

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÁHAN

2024 (SECOND) Regular Session

VOTING RECORD

NAME	Speaker Antonio R. Unpingco Legislative Session Hall Guam Congress Building October 7, 2024					
	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Resolution No. 325-37 (LS)						
Senator Chris Barnett	✓					
Senator Frank Blas, Jr.	✓					
Senator Joanne Brown	✓					
Senator Christopher M. Dueñas	✓					
Senator Thomas J. Fisher	✓					
Senator Jesse A. Lujan						✓
Vice Speaker Tina Rose Muña Barnes					✓	✓
Senator William A. Parkinson	✓					
Senator Sabina Flores Perez	✓					
Senator Roy A. B. Quinata	✓					
Senator Joe S. San Agustin					✓	✓
Senator Dwayne T. D. San Nicolas	✓					
Senator Amanda L. Shelton	✓					
Senator Telo T. Taitague	✓					
Speaker Therese M. Terlaje	✓					

TOTAL

12

0

**Not
Voting/
Abstained**

**Out
During
Roll Call**

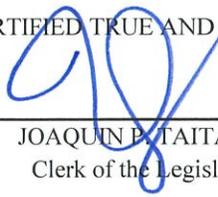
2

Absent

3

Excused

CERTIFIED TRUE AND CORRECT:



JOAQUIN B. TAITAGUE
Clerk of the Legislature

I = Pass

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2024 (SECOND) Regular Session

Resolution No. 325-37 (LS)

As amended by the Author.

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Introduced by:

Sabina Flores Perez

Relative to preserving one of the most valuable cultural sites in the Marianas Archipelago by identifying an alternative location for the Ritidian Wildlife Refuge Visitor Center and its associated facilities pursuant to the planned relocation prescribed in the May 2020 Memorandum Of Agreement (MOA) between the Department of the Interior (DOI) and the Department of the Navy (DON), in order to prevent further unnecessary environmental and cultural destruction, and relative to urging DOI and DON to fully recognize the Indigenous rights of the original landowners of the lands concerned, per their Indigenous rights inextricable from the genuine protection of such lands.

BE IT RESOLVED BY *I MINA'TRENTAI SIETTE NA LIHESLATURAN*
***GUÅHAN*:**

WHEREAS, Ritidian Point (or *Litekyan* in the *CHamoru* language, which means a place of stirring) is one of the most valuable archeological sites of the Marianas Archipelago. *Litekyan* contains a plethora of *Latte* sets, water wells, limestone mortars, cave drawings, pottery, shell artifacts, and other cultural resources signifying the rich cultural history of *Guåhan*. *Litekyan*'s (Ritidian's) geographic, cultural, and historical significance remains mostly intact, and archaeological evidence reveals that the *CHamoru* people's habitation of *Litekyan* predated Spanish arrival in 1521 by over six hundred (600) years - with settlement at *Litekyan* dating over three thousand five

1 hundred (3,500) years. *Litekyan* provides invaluable information on *CHamoru* ancestral
2 history, and contributes to the understanding of the unique heritage and culture of the
3 Indigenous people of *Guåhan*; and

4 **WHEREAS**, *Litekyan*, including its site of *Tailålo'*, is a critical habitat for many
5 of *Guåhan*'s endangered and endemic species, in addition to medicinal plants vital to
6 traditional *CHamoru* healing practices. The environmental habitat of *Tailålo'* and the
7 greater *Litekyan* area are essential to the survival of endangered and endemic species
8 such as Guam's sole reproductive *Håyun Lågu* (*Serianthes nelsonii*), and the Mariana
9 eight spot butterfly (*Hypolimnas octocula marianensis*). The primary limestone forest
10 critically sustains endemic host species necessary to the existence of endangered and
11 threatened species, such as the endemic host species *tupun ayuyu* (*Elatostema*
12 *calcareum*); and the *Procris pedunculata* is solely relied upon by the Mariana eight spot
13 butterfly throughout its entire life cycle; and

