

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2019 (FIRST) Regular Session

Resolution No. 71 -35 (COR)

Introduced by:

Therese M. Terlaje 

Relative to expressing the support of *I Mina'Trentai Singko Na Liheslaturan Guåhan* for the passage of H.R. 1713, the "Lonnie Kilpatrick Central Pacific Herbicide Relief Act" introduced by the Honorable Michael San Nicolas in the United States House of Representatives on March 13, 2019, 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.

2019 FEB 14 AM 9:33 

1 **BE IT RESOLVED BY THE COMMITTEE ON RULES OF *I***
2 ***MINA'TRENTAI SINGKO 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 43rd 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 115th 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, the "*Lonnie Kilpatrick Central Pacific*
7 *Herbicides Relief Act*," was introduced into the 116th House of Representatives by
8 Guam Congressman Michael San Nicolas. The *Lonnie Kilpatrick Central Pacific*
9 *Herbicides Relief Act* seeks to establish presumptive coverage for veterans who during
10 active military, naval, or air service, served on the islands of Guam, Samoa or the
11 Northern Mariana islands, or within the harbors and territorial seas of those islands
12 during the period beginning on January 9, 1962, and ending on July 31, 1980 or who
13 served on Johnston Island during the period beginning on January 1, 1972, and ending
14 on September 30, 1977; and

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

24 **WHEREAS**, the proposed "*Lonnie Kilpatrick Central Pacific Herbicide Relief*
25 *Act*" will correct injustice, clarify eligibility and expedite the processing of claims of

1 health conditions caused by Agent Orange exposure in areas in which direct exposure
2 was proven to have taken place, such as Guam; now, therefore, be it

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

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

13 **RESOLVED**, that the Committee on Rules of *I Mina'trentai Singko Na*
14 *Liheslaturan Guåhan* does hereby, on behalf of *I Liheslaturan Guåhan* and the people
15 of Guam, express its support of H.R. 1713, the *Lonnie Kilpatrick Central Pacific*
16 *Herbicide Relief Act* introduced by the Congressman Michael San Nicolas in the United
17 States House of Representatives on March 13, 2019, that seeks to correct injustice,
18 clarify the eligibility of affected veterans, and expedite the processing of veteran claims
19 of health conditions caused by Agent Orange exposure on Guam; and be it further

20 **RESOLVED**, that the Committee on Rules of *I Mina'trentai Singko Na*
21 *Liheslaturan Guåhan* does hereby, on behalf of *I Liheslaturan Guåhan* and the people
22 of Guam, urgently petition the United States Congress to provide presumptive Agent
23 Orange exposure status to Vietnam War-era veterans who served in specific areas,
24 including Guam, and show symptoms of medical conditions currently associated with
25 such exposure, so they can justly and expeditiously receive U.S. Department of
26 Veterans Affairs benefits to address those medical conditions; and be it further

1 **RESOLVED**, that the Speaker certify and the Legislative Secretary attest to the
2 adoption hereof, and that copies of the same be thereafter transmitted to the Honorable
3 Donald Trump, President of the United States of America; to the Senate Majority
4 Leader, U.S. Senate; to the Speaker, U.S. House of Representatives; to the Committee
5 on Veterans' Affairs, U.S. Senate; to the Committee on Armed Services, U.S. Senate;
6 to the Committee on Veterans' Affairs, U.S. House of Representatives; to the Armed
7 Services Committee, U.S. House of Representatives; to the Honorable Michael San
8 Nicolas, Member of Congress, U.S. House of Representatives; to the Honorable Gus
9 Bilirakis, Member of Congress, U.S. House of Representatives, to the Secretary of the
10 Department of Veterans Affairs; to the Secretary of the Department of the Interior; to
11 the Assistant Secretary for Insular and International Affairs; to the Administrator of the
12 Guam Office of Veterans Affairs; to the Guam Veterans Commission; to the Speaker
13 of *I Liheslaturan Guåhan* (the Guam Legislature); and to the Honorable Lourdes Leon
14 Guerrero, Governor of Guam, *I Maga'hågan Guåhan*.

**DULY AND REGULARLY ADOPTED BY THE COMMITTEE ON RULES OF
I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN ON THE DAY
OF MONTH 2019.**

TINA ROSE MUÑA-BARNES
Speaker

RÉGINE BISCOE LEE
Chairperson, Committee on Rules

AMANDA L. SHELTON
Legislative Secretary