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August 17, 1995

**BY FAX**

Mr. Herman T. Guerrero  
Chair, Post Convention Committee  
Third Northern Mariana Islands Constitutional Convention  
Second Floor, Joeten Dandan Center  
Saipan, MP 96950

Dear Herman:

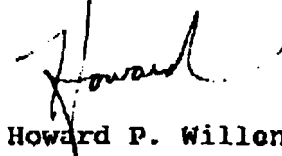
Here is our latest press release. The last one was sent from our newly-established fax machine at home, which we are having some difficulty in accommodating on our present telephone lines. Please let me know if you did not receive it.

I just received a nice letter from Juan Babauta responding to my invitation that we brief him and his staff at some point regarding the proposed amendments. We will plan to do that sometime next week.

We are having dinner tonight with the legendary David Cahn. We will try our best to respond to his inquiries and get some sense, if possible, as to where the Governor presently stands with respect to the proposed amendments. We will let you know if anything of significance emerges from the dinner.

Best personal regards.

Sincerely,



Howard P. Willens

Attachment

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## POST-CONVENTION SUMMARY

### Article 14: Natural Resources

New protections for natural resources associated with public lands included in proposed constitutional amendments are geared to the future development of the Commonwealth. "We focussed on the future," said Delegate Justo S. Quitugua, a sponsor of the amendments covering natural resources and a member of the Post-Convention Committee. "We want our Constitution to provide meaningful protection under conditions prevailing 25 or 50 years from now and to ensure that our natural resources are used wisely. There are natural resources out there that may not be economic to develop now, but we expect will be very profitable in the future."

The new Article 14 to the Constitution, as amended by the recently-concluded Constitutional Convention, covers two broad categories of natural resources: land-based resources and marine resources. The land-based natural resources are those on or beneath any public lands in the Commonwealth. The marine or sea-based resources include all plant, fish and other animal life and minerals taken out of the waters surrounding the Commonwealth.

The Constitution requires that these land and sea-based natural resources be "managed, controlled, protected and preserved by the legislature for the benefit of the people." "This is a mandate to the legislature," explained Quitugua. "This is not something they can choose to do or not do. To carry out their constitutional duties, they must act for the benefit of the people. If they don't, the courts will be able to block any transfers to private interests." The Analysis of the Constitution, a lengthy document adopted by the Constitutional Convention to explain the Constitution, says: "The Commonwealth shall, as trustee for these resources, conserve and maintain them for the benefit of the people." Quitugua said that the trustee concept is a flexible one and was adopted by the delegates for that reason. It imposes high standards of accountability, and allows the courts to measure performance against common law concepts which develop as cases are decided in the Commonwealth.

One aspect of the management for the benefit of the people, specified in the constitution itself, is a reservation for municipal governments of 5% of any fees or royalties from exploitation of the Commonwealth's natural resources. "This is a fair share for local governments and prevents arguments in the

futruce between the Commonwealth government and the local governments," said Quitugua, who pushed for passage of the new measure on behalf of Rota. The 5% share is paid upon collection by the Commonwealth, to the municipality nearest to the natural resource that is generating the revenue.

"This could potentially be an important source of income for the Northern Islands," noted Quitugua, "as they have the largest range of territory covered by the public lands." The Constitution claims the submerged lands off the coast of the Commonwealth as public lands, and any natural resources on or below these lands are included. The very broad claim of jurisdiction over the seas would also hold a potentially very large area for the Northern Islands.

The constitutional provision requires protection of the public interest in mineral and other subsurface rights when leasing public land for commercial purposes. "Somebody who leases public land to put up a shopping center doesn't get the rights to valuable mineral deposits that might be discovered on the leased land. Those rights belong to the public and the royalties and fees to be generated should go into the Commonwealth treasury, not into private hands," explained Quitugua.

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**Date:** August 17, 1995

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**From:** Howard P. Willens, Esq.

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