14 **WHEREAS**, the original landowners of *Litekyan*, Juan San Nicolas Agüero;
15 Dolores Martinez Flores and Benigno Leon Guerrero Flores; Juan Mendiola Castro;
16 Juan Rivera Castro; Ana Matanane Pangelinan; and Engracia Castro Perez, Tomas L.G.
17 Castro, Gregorio L.G. Castro, Maria Castro Ada, Margarita Castro Camacho, Julia
18 Castro Stephens, Francisco L.G. Castro, Concepcion Castro Camacho, and Santiago
19 L.G. Castro; Juan S.N. Agüero and Maria T. Agüero; and their descendants, have
20 historically or contemporarily been stewards of *Litekyan* through agriculture, cultural
21 and traditional practices, and *CHamoru* rights advocacy inseparable from their
22 *CHamoru* (Indigenous) ties with their ancestral lands; and

23 **WHEREAS**, *Litekyan* was seized from the original landowners by the U.S.
24 federal government in 1963 under eminent domain. In 1993, *Litekyan* was designated
25 as the Guam National Wildlife Refuge in its transfer from the U.S. Department of
26 Defense (DOD) to the U.S. Fish and Wildlife Service (USFWS); and

1 **WHEREAS**, *Tarague*, *Urunao*, *Pahon*, and *Jinapsan* comprise additional
2 northern sites of *CHamoru* ancestral landowners whose custodianship and *CHamoru*
3 (Indigenous) identity are directly tied to their native lands; and DOD and USFWS
4 operations have directly or indirectly disenfranchised the cultural, environmental, and
5 historical preservation of these sites by denying original landowners from fully
6 accessing and/or maintaining their lands in varying capacities, and/or through other
7 means; and

8 **WHEREAS**, the USFWS’s July 1993 Final Environmental Assessment (EA) for
9 the Proposed Guam National Wildlife Refuge determined a “Finding of No Significant
10 Impact” regarding the federal designation of the Refuge, as USFWS found this
11 designation to not constitute “a major Federal action significantly affecting the quality
12 of the human environment.” In the USFWS’s “Finding of No Significant Impact,” the
13 Service provided reasons alleging their determination, including: “natural processes
14 under which much of the area has evolved will be permitted to continue, with the
15 exception of the control of alien species”; “no private lands are included within the
16 proposed Refuge”; “the proposed action will not have adverse impacts to the local
17 economy, cultural resources, or the social environment because the current land uses
18 will be essentially unchanged”; “the proposed action will not have an adverse impact
19 upon threatened or endangered species”; “the proposed action is consistent with the
20 goals of the recovery plans for several endangered species on Guam”; “the
21 archaeological and historical resources will be protected”; and “prior to the
22 implementation of any management activities may affect these sites, the Service shall
23 undertake the necessary surveys and planning to avoid and conserve the archaeological
24 and historical sites”; and

25 **WHEREAS**, based on the information collected in the EA and “numerous and
26 similar acquisitions that have preceded this action,” the USFWS determined to not

1 prepare an Environmental Impact Statement (EIS) concerning the establishment of the
2 Refuge; and

3 **WHEREAS**, the Service ultimately determined a “Finding of No Significant
4 Impact” and to not prepare an EIS despite the numerous testimony of original
5 landowners reaffirming their Indigenous rights, stewardship, and cultural and
6 environmental concerns over *Litekyan* preceding and during the USFWS’s 1993 EA
7 process. As of April 2024, *Litekyan* remains expropriated from the original landowners,
8 who continue to advocate for the return and protection of their ancestral lands; and

9 **WHEREAS**, per Article 10 of Chapter 68, Title 21 Guam Code Annotated
10 (GCA) the government of Guam seeks the termination of federal ownership of real
11 property in Northern Guam (i.e. *Litekyan* or the federally designated Guam National
12 Wildlife Refuge). Per Section 681001 of Article 10 of Chapter 68, Title 21, Guam Code
13 Annotated, the government of Guam seeks the transfer of Ritidian Point lands “from
14 the control of the U.S. Department of the Interior’s Fish and Wildlife Service to local
15 authority for whatever purposes deemed appropriate by local authority, including
16 possible return to original landowners”; and

17 **WHEREAS**, per Section 681002 of Article 10 of Chapter 68, Title 21 GCA, the
18 government of Guam stipulates that the lands possessed by the former Naval Facility at
19 Ritidian Point are “hereby designated as the lands of the government of Guam, to be
20 held in trust by the government of Guam for the benefit of the original owners, and to
21 be held in trust for the shortest time possible until the land can be returned to the original
22 owners or their heirs” as an act of self-determination; and

