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November 13, 1997

Mr. Stan Reinhard
Hickory Underground Water
Conservation District No. 1
P. O. Box 1214
Brady, Texas 76825

RE: Cause No. 3293-B; *City of San Angelo, Texas v. Hickory Underground Water Conservation District No. 1, et al.*; In the 119th Judicial District Court of Concho County, Texas

Dear Stan:

Please find enclosed the Agreed Final Judgment which will be signed by Judge Steib to finalize the settlement in the above-referenced cause.

Also enclosed is the proposed Permit that needs to be re-typed on the District's letterhead. Once it has been retyped, please sign it and return it to me and I will then forward it to Massey, Sherman and Wittenburg.

Once I receive the Judgment signed by Judge Steib, I will send you a file-stamped copy and that will conclude this matter once and for all.

I have enjoyed working with you and appreciate all your help. If we can be of any service in the future, or if you have any questions, please let me know.

Very truly yours,



Matt Dow

MD/pjs/DS1-AUS-130324-1
6817.1
Enclosures

CAUSE NO. 3293-B

CITY OF SAN ANGELO, TEXAS,	§	IN THE DISTRICT COURT
Plaintiff	§	
	§	
v.	§	
	§	
HICKORY UNDERGROUND WATER	§	
CONSERVATION DISTRICT NO. 1;	§	OF CONCHO COUNTY, TEXAS
CITY OF BRADY; AND OWEN PARKS,	§	
BILL SLOAN, DEWEY ECKERT,	§	
ELLIS KLETT, BERT C. STRIEGLER,	§	
LARRY LEHMBERG, AND JIM QUINN,	§	
IN THEIR INDIVIDUAL AND OFFICIAL	§	
CAPACITIES,	§	119TH JUDICIAL DISTRICT
Defendants	§	

AGREED FINAL JUDGMENT

On this day came on to be heard and considered the above-entitled and numbered cause at the appointed time and place. The parties, the CITY OF SAN ANGELO ("San Angelo" herein), HICKORY UNDERGROUND WATER CONSERVATION DISTRICT NO. 1 ("District" herein), CITY OF BRADY ("Brady" herein) and OWEN PARKS, BILL SLOAN, DEWEY ECKERT, ELLIS KLETT, BERT C. STRIEGLER, LARRY LEHMBERG and JIM QUINN ("Directors" herein), being properly before the Court, announced in open court that the matters in controversy had been in all things fully settled and compromised, subject to the approval of the Court, by Settlement Agreement filed in this cause ("Settlement Agreement" herein); and the Court having found that it has venue and jurisdiction of all parties and the subject matter in this cause; and the Court having considered the pleadings, the evidence and arguments of counsel is of the opinion and finds that this case involves questions and claims which are disputed issues, and the Court further is of the opinion

and finds that the Settlement Agreement in evidence herein is a full, fair and complete settlement and should be in all things approved;

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that Hickory Order 96-2 dated March 14, 1996, will be modified in accordance with the terms of the Settlement Agreement and San Angelo's Applications for Permits to Drill and Produce Water From The Hickory Underground Water Conservation District No. 1 will be granted by Hickory, effective March 14, 1996, upon the terms set forth in the Settlement Agreement. The Findings of Fact and Conclusions of Law attached to Order 96-2 are unnecessary as a result of this settlement; and they are therefore in all things set aside and held for naught.

IT IS FURTHER, ORDERED, ADJUDGED AND DECREED that the General Manager of the District will issue a permit to drill and produce water to the City of San Angelo in accordance with the provisions and conditions contained below:

1. All of San Angelo's wells shall be operated by San Angelo as one field so that the total production from the Field, as defined in the Settlement Agreement, must not exceed the total permitted production during any one year period according to the following schedule of production.
2. Schedule of Production

March 14, 1996 - March 13, 2006:

The maximum quantity of water which is allotted each year to San Angelo during this period is 1500 acre feet. San Angelo may bank up to one hundred percent (100%) of the 1500 acre feet. [As used in the Settlement Agreement "bank" mean San Angelo may accrue a credit for future use at any time in the future of any of the allotted water not used in the year for which it is allotted.] San Angelo may produce up to 1500 acre feet per year plus any accrued water in the bank; provided, however, that during this time period no more than 10,000 acre feet may be produced by San Angelo during any one year.

