



Commonwealth of the Northern Mariana Islands
Office of the Governor
Capitol Hill, Saipan, MP 96950

13 NOV 1988

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The Honorable Benjamin T. Manglona
 President of the Senate
 Sixth Northern Marianas
 Commonwealth Legislature
 Saipan, MP 96950

GOV. COMM. - 6-60
 (MOUSE)

and

The Honorable Pedro R. Guerrero
 Speaker, House of Representatives
 Sixth Northern Marianas
 Commonwealth Legislature
 Saipan, MP 96950

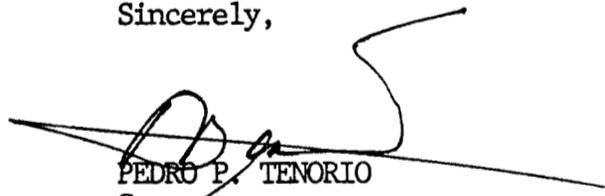
Dear President Manglona and Speaker Guerrero:

This is to inform you that I have signed into law Senate Bill No. 6-102, S.D.1, H.D.3, the Groundwater Management and Protection Act of 1988.

This measure is essential, as it asserts the rights of the people to groundwater resources and also establishes a system to regulate the exploitation of groundwater through an orderly well drilling program. I am approving this landmark legislation because, for the first time, the rights of the people to water resources is established by law. While this law would, primarily, regulate water well drilling, my most serious concern is the potential impact this law will impose on private lands underlain by Class I groundwater resources, especially in the construction of residences in areas where sewerage systems are non-existent. This law might obligate the government to provide sewer service to all areas within Class I groundwater zones. Environmental questions on the degree of pollution by leachates and septic tank effluent would generate serious challenges and long-term litigation by developers if they are prevented from using their lands because of potential contamination of Class I groundwater. I request that the Legislature refine this Act to clarify the limitations, if any, on landowners' rights to develop lands underlain by Class I groundwater.

This bill becomes Public Law No. 6-12. Copies bearing my signature are forwarded for your ready reference.

Sincerely,



PEDRO P. TENORIO

CC: Special Assistant for Programs and Legislative Review

received
 11-7-88 11:52am
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PUBLIC LAW NO. 6-12

S.B. NO. 6-102, S.D.1, HD.3

SIXTHNORTHERN MARIANAS COMMONWEALTH LEGISLATURE

SECOND REGULAR SESSION, 1988

AN ACT

To provide for a Commonwealth Groundwater Management and Protection Act of 1988 and for other purposes.

Offered by Senator Juan N. Babauta

Date: April 26, 1988

SENATE ACTION

Referred to: Special Senate Committee on Water

Standing Committee Report No. 6-72

Second and Final Reading: July 08, 1988

Accepted House Amendment: September 28, 1988

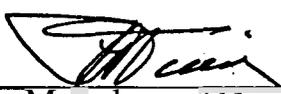
HOUSE ACTION

Referred to: Committee on Natural Resources

Standing Committee Report No. 6-32

First Reading: September 16, 1988

Second and Final Reading: September 23, 1988


Manuel Villagomez
Senate

AN ACT

To provide for a Commonwealth Groundwater Management and Protection Act of 1988 and for other purposes.

BE IT ENACTED BY THE NORTHERN MARIANA COMMONWEALTH LEGISLATURE:

Section 1. Short Title. This Act may be cited as the

2 "Commonwealth Groundwater Management and Protection Act of 1988".

3 Section 2. Statement of Policy. In consideration that the

4 Commonwealth of the Northern Mariana Islands is a most exclusively

5 dependent upon groundwater for its water supply, it is hereby declared

6 to be the public policy of the Commonwealth of the Northern Mariana

7 Islands and the purpose of this Act to:

8 (a) assert the rights of the people to groundwater
resources for public benefit;

10 (b) assert that the general welfare requires that
11 groundwater resources be put to the highest beneficial
12 use for which they are capable;

13 (c) create permitting systems which regulate the
14 withdrawal and use of groundwater resources of the
15 Commonwealth;

16 (d) designate Groundwater Management Zones; and

17 (e) promote the long-term ability of the Commonwealth
18 to provide reliable and potable water to the public.

1 Section 3. Statement of Authority. The groundwater resources of
2 the Commonwealth belong to the public. No diversion, withdrawal,
3 storage, or use of such water shall occur except in the compliance with
4 this Act and with other laws of the commonwealth.

5 Section 4. Definitions. As used in this Act:

6 (a) "Beneficial Use" shall include the use of water
7 reasonably required for domestic, agricultural, commercial,
8 industrial, recreational and other purposes on both public
9 and private lands. The use of water for domestic purposes
10 is defined as the highest beneficial use of water.

11 (b) "Chief" shall mean the Chief of the Division of
12 Environmental Quality within the Department of public Health
13 and Environmental Services.

14 (c) "Contamination" shall mean the introduction of any
15 physical, chemical, biological, or radiological substance
16 into water which has the potential to pose a threat to human
17 health or the environment or to impede the most beneficial
18 use of the water.