23 **WHEREAS**, per Article 10 of Chapter 68, Title 21 GCA, the government of
24 Guam repudiates the federal seizure and designation of the Ritidian Point lands,
25 including the transfer of seized lands from DOD to USFWS, and asserts these federal
26 acts to constitute theft from the original landowners; and

1 **WHEREAS**, the US federal government’s continued occupation of *Litekyan* is
2 intrinsic to the ongoing construction and operation of a series of live-fire training ranges
3 in Guam and the entire Mariana Islands. These developments include the relocation of
4 approximately five thousand (5,000) Marines and their one thousand three hundred
5 (1,300) dependents from Okinawa to Guam by the U.S. Department of Defense (DOD),
6 pursuant to the U.S. Department of the Navy’s (DON) 2010 and 2015 Records of
7 Decision; the 2015 Supplemental Environmental Impact Statement (SEIS); and the
8 2015 U.S. Fish and Wildlife Services (USFWS) Biological Opinion (BO) for the U.S.
9 Navy’s relocation of the U.S. Marine Corps from Okinawa to Guam and Associated
10 Activities on Guam (Biological Opinion), and its subsequent re-initiations. *Tailålo’*
11 (Andersen Air Force Base-Northwest Field) in *Litekyan* was identified by the DON as
12 a site to construct and operate the Live-Fire Training Range Complex (LFTRC); and

13 **WHEREAS**, the LFTRC construction has resulted in irrevocable destruction of
14 the primary limestone forest at *Tailålo’* (Andersen Air Force Base-Northwest Field),
15 with the Multipurpose Machine Gun (MPMG), the LFTRC’s largest range, set a mere
16 one hundred (100) feet away from Guam’s sole reproducing, endemic and endangered
17 *Håyun Lågu* (*Serianthes nelsonii*); and

18 **WHEREAS**, the LFTRC is scheduled to operate for nine (9) of the twelve (12)
19 months of the year, resulting in the expenditure of 6.7 million bullets annually
20 throughout the three thousand six hundred sixty-eight (3,668) square miles comprising
21 the designated surface danger zones (SDZs). The consequences of live-fire training,
22 including environmental contamination and destruction, detrimental health impacts
23 from exposure to lead and other toxins, and interrelated exacerbation of the island’s
24 healthcare capacity pose substantial risks to the island’s lands, waters, and people. On
25 September 25, 2023, the first live fire testing was conducted at the LFTRC, with full
26 range operations proposed to begin in 2025; and

1 **WHEREAS**, in addition to the construction and operation of the LFTRC, the
2 2020 reactivation and further development of Marine Corps Base Camp Blaz, the U.S.
3 Air Force’s open burning and open detonation (OB/OD) of munitions at *Tarague* since
4 the 1980s, and other military acts, infringe upon the holistic welfare and Indigenous
5 rights of the original landowners concerned and their ancestral lands; and

6 **WHEREAS**, in relation to the development of the LFTRC and overall military
7 buildup of Guam, the Department of the Interior (DOI) and the Department of the Navy
8 (DON) jointly entered into a Memorandum of Agreement (MOA) in May 2020. Per the
9 May 2020 MOA, DOI and DON delineated their commitments to providing for the
10 establishment and operation of SDZs, of which are superimposed upon a portion of the
11 Ritidian Unit of the Guam National Wildlife Refuge (GNWR) and the U.S. Geological
12 Survey (USGS) Brown Tree Snake Research and Rapid Response (BTS RRR) facilities;
13 and

14 **WHEREAS**, the May 2020 MOA states that USFWS and USGS expressed their
15 inability to meet the purposes of the GNWR Ritidian Unit and conduct the USGS BTS
16 RRR, without the relocation of facilities and necessary resources to a location within
17 the Refuge outside the SDZ; and