March 14, 2006 - March 13, 2021:

The maximum quantity of water which is allotted each year to San Angelo during this time period is 2,750 acre feet. San Angelo may bank up to one hundred percent (100%) of the 2,750 acre feet. San Angelo may produce up to 2,750 acre feet per year plus any accrued water in the bank; provided, however, that during this time period no more than 15,000 acre feet may be produced by San Angelo during any one year.

March 14, 2021 - March 13, 2026:

The maximum quantity of water which is allotted each year to San Angelo during this time period is 5,000 acre feet. San Angelo may bank up to one hundred percent (100%) of the 5,000 acre feet. San Angelo may produce up to 5,000 acre feet per year plus any accrued water in the bank, provided, however, that during this time period no more than 15,000 acre feet may be produced by San Angelo during any one year. San Angelo shall not be entitled to accrue water by banking after March 13, 2026.

March 14, 2026 - March 13, 2036:

The maximum quantity of water which is allotted each year to San Angelo during this time period is 10,000 acre feet. San Angelo may produce up to 10,000 acre feet per year plus any accrued water in the bank; provided, however, that during this time period no more than 12,000 acre feet may be produced by San Angelo during any one year.

March 14, 2036 and thereafter, which right continues perpetually:

The maximum quantity of water which is allotted each year to San Angelo after March 14, 2036, is 12,000 acre feet. San Angelo may produce up to 12,000 acre feet per year during this time period.

3. Any well completed by San Angelo hereunder shall be equipped with a flow monitoring device approved by the District as per District Rule 10(b).
4. In addition to those nine wells already drilled and in existence, San Angelo may drill such additional, replacement, or supplemental wells as San Angelo deems necessary to produce its allotted Production pursuant to Paragraph 2 above.

5. All of San Angelo's wells shall be drilled on at least 1-mile centers in relation to other producing wells and shall not exceed a maximum capacity of 500 gallons per minute (gpm). Otherwise, San Angelo will have discretion as to the location of its wells (subject however to subparagraph 7 below).
6. San Angelo will have complete discretion to determine when any additional, replacement, or supplemental wells allowed hereunder are drilled and no further applications, hearings, or permits shall be required. However, San Angelo shall provide the well completion information and other reporting information required by the District.
7. San Angelo shall not drill any additional, replacement, or supplemental wells in any of the following tract numbers: Tract Nos. 20, 38, 39, 65, 69, 182, 183, 184, 185, and 2205. Each of these tract numbers is depicted on the map attached as Exhibit A to the Settlement Agreement, which is incorporated by reference herein for all relevant purposes.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the District may not reduce San Angelo's permitted production (i.e. the production allotted San Angelo in the Schedule of Production contained in the paragraph hereinabove) except in the event of drought. In that event the District may reduce San Angelo's permitted production but only if the permitted production from every other permitted well in the District is reduced by, at least, the same percentage as that of San Angelo's production. The Settlement Agreement does not affect or diminish the District's right to regulate all users of water within the District including San Angelo except as provided in the Settlement Agreement.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the District shall not discriminate against San Angelo nor be unreasonable, arbitrary or capricious in its actions with respect to San Angelo.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that San Angelo shall not sell water from the District outside San Angelo's municipal water supply system, nor shall it sell its