19 (d) "Person" shall mean any individual, firm, partner-
20 ship, association, corporation, both public and private; and
21 any entity or agency of the Commonwealth Government and the
22 United States of America.

23 (e) "Water" shall be defined as ponds, springs, well,
24 aquifers, streams and all other bodies of surface or under-
25 ground water whether natural, inland, coastal, fresh, salt,

1 public, or private.

2 (f) "Well" shall be defined as any hole drilled, dug,
3 or bored at any angle, either cased or uncased, for the
4 purpose of obtaining water or knowledge of water bearing
5 formations or for the disposal of surface water drainage or
6 waste materials.

7 Section 5. Permitting Authority. The Division of Environmental
8 Quality is authorized to:

9 (a) permit the siting, design, construction, testing,
10 and repairs or improvements of wells;

11 (b) manage the withdrawal and use of groundwater
12 through well operation permits; and

13 (c) promulgate rules and regulations to implement
14 this Act.

15 Section 6. Well Driller's License.

16 (a) No person shall engage in well drilling in the
17 Commonwealth without first obtaining a license from the
18 Chief.

19 (b) An application for a license shall be made on a
20 form prescribed and furnished by the chief.

21 (c) The Chief shall establish fees for well drilling
22 licenses.

23 (d) The license shall be valid for a period not to
24 exceed one (1) year.
25

1 (e) The chief shall establish criteria for issuance
2 of a well driller's license and evaluate the knowledge-
3 ability and reliability of the applicant based upon previous
4 performance, so as to assure the protection of the ground-
5 water resource from damage caused by improper drilling
6 techniques or practices.

7 Section 7. Well Drilling Permits.

8 (a) No well may be drilled by any person without a
9 drilling permit issued by the chief.

10 (b) The Chief shall establish technical drilling permit
11 requirements for the siting design, construction, testing,
12 completion, and repair of all wells. The requirements shall
13 be consistent with generally accepted public health and
14 engineering standards and shall reflect the best available
15 technology within the Commonwealth.

16 (c) The chief shall establish fees for drilling
17 permits. The schedule shall be a sliding scale, taking into
18 consideration the financial resources of the applicant and
19 the scope of the proposed groundwater development project.

20 (d) As a condition of continued use of the drilling
21 permit, the chief may require at any reasonable time that
22 the applicant furnish water samples for analysis by the
23 Division of Environmental Quality Laboratory. The cost of
24 the analysis shall be paid by the drilling permittee to the
25 CNMI Treasurer.

1 (e) CWC shall receive priority in the issuance of all
2 well drilling permits.

3 Section 8. Well Operation Permits.

4 (a) No person may operate a well or withdrawn ground-
5 water without an operation permit issued by the Chief.

6 (b) Each operation permit shall state the maximum
7 quantity of water which may be withdraw per day (daily flow
8 rate). The Chief shall determine the maximum allowable
9 daily flow rate **based** on the proposed beneficial use of the
10 water, the results of well testing, and local hydrogeology
11 to ensure the protection of public health and environment,
12 and the beneficial utilization and conservation of ground-
13 water resources.

14 (c) The Chief shall issue operation permits for ground-
15 water withdrawal only in designated areas as provided in
16 this Chapter.

17 (d) The well operation permittee shall file an annual
18 water consumption report with the Division of Environmental
19 Quality by September 1. This report shall include the
20 quantity of water extracted during each month of the
21 preceding year.

22 (e) **All** present users of wells prior to the effective
23 date of this Act shall have sixty (60) days from the
24 effective date to file an operation permit for existing
25 wells.

1 (f) Permits shall expire on September 30 of each year.

2 Section 9. Right of Inspection. The Division of Environmental
3 Quality (DEQ) is authorized to inspect each well at reasonable hours to
4 ensure proper and effective well construction, repair, maintenance and
5 operation.

6 Section 10. Flow Meters and Water Sampling Valves to be
7 Installed, Access to wells.

8 (a) Prior to withdrawing water, the drilling permittee
9 shall install (at his expense) a water meter capable of
10 measuring both flow rate and total production at the well.

11 (b) Water meters shall be maintained as provided by
12 regulations of the Department of Environmental Quality (DEQ).

13 (c) Prior to withdrawing water, the drilling permittee
14 shall install valves to obtain water samples. The Division
15 of Environmental Quality shall periodically conduct water
16 sampling and analysis to monitor the quality of water.

17 Section 11. In the event a well is abandoned for any reason, the
18 permittee shall immediately notify the Chief.

19 Section 12. Designation of Groundwater Management Zones.

20 (a) The Chief shall designate selected regions of the
21 commonwealth as Groundwater Management Zones. Groundwater
22 Management zones shall be rated as Class I, Class II, or
23 Class III based on available hydrogeologic information and
24 the following criteria:

25 1. Groundwater quality,

- 1 2. Availability of recharge,
- 2 3. Susceptibility to degradation, and
- 3 4. Present and future land use

4 (b) Class I Groundwater Management Zones shall include
5 sensitive groundwater recharge areas and aquifers which
6 contain high quality water and which are most subject to
7 contamination or degradation. Class I Groundwater Management
8 Zones shall be established as critical groundwater protection
9 areas and shall be given the highest level of environmental
10 protection. The Chief shall establish requirements to ensure
11 the protection of Class I groundwater resources from
12 contamination or degradation.