18 **WHEREAS**, per the May 2020 MOA, the DON will “build a permanent
19 replacement office, visitors’ area, maintenance, research facilities, and any other
20 facilities DON and DOI agree are commensurate with those impacted by the SDZs,”
21 with the DON and DOI in joint agreement that the construction of new permanent DOI
22 facilities will be within the Refuge. As to “minimize adverse effects to designated
23 critical habitat on the Refuge from construction of the new permanent facilities,” the
24 DON is responsible for the demolition of existing DOI facilities, the removal of
25 demolition debris, and the preparation of the site for “restoration and regeneration,”
26 including clearing and grading, delineation of habitat area, and the initial planting and

1 translocation of native vegetation from the construction area or from the DON nursery
2 stock “if available”; and

3 **WHEREAS**, *I Liheslaturan Guåhan* finds that the 2015 and 2017 Biological
4 Opinion’s mitigation measures concerning the protection of *Hayun Lågu* (*Serianthes*
5 *nelsonii*) are insufficient given new and emerging information demonstrating the
6 species to be at risk of extinction. A 2021 phylogenomic study confirmed the
7 conspecificity of the Guam and Rota *Håyun Lågu* (*Serianthes nelsonii*) populations, but
8 also revealed that the sole reproductive *Håyun Lågu* (*Serianthes nelsonii*) located
9 nearest to the LFTRC’s MPMG footprint has a unique genotype and is distinct from the
10 extant Rota population. To increase the genetic diversity amongst the Guam and Rota
11 populations, the preservation of Guam’s sole reproductive *Håyun Lågu* (*Serianthes*
12 *nelsonii*) is crucial for the survival of the entire species. The genetic study finds that the
13 level of genetic diversity that this mother tree provides would prevent the bottleneck
14 effect that can lead to species extinction; and

15 **WHEREAS**, in February 2019 and November 2021, Senator Sabina Flores Perez
16 corresponded with the USFWS Pacific Regional Director Robyn Thorson, requesting
17 that the USFWS fulfill its duty under Title 50 of the Code of Federal Regulations (CFR)
18 § 402.16 and ask the Department of the Navy (DON) to re-initiate the Biological
19 Opinion for the endangered *Håyun Lågu* (*Serianthes nelsonii*) and the Mariana eight
20 spot butterfly (*Hypolimnna octocula marianensis*); and

21 **WHEREAS**, in March 2019, USFWS Pacific Regional Acting Director Mary
22 Abrams responded to Senator Perez’s February 2019 request, noting that “while the
23 USFWS can recommend reinitiation of consultation, it is the responsibility of the DON
24 to ultimately request reinitiation of consultation” if conditions are triggered regarding
25 the extent of taking, new and emerging information, and modifications to an identified
26 action concerning new/listed species or critical habitats. In response to Senator Perez’s

1 November 2021 request, Regional Director Robyn Thorson stated in his January 2022
2 letter that “if any new scientific data becomes available, including information related
3 to the population status of *Serianthes nelsonii* or the impacts of climate change, USFWS
4 will analyze the data and recommend the DON reinstate consultation if triggers are
5 met”; and

6 **WHEREAS**, the Endangered Species Act lacks the necessary oversight, if not
7 regulations, for mitigating environmental and cultural destruction resulting from the
8 LFTRC construction and related operations. It has been reported that of the two
9 thousand (2,000) threatened *Cycas micronesica* trees, flora which are culturally
10 significant to the *CHamoru* people surveyed on the LFTRC footprint, only fifty (50)
11 were successfully transplanted. The significant contrast between *Cycas micronesica*
12 trees surveyed and those successfully transplanted constitutes new information pursuant
13 to the 2015 BO, and intrinsically demonstrates the noncompliance of mitigation
14 measures required by the 2015 BO; and

15 **WHEREAS**, the construction of the live fire training range complex required the
16 destruction of the surrounding forest and habitat of the *Håyun Lågu* (*Serianthes*
17 *nelsonii*), which is in opposition to its recovery plan. The surrounding limestone forest
18 was essential for its seedlings to germinate and repopulate the forest and for buffering
19 the sole mother tree from drying or damaging effects of wind. Because of the loss of
20 the forest, the lone mother tree suffered extensive damage from the recent Typhoon
21 Mawar in 2023, thus jeopardizing the species; and

