



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 21, 1998

98 AUG 12 PM 2:45  
GENERAL LAND OFFICE  
LEGAL SERVICES

Mr. Sam R. Perry  
Sneed, Vine & Perry  
901 Congress Avenue  
Austin, Texas 78701

RE: Cause No. 21,799; *Duane A. Thielemann v. State of Texas*; 335th Judicial District Court of Burleson County, Texas

Dear Mr. Perry:

I am sending you the original Agreed Final Judgment executed by the State of Texas, with a copy of the Settlement Agreement attached as Exhibit A. By copy of this letter, I am sending the original Settlement Agreement to the General Land Office to be made a part of its archives.

I assume you will submit the judgment to the Court for signature. Will you please send me a copy of the signed order after you obtain a copy?

Please call if you have any questions concerning this matter. I apologize for the delay in getting this case to final resolution.

File No. Sketch File 10

Burleson County  
*Thielemann vs. State of Texas, Cause No. 21,799 in the*  
*District Court - 335th Judicial District Court of*  
*Burleson Co.*

Date Filed: August 12, 1998

David Dewhurst, Commissioner

By Douglas Howard

Very truly yours,

Priscilla M. Hubenak  
Assistant Attorney General  
Natural Resources Division  
512/463-2012, 475-4160 (direct line)  
512/320-0911 (FAX)

PMH/sw  
Enclosure

cc:  Mr. Bob Moreland, General Land Office

NO. 21,799

DUANE A. THIELEMANN,	)	IN THE DISTRICT COURT
Plaintiff	(	
	)	
VS.	(	335TH JUDICIAL DISTRICT
	)	
STATE OF TEXAS,	(	
Defendant	)	BURLESON COUNTY, TEXAS

### SETTLEMENT AGREEMENT

This Settlement Agreement dated the 3rd day of February, 1998, is entered into by Duane A. Thielemann ("Plaintiff"), and the State of Texas (the "State of Texas" or "Defendant"). Plaintiff and Defendant are collectively referred to herein as the "parties". This agreement sets forth the basis on which the parties have agreed to compromise and settle their respective claims in this action. The consideration for this agreement is the mutual promises, agreements and representations contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties to this agreement.

I.

#### RECITALS

- (1) The Court has jurisdiction over the claims asserted by the Plaintiff against Defendant.
- (2) The parties have stipulated that venue of the subject matter of this lawsuit lies in Burleson County, Texas.

File No. Sketch File 10

Burleson County  
 Thielemann Vs. State of Texas, Cause No. 21,799 in the  
 District Court, 335th Judicial Dist. Court, Burleson Co.

Date Filed: August 12, 1998

David Dewhurst, Commissioner

By \_\_\_\_\_

Counter 16664



II.

THE PARTIES' CLAIMS AND ALLEGATIONS

(1) Plaintiff, Duane A. Thielemann, claims title to a 29.5445 acre tract of land, more or less, out of the Alfred Kennon Survey, A-32, Burleson County, Texas (the "29.5445 acre tract").

(2) On or about August 10, 1910, the Plaintiff's predecessor-in-title to the 29.5445 acre tract, O. A. Seward conveyed a 16.36 acre strip of land, more or less, to John K. Parker. This 16.36 acre strip of land includes a tract of 4.0+/- acres which is a part of the 29.5445 acre tract, and such 4.0+/- acres is hereinafter referred to as the "Disputed Land", and is more particularly described in **EXHIBIT "1"** attached hereto and incorporated herein by reference.

(3) On or about April 10, 1911, John K. Parker conveyed the Disputed Land to the Burleson County Improvement District No. 1.

(4) On or about July 12, 1977, the Texas Water Rights Commission dissolved the Burleson County Improvement District No. 1 pursuant to said Commission's authority under Section 50.251 of the Texas Water Code.

(5) Plaintiff claims that the conveyance of the Disputed land by his predecessor-in-title to John K. Parker and subsequent conveyance of the Disputed Land from John K. Parker to the Burleson County Improvement District No. 1 effected a conveyance of an easement right only in and to the Disputed Land. Alternatively, Plaintiff contends that the conveyances to the Burleson County Improvement District No. 1 should be reformed, or in the further alternative, that they be rescinded for failure of consideration.

