



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**CRAWFORD C. MARTIN
ATTORNEY GENERAL**

June 3, 1971

Hon. Dorsey B. Hardeman
Executive Director
Texas Water Rights Commission
Austin, Texas 78711

Opinion No. M-880

Re: Interpretation of
Final Judgment in
Cause No. 261, Court
of Civil Appeals for
the Thirteenth Judi-
cial District, styled
State v. Hidalgo WCID
No. 18, et al

Dear Senator Hardeman:

You have requested our opinion as to the proper inter-
pretation of the final Judgment on Rehearing in the above
styled and numbered cause, commonly referred to as the "Rio
Grande Valley Water Case". You state that both judgments
of that Court of Civil Appeals, the Original Judgment of
March 27, 1969 and the Judgment on Rehearing dated June 6,
1969, wherein writ of error was refused "No Reversible
Error", plainly provide for a Class "B" water right as
to Griffin and Brand on page 11 of each instrument as fol-
lows:

<u>"Court No.</u>	<u>TWC No.</u>	<u>Beard *Back-Up</u>	<u>Name of Property Owner</u>	<u>Water Right Acreage Recognized</u>
...
470	S-94	M-10	Griffin & Brand of McAllen, Texas	435.00"

You further state that the Supplemental Opinion, Per
Curiam, issued simultaneously with the Original Judgment,
dated March 27, 1969, denies any such water right to the
named parties as follows, on page 22:

"The trial court awarded Suntex Farms 500 acres and John A. Shuford 43 acres under the Falcon classification. It was adjudged that Griffin and Brand of McAllen, Inc. and Ringgold Farms had no water rights. None of these parties have a connection with a certified filing or a permit. Suntex Farms is entitled to a Class B priority for 500 acres. Shuford is entitled to a Class B priority for 43 acres. The trial court was correct in awarding no rights to the other two claimants. Under the Valmont decision, Spanish grants in the area do not carry with them appurtenant water rights for irrigation purposes."

You ask us to advise as to whether Griffin & Brand of McAllen, Texas possess a Class "B" water right which should now be recognized by the Texas Water Rights Commission.

We think the answers to your question depend on interpretation of the meaning of the following judgments and opinions of the Court of Civil Appeals in the case:

- (a) Original opinion and opinion on Motions for Rehearings reported in 443 S.W. 2d 728.
- (b) Original Judgment of the Court dated March 27, 1969.
- (c) Unpublished Supplemental Opinion of the Court dated March 27, 1969.
- (d) Unpublished Supplemental Opinion of the Court on Rehearing, dated June 6, 1969.
- (e) Judgment on Rehearing, dated June 6, 1969.

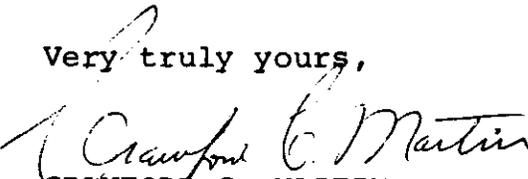
In our opinion, the Judgment of June 6, 1969 which was denominated "Judgment on Rehearing", encompassing the last official Judgment of the Court of Civil Appeals, and approved by the Texas Supreme Court with the notation of no reversible error, will control over the prior Judgment of March 27, 1969, and over the Supplemental Opinion issued March 27, 1969. A final Judgment controls over an opinion preceding the Judgment. 33 Tex.Jur. 2d, Judgments, Sections 83 and 84, citing cases. The Supreme Court has held that if a court had jurisdiction of the parties and subject matter, its final judgment involving the State of Texas must be deemed conclusive of all matters therein litigated, regardless of how erroneous it might be. Martin v. Sheppard, 145 Tex. 639, 201 S.W.2d 810 (1947).

In accordance with this opinion, you should therefore recognize the rights of Griffin and Brand to 435 acres of water right acreage under the Class "B" section of the Judgment on Rehearing.

S U M M A R Y

Although the Original Supplemental Opinion of the Court of Civil Appeals ruled to the contrary, Griffin and Brand have a Class "B" water right to 435.00 water right acres under that Court's Final Judgment on Rehearing, which controls over the Original Supplemental Opinion and must be deemed conclusive of that issue in litigation.

Very truly yours,


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