22 **WHEREAS**, the effects of climate change will increase drought frequency,
23 which can be exacerbated by a strong El Niño Southern Oscillation (ENSO) (2020
24 PIRCA Climate Change on Guam), and consequently threaten the preservation of the
25 *Håyun Lågu* (*Serianthes nelsonii*). Hotter conditions are expected, which will also
26 increase water demand; and the increasing drying and drought conditions will further

1 weaken the lone mother *Håyun Lågu* tree, which has previously withstood Super
2 typhoons Karen, Pamela, Chataan, and Pongsona and other damaging windstorms while
3 its habitat was intact; and

4 **WHEREAS**, *I Liheslaturan Guåhan* finds the destruction caused by the
5 militarization of *Litekyan*, and federal accommodations pertinent to this process, to be
6 in gross violation of the Indigenous rights of the original landowners to their lands,
7 territories, and resources. Inseparably, the ongoing federal acts substantiate the US
8 federal government to be in blatant disregard of the people of Guam, and disingenuous
9 and in their determinations per the USFWS 1993 Final Environmental Assessment for
10 the Proposed Guam National Wildlife Refuge and neglect to pursue an Environmental
11 Impact Statement; and

12 **WHEREAS**, the “January 2021 Mandates of United Nations Special
13 Rapporteurs” to the United States expressed that “the demolishing and military
14 expansion by the Department of Defense of the several sites of great historical and
15 cultural significance to the Chamorro people risks irreversibly damaging and further
16 disturbing of ancestral burial grounds,” and that “the Chamorro people have not
17 provided their free, prior and informed consent in connection with the ongoing
18 expansion of U.S. military bases and its accompanying increase in personnel on Guam.
19 The military escalation risks increased contamination to the drinking water, loss of
20 wildlife and biodiversity, irreversible damage of their traditional lands, territories, and
21 resources; loss of traditional livelihoods, cultural sites and heritage and threatens the
22 physical and cultural survival of the Chamorro”; and

23 **WHEREAS**, the 2007 United Nations Declaration on the Rights of Indigenous
24 Peoples (UNDRIP) establishes “a universal framework of minimum standards for the
25 survival, dignity and well-being of the Indigenous Peoples of the world and it elaborates
26 on existing human rights standards and fundamental freedoms as they apply to the

1 specific situation of Indigenous Peoples,” and “confirms the right of Indigenous Peoples
2 to self-determination and recognizes subsistence rights and rights to lands, territories
3 and resources”; and

4 **WHEREAS**, UNDRIP articles such as Articles 4, 11, 19, 25, 26, 28, 29, 30, 31,
5 and 32 reaffirm the CHamoru people’s right, including the original landowners’ right,
6 to their lands, territories, and resources; their right to self-determination, including Free,
7 Prior and Informed Consent (FPIC); and their cultural rights regarding *Litekyan* and
8 other ancestral lands. The US federal government’s continued occupation of *Litekyan*,
9 and resulting cultural and environmental devastation, violate these fundamental
10 Indigenous rights inherent to the original landowners of *Litekyan*. The US federal
11 government’s denial of self-determination and FPIC especially constitute grave
12 violations of the most fundamental Indigenous rights protected by the UNDRIP; and

13 **WHEREAS**, in 2010, the U.S. federal government announced its support of the
14 UNDRIP at the Second (2nd) White House Tribal Nations Conference, stating that the
15 UNDRIP “performs the invaluable functions of gathering together in one document the
16 basic rights of Indigenous Peoples, educating the public, and providing clear direction
17 for those nation states endorsing the Declaration,” and “expresses aspirations of the
18 United States, aspirations that this country seeks to achieve within the structure of the
19 U.S. Constitution, laws, and international obligations”; and

20 **WHEREAS**, in 2013, the Advisory Council on Historic Preservation (ACHP)
21 adopted a plan to support the United Nations Declaration on the Rights of Indigenous
22 Peoples (UNDRIP), through which the ACHP “commits to raising awareness about the
23 Declaration in the historic preservation community and incorporating the principles and
24 aspirations of the Declaration into ACHP initiatives and programs.” The ACHP
25 identified UNDRIP Articles 8, 11, 12, 15, 16, 18, 25, 31, and 38 that “fairly closely

1 intersect with the mission and work of the ACHP and with the Section 106 review”;
2 and