surface water outside its municipal water supply system if that water is to be replaced with water from the District. Otherwise, San Angelo may sell its surface water to any purchaser to the extent San Angelo has the right to use the water and does not require the water for itself.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that San Angelo may not apply for any production from the District in excess of that agreed to in the Settlement Agreement.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all parties will expeditiously execute any and all reasonable documents necessary to properly conclude this matter and issue any and all orders, permits, and other filings necessary to ensure the rights accorded each respective party under the Settlement Agreement.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that if state law gives the District the discretion to reduce San Angelo's permitted production, it is ORDERED that the District has already exercised its discretion as stated in the Settlement Agreement and therefore the Settlement Agreement shall control. However, in the event future laws mandate a reduction that has the effect of reducing San Angelo's permitted production, then the District shall make any such reduction on a proportionate basis meaning that every other permitted well in the District must be reduced by, at least, the same percentage as that of San Angelo's production.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Brady will accept and will not oppose the District's issuance of permits to San Angelo in accordance with the provisions of the Settlement Agreement and San Angelo will not protest, either directly or indirectly, any permit applications that Brady files with the District which substantially conform to the applications attached to the Settlement Agreement as Exhibit B, such applications being incorporated herein by reference for all relevant purposes.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Brady shall not sell water from the District outside the District's boundaries as those boundaries are presently constituted nor shall Brady sell surface water if that water is to be replaced with water from the District.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that San Angelo take nothing on its claims against the District and the Directors.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the City of San Angelo upon the signing of this Judgment will pay the sum of \$140,000.00 into the registry of the Court and that after the expiration of the time for filing a motion for new trial (30 days from the date of this Judgment) the Clerk will pay said sum to the City of Brady.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the terms of the Settlement Agreement are contractual and not merely recitals and that the Settlement Agreement is appropriately enforceable by specific performance. Otherwise, the rights and remedies granted in the Settlement Agreement in the event of breach are cumulative, and the exercise of such rights shall be without prejudice to the enforcement of any other right or remedy authorized by law, equity or by the Settlement Agreement. The Settlement Agreement is performable in either Concho County or McCulloch County, and if any legal action is brought by any party thereto, the prevailing party in such legal action will be entitled to recover from the other party reasonable attorney's fees in addition to any other relief that may be awarded.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the Settlement Agreement made by the parties herein is in all things approved, and accordingly is incorporated by reference herein and made a part of this Agreed Final Judgment for all purposes and the terms and provisions of the Settlement Agreement will survive this Agreed Final Judgment.

IT IS FURTHER, ORDERED, ADJUDGED AND DECREED that costs of court and attorney's fees are to be borne by the party incurring same.

All relief not hereby specifically granted is specifically denied.


SIGNED this _____ day of _____, 1997.

JUDGE PRESIDING

APPROVED AND AGREED:

CITY OF SAN ANGELO, TEXAS

CITY OF SAN ANGELO, TEXAS

BY: 
TOM ADAMS
ITS: Manager

BY: _____
JOHNNY FENDER
ITS: Mayor

CITY OF BRADY

CITY OF BRADY

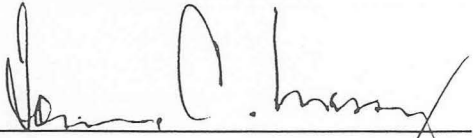
BY: _____
ITS: _____

BY: _____
ITS: Mayor

HICKORY UNDERGROUND WATER
CONSERVATION DISTRICT NO. 1

BY: 
W. OWEN PARKS
ITS: President

APPROVED AS TO FORM ONLY:

BY: 
TOM C. MASSEY
SBN: 13172000
Massey, Balentine, Edwards & Psencik, P.C.
P.O. Drawer 2809
202 West Twohig, Second Floor
San Angelo, Texas 76902-2809
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CHARLES J. WITTENBURG
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Davis, Hay, Wittenburg, Davis & Caldwell
One East Twohig, Third Floor
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ATTORNEYS FOR THE CITY OF SAN ANGELO

BY: 
Ed Small - 18515000
Matt Dow - 06066500
Small, Craig & Werkenthin
Suite 1100, 100 Congress Avenue
Austin, Texas 78768
512/472-8355
FAX: 512/320-9734

ATTORNEY FOR HICKORY UNDERGROUND
WATER CONSERVATION DISTRICT NO. 1; and
OWEN PARKS, BILL SLOAN, DEWEY ECKERT,
ELLIS KLETT, BERT C. STRIEGLER, LARRY
LEHMBERG, and JIM QUINN, in their Individual
and Official Capacities

