for Insular Affairs; to the Honorable Benigno Fitial, Governor of
179 the Commonwealth of the Northern Mariana Islands; and to the Honorable
180 Felix P. Camacho, Governor of Guam.