3 **WHEREAS**, the ACHP notes the National Historic Preservation Act’s (NHPA)
4 Section 106 review “seems consistent with the thrust of Article 18 of the Declaration in
5 various respects,” in which Article 18 states “Indigenous peoples have the right to
6 participate in decision-making in matters which would affect their rights, through
7 representatives chosen by themselves in accordance with their own procedures, as well
8 as to maintain and develop their own indigenous decision-making institutions.” The
9 ACHP confirms that “the NHPA requires federal agencies to invite Indigenous
10 communities to participate in the consultation process to identify, evaluate, and resolve
11 effects to historic properties of religious and cultural importance to them”; and

12 **WHEREAS**, *I Liheslaturan Guåhan* finds that the true remediation and
13 preservation of *Litekyan* is contingent on the full recognition of the original landowners’
14 Indigenous rights to their ancestral lands, and of all CHamoru People’s Indigenous
15 rights to their lands, territories, and resources enshrined in the right to self-
16 determination and Free, Prior and Informed Consent; now therefore, be it

17 **RESOLVED**, that *I Mina'trentai Siette na Liheslaturan Guåhan* does hereby, on
18 behalf of the people of Guam, urge the DON and DOI to identify and utilize an
19 alternative location for the Ritidian Wildlife Refuge Visitor Center and its associated
20 facilities corresponding to plots that are federally-held, disturbed, and outside the SDZs
21 as to protect *Litekyan* from further cultural and environmental destruction; and be it
22 further

23 **RESOLVED**, that *I Mina'trentai Siette na Liheslaturan Guåhan* does hereby, on
24 behalf of the people of Guam, urge the DON and DOI to engage in meaningful
25 collaboration with the original landowners and the government of Guam, pursuant to

1 the return of federally-occupied lands at *Litekyan* to the original landowners per their
2 Indigenous rights and for the genuine protection of *Litekyan*; and be it further

3 **RESOLVED**, that *I Mina'trentai Siette na Liheslaturan Guåhan* does hereby, on
4 behalf of the people of Guam, reaffirm the position of the government of Guam
5 stipulated in Article 10, Chapter 68 of Title 21, Guam Code Annotated, relative to the
6 termination of the federal government's seizure of *Litekyan* (i.e. the Guam National
7 Wildlife Refuge). Reference made to the Refuge and its associated facilities by *I*
8 *Liheslaturan Guåhan* does not assume agreement with the US federal government's
9 occupation, and is made with the express purpose to call for the protection and return
10 of designated lands to the original landowners in concurrence with Article 10, Chapter
11 68 of Title 21, Guam Code Annotated; and be it further

12 **RESOLVED**, that *I Mina'trentai Siette na Liheslaturan Guåhan* does hereby, on
13 behalf of the people of Guam, urge the Honorable Lourdes A. Leon Guerrero, *I*
14 *Maga'hågan Guåhan*, and the Honorable James Moylan, Guam Delegate to the United
15 States Congress, to join with *I Liheslaturan Guåhan* in this call for the relocation of the
16 Ritidian Wildlife Refuge Visitor Center and its associated facilities, and for the ultimate
17 return of *Litekyan* to the original landowners for the reasons stated herein; and be it
18 further

19 **RESOLVED**, that the Speaker certify, and the Legislative Secretary attest to, the
20 adoption hereof, and that copies of the same be thereafter transmitted to the U.S.
21 President Joseph R. Biden Jr., U.S. Vice President Kamala Harris, U.S. Secretary of the
22 Department of the Interior (DOI) Deb Haaland; to the U.S. Department of the Navy
23 (DON) Deputy Assistant Secretary of the Navy (Environment) Karnig H. Ohannessian;
24 to the U.S. Fish and Wildlife Services (USFWS) Director Martha Williams; to the U.S.
25 Geological Survey (USGS) Director David Applegate; to the U.S. House of
26 Representatives Natural Resources Committee Members and the U.S. Senate's

- 1 counterpart; to the Honorable James Moylan, Guam Delegate to the United States
- 2 Congress; and to the Honorable Lourdes A. Leon Guerrero, *I Maga'hågan Guåhan*.

DULY AND REGULARLY ADOPTED BY *I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN* ON THE DAY OF MONTH 2024.