(6) Defendant claims that the conveyance of the Disputed Land to John K. Parker and subsequently to the Burleson County Improvement District No. 1 was a conveyance of fee simple



title to the Disputed Land. Thus, Defendant claims that, upon dissolution of the Burleson County Improvement District No. 1 on July 12, 1977, all of the District's assets including title to the Disputed Land reverted to the State of Texas.

(7) On or about August 16, 1990, Charles J. Sebesta and wife, Jane M. Sebesta, the Plaintiff's predecessor-in-title, executed an Oil, Gas and Mineral Lease (the "Lease") in favor of Union Pacific Resources Company, as lessee, covering the 29.5445 acre tract. The Lease purports to include the Disputed Land. In February of 1993, Union Pacific Resources Company completed the See-Huggins Unit Well No. 1 (the "Well"). A pooled unit was subsequently created for the Well, which unit purports to include the Disputed Land.

(8) On or about April 7, 1992, the School Land Board of the State of Texas awarded an oil and gas lease covering the Disputed Land to Union Pacific Resources Company and on February 16, 1993, approved the State of Texas' participation in the See-Huggins Unit No. 1.

### III.

#### AGREEMENTS

(1) The parties have agreed, after taking into consideration all relevant factors, that a reasonable, fair and equitable adjustment and division of interest in and to the Disputed Land is as follows:

- (a) that the State of Texas is the owner in fee simple of the entire mineral estate in and under the Disputed Land, subject to the oil and gas lease awarded by the School Land Board to Union Pacific Resources Company on or about April 7, 1992; and
- (b) that Plaintiff is the owner in fee simple of the surface estate of the Disputed Land.



This division of interest in the Disputed Land is effective as of February 16, 1993.

(2) The parties agree that the Lease from Charles J. Sebesta and wife, Jane M. Sebesta, to Union Pacific Resources Company, and any subsequent assignments of interests in said lease, insofar, and only insofar, as the Lease and/or assignments purport to include or cover the Disputed Land, are invalid.

(3) The parties further agree that all accrued and accruing royalties from production from the Disputed Land, and any future production from the Disputed Land, whether from the existing well in the See-Huggins Unit No. 1 or from any other wells within the unit or within the Disputed Land, whether existing or to be drilled in the future, shall be paid to Defendant, the State of Texas, in satisfaction of the State of Texas' claims against Union Pacific Resources Company and the Plaintiff for any trespass to its mineral estate and for all other damages.

The parties agree that all costs shall be borne and paid by the party incurring same.

All the parties mutually release each other from any and all other claims or causes of action relating to the subject matter of this lawsuit to the extent that any such claims or causes of action are contradictory to or in conflict with the specific provisions of this Settlement Agreement.

STATE OF TEXAS

By: *SR*

*Garry Mauro*

GARRY MAURO (printed name)

Commissioner of the General Land Office  
and Chairman of the School Land Board (title)

*Duane A. Thielemann*  
DUANE A. THIELEMANN

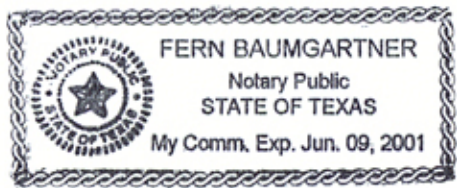
STATE OF TEXAS                   §  
   §  
COUNTY OF Houston           §

BEFORE ME, the undersigned authority, on this day personally appeared Duane A. Thielemann, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Duane A. Thielemann  
DUANE A. THIELEMANN

SUBSCRIBED AND SWORN TO BEFORE ME by the said Duane A. Thielemann to certify which witness my hand and official seal of office on this the 3<sup>rd</sup> day of February, 1998.

Fern Baumgartner  
NOTARY PUBLIC, STATE OF TEXAS





## EXHIBIT "1"

Being 4 acres, more or less, said 4 acres being that part of the 16.36 acre BCID right of way conveyed by O. A. Seward to John K. Parker by instrument dated August 10, 1910, and recorded in Volume 40, Page 104, of the Deed Records of Burleson County, Texas, which lies within the 29.5445 acre tract in the Alfred Kennon Survey, Abstract No. 32, as described in a deed from Charles J. Sebesta, Jr., and wife, to Duane Thielemann, dated May 15, 1991, and recorded in Volume 408, Page 574, of the Deed Records of Burleson County, Texas, LESS, SAVE, AND EXCEPT THEREFROM any portion of the said 16.36 acre tract which may be a part of the bed of the Brazos River or which may be located in Brazos County, Texas.