BY: _____

LYNN SHERMAN
SBN: 18243630
BICKERSTAFF, HEATH, SMILEY, POLLAN, KEVER
& McDANIEL, L.L.P.
1700 Frost Bank Plaza
816 Congress Avenue
Austin, Texas 78701
512/472-8021
FAX: 512/320-5638

ATTORNEY FOR THE CITY OF BRADY

Permit to Drill and Produce Water

The City of San Angelo, Texas, filed nine applications in January 115 for the permitting and production of water from the Hickory Underground Aquifer and amended its applications in January 1996 to include twenty-two planned or existing wells in San Angelo's well filed (as hereinafter identified) located within the Hickory Underground Water Conservation District No. 1, said applications and wells being identified as San Angelo "WSW-1 through WSW-22." This is to certify the applications to drill and produce water have been examined, together with the maps, plans, and other submitted data, and the applicant is hereby authorized to proceed with the construction of the production works and to proceed with all the steps necessary for the application of water to the proposed beneficial use without the necessity of further administrative procedures. The Hickory Underground Water Conservation District No. 1 issues this single permit to the City of San Angelo to produce water from the Hickory Underground Aquifer from San Angelo's Well Field (as opposed to permits for the twenty-two individual wells identified in said applications and amended applications) subject to and in accordance with the following terms, conditions, and limitations.

1. The Hickory Underground Water Conservation District No. 1 may not reduce San Angelo's permitted production hereunder except as provided in the Settlement Agreement referenced below in paragraph 11 ("Settlement Agreement"). Any conflicting rules of the Hickory Underground Water Conservation District No. 1 including Rule 6 Permit Term and Renewal; Rule 6A Outcrop Depletion and Protection; Rule 11 Time During Which Drilling Shall Be Initiated; Rule 12(b) Continuing Right of Supervision (subject, however, to the District's right to regulate all users of water within the District including San Angelo as set forth in paragraph 9 of the Settlement Agreement); shall not apply to the City of San Angelo in relation to this permit, it having been considered that the Hickory Underground Water Conservation District No. 1 has already exercised its discretion in relation to said rules. Additionally, Rule 15 shall not effect San Angelo's right to set rates or design rate structure.
2. That the water shall be used for a beneficial purpose without waste as those terms are defined in Chapter 36 of the Texas Water Code as it currently exists or as it may be amended so that the mandatory requirements of that Chapter are met. Further, San Angelo shall not sell water from the District outside San Angelo's municipal water supply system; nor shall it sell its surface water outside its municipal water supply system if that water is to be replaced with water from the District. Otherwise, San Angelo may sell its surface water to any purchaser to the extent San Angelo has the right to use the water and does not require the water for itself.
3. That the water requested to be produced shall be produced from San Angelo's well field. San Angelo's well field (herein referred to as the "Field") is described as all of the rights conveyed to San Angelo in the following documents: 1) Water Rights Conveyance from Fort Worth National Bank, Trustee of the G.R. White Estate to the City of San Angelo dated July 27, 1997, recorded in Volume 180, pages 675-688, Deed Records, McCulloch County, Texas; 2) Water Rights Conveyance from the Forth Worth National Bank, Trustee of the

G.R. White Estate to the City of San Angelo dated July 2, 1971, recorded in Volume 180, Pages 662-673, McCulloch County Deed Records, Texas; 3) Water Rights Conveyance from Mrs. A. Noyes Miller et al to the City of San Angelo dated March 20 ,1972, recorded in Volume 179, Pages 350-373, Deed Records, McCulloch County, Texas. All of San Angelo's wells shall be operated by San Angelo as one filed so that the total production form the Field must not exceed the total permitted production during any one year period according to the following schedule of production:

March 14, 1996 - March 13, 2006:

The maximum quantity of water which is allotted each year to San Angelo during this period is 1500 acre feet. San Angelo may bank up to one hundred percent (100%) of the 1500 acre feet. [As used in the Settlement Agreement "bank" mean San Angelo may accrue a credit for future use at any time in the future of any of the allotted water not used in the year for which it is allotted.] San Angelo may produce up to 1500 acre feet per year plus any accrued water in the bank; provided, however, that during this time period no more than 10,000 acre feet may be produced by San Angelo during any one year.