13 (c) The Chief shall prepare a map which defines which
14 Groundwater Management Zones shall be given the highest
15 priority for use and protection.

16 (d) The Chief may establish additional requirements for
17 Class I, II, and III Groundwater Management Zones.

18 Section 13. Water Shortage Declaration.

19 (a) The Chief, after consultation with Commonwealth
20 Utilities Corporation, may declare a water shortage and
21 impose restrictions on permits to protect the public health,
22 safety and welfare;

23 (b) When a water shortage is declared, the Chief shall
24 cause notice thereof to be published in a prominent place
25 within a newspaper of general circulation or otherwise

1 through the media in the Commonwealth. Such notice shall be
2 published each day for the first week of the shortage and
3 once a week thereafter until the declaration is rescinded.
4 Publication of notice shall serve as notice to all permittees
5 in the area of a water shortage and any restriction on their
6 permits.

7 Section 14. Penalties.

8 (a) The Chief may issue any order to enforce provisions
9 of this Chapter. The order may require the person to do any
10 of the following:

- 11 1. to cease and desist from the violation;
- 12 2. to take mitigating measures to correct
13 the violation; or
- 14 3. to pay a civil fine of not more than
15 \$1,000 for each violation.

16 (b) The Chief may institute a civil action to seek any
17 lawful remedy, including exemplary damages and contempt for
18 failing to abide by an order, to enforce the provisions of
19 this Chapter.

20 (c) The Chief may modify, suspend, summarily suspend,
21 or revoke any permit issued by the Division of Environmental
22 Quality for violation of provisions of this Chapter.

23 (d) Any person subject to civil penalties is entitled
24 to notice and a hearing upon written request to the Chief.
25 The Chief may compromise any penalty.

1 (e) A person is guilty of a criminal offense if found
2 by a court of competent jurisdiction to have knowingly and
3 willingly committed any act prohibited by this Chapter. In
4 addition, to the other penalties provided for in this Chapter,
5 a criminal violation shall be punishable by a fine of not
6 more than \$50,000.00 or by imprisonment for not more than
7 one year or both.

8 (f) Each day of continued violation is a separate
9 offense.

10 Section 15. Private Right of Action Created. A private right of
11 action is created for any person to enforce compliance with the
12 provisions of this Chapter. Such action shall be brought by any person
13 on behalf of the Commonwealth. If such an action is successful, the
14 person shall be entitled to reasonable attorney's fees and costs.

15 Section 16. Fees. All fees, charges, and civil fines authorized
16 and collected under this chapter shall be paid to the CNMI Treasurer.
17 Fees and charges shall be established so as to assure full recovery of
18 the costs of administration and monitoring for the program as a whole.

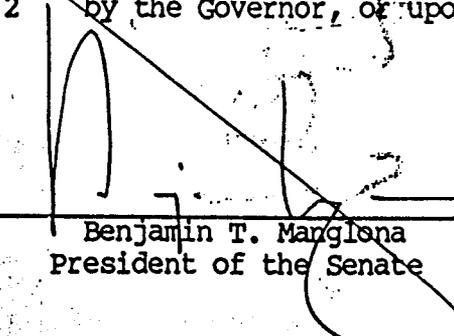
19 Section 17. Severability. If any provision of this Act is held
20 invalid by a court of competent jurisdiction, the remainder of this Act
21 or any rules, regulations or orders promulgated pursuant thereto shall
22 not be affected thereby.

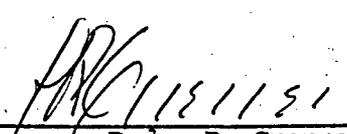
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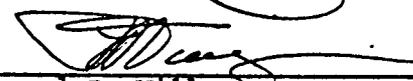
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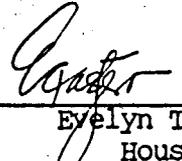
1 Section 18. Effective Date. This Act takes effect upon approval
2 by the Governor, or upon its becoming law without such approval.


Benjamin T. Mangiona
President of the Senate

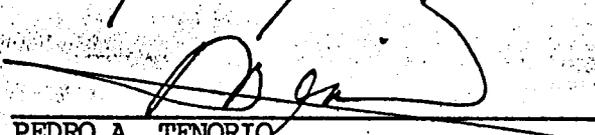

Pedro R. Guerrero
Speaker of the House

ATTEST:


Manuel P. Villagomez
Senate Legislative Secretary


Evelyn T. Castro
House Clerk

November 3, 1988


PEDRO A. TENORIO
Acting Governor
Commonwealth of the Northern Mariana Islands