March 14, 2006 - March 13, 2021:

The maximum quantity of water which is allotted each year to San Angelo during this time period is 2,750 acre feet. San Angelo may bank up to one hundred percent (100%) of the 2,750 acre feet. San Angelo may produce up to 2,750 acre feet per year plus any accrued water in the bank; provided, however, that during this time period no more than 15,000 acre feet may be produced by San Angelo during any one year.

March 14, 2021 - March 13, 2026:

The maximum quantity of water which is allotted each year to San Angelo during this time period is 5,000 acre feet. San Angelo may bank up to one hundred percent (100%) of the 5,000 acre feet. San Angelo may produce up to 5,000 acre feet per year plus any accrued water in the bank, provided, however, that during this time period no more than 15,000 acre feet may be produced by San Angelo during any one year. San Angelo shall not be entitled to accrue water by banking after March 13, 2026.

March 14, 2026 - March 13, 2036:

The maximum quantity of water which is allotted each year to San Angelo during this time period is 10,000 acre feet. San Angelo may produce up to 10,000 acre feet per year plus any accrued water in the bank; provided, however, that during this time period no more than 12,000 acre feet may be produced by San Angelo during any one year.

March 14, 2036 and thereafter, which right continues perpetually:

The maximum quantity of water which is allotted each year to San Angelo after March 14, 2036, is 12,000 acre feet. San Angelo may produce up to 12,000 acre feet per year during this time period.

4. Any well completed by San Angelo hereunder shall be equipped with a flow monitoring device approved by the District as per District Rule 10(b).
5. In addition to those nine wells already drilled and in existence, San Angelo may drill such additional, replacement, or supplemental wells as San Angelo deems necessary to produce its allotted production pursuant to paragraph 2 above (the Schedule of Production above.).
6. All of San Angelo's wells shall be drilled on at least 1-mile centers in relation to other producing wells and shall not exceed a maximum capacity of 500 gallons per minute (gpm). Otherwise, San Angelo will have discretion as to the location of its wells (subject however to subparagraph 7 below).
7. San Angelo will have complete discretion to determine when any additional, replacement, or supplemental wells allowed hereunder are drilled and no further applications, hearings, or permits shall be required. However, San Angelo shall provide the well completion information and other reporting information required by the District.
8. San Angelo shall not drill any additional, replacement, or supplemental wells in any of the following tract numbers: Tract Nos.20, 38, 39, 65, 69, 182, 183, 184, 185, and 2205. Each of these tract numbers is depicted on the map attached as Exhibit A which is incorporated by reference herein for all relevant purposes.
9. San Angelo may not apply for any production from the District in excess of that agreed to herein.
10. The applicant shall maintain records of the quantity and the quality of water actually produced and furnish such information to the District annually on or before June 1st and at such other times as the District may reasonably request.
11. This permit is issued subject to conditions on production and use contained in the Settlement Agreement made and entered into by and between the City of San Angelo, Texas, the City of Brady, Texas, and the Hickory Underground Water Conservation District Number 1 in the following suits:

Cause No. 3293-B; City of San Angelo, Texas v. Hickory Underground Water Conservation District Number 1, et al; In the 119th Judicial District Court of Concho County, Texas.

No. 2779-B; City of San Angelo, Texas v. Hickory Underground Water Conservation District Number 1 and the City of Brady; In the 119th Judicial District Court of Concho County, Texas.

No. 039-96; City of Brady v. Hickory Underground Water Conservation District Number 1 and City of San Angelo; In the 198th Judicial District Court of McCulloch County, Texas.

12. The effective date of this Permit is March 14, 1996.

HICKORY UNDERGROUND WATER
CONSERVATION DISTRICT NUMBER 1

By: _____
Stanley G. Reinhard, General Manager