

1 Q All right. Now I would like you to show us -- describe
2 your understanding of how this property was irrigated, and I'm
3 interested in the areas that were flood irrigated during the
4 time that you're familiar with the property.

5 A Okay.

6 Q If you could do that I would --

7 A Well, we --

8 Q -- feel free to use the exhibit.

9 A -- we had no sprinklers so anything that we irrigated
10 would have been flood irrigated.

11 Q All right.

12 A Would you like me to detail the various lands?

13 Q Yes, and what I would like you to show us on the map are
14 the lands that based on your knowledge and the times -- the
15 years that you were living on or working on this Knollin
16 Ranch, the property that you are aware of that were flood
17 irrigated?

18 A Okay. As we travel the east west access road into the
19 ranch we reach a point here where now we have irrigated lands
20 on both sides of the road and at that time there was a cattle
21 guard there, and as we continue on west the first land off to
22 our right to the north was referred to as the cattle guard
23 piece. And this would have been those lands that lie west --
24 or excuse me -- lie east of the river --

25 Q I'm going to ask you -- I'm just thinking about what

1 might show up better, I'm going to give you a green --

2 A Okay.

3 Q -- pen instead so that we can see that. And if you can
4 just outline the areas for us.

5 A Okay. Those lands lie east of the river, west and north
6 of the access road into the ranch. And we referred to that as
7 the cattle guard piece, and that was 70 acres.

8 Q Now when you say 70 acres, how do you come up with that
9 number?

10 A The acreage figures I'm going to use were derived from
11 information obtained from ASCS data.

12 Q All right. Have you reviewed the ASCS data that -- of
13 the acreages?

14 A Yes, I have.

15 Q Do those reflect -- tell me how those match up with your
16 recollection?

17 A I was very surprised how close they came to my
18 recollection of the way things were. I believe the ASCS data
19 to be very accurate.

20 Q All right.

21 A Shall we continue?

22 Q Go ahead and proceed, thank you.

23 A Okay. Well, we've taken care of the lands on --

24 MR. FOSTER: Excuse me, just --

25 MR. CREAMER: Just a minute. Just a minute.

1 MR. FOSTER: May I ask one more question in aid of a
2 possible objection?

3 MR. SPACKMAN: Yes.

4 QUESTIONS IN AID OF OBJECTION

5 BY MR. FOSTER:

6 Q Mr. Hawley, as you testify, are you testifying from your
7 own knowledge and estimates or are you testifying from
8 records, ASCS records?

9 A Working the land I didn't have the means to measure
10 acreage. I didn't go out with a tape measure and measure
11 acreage. I have to rely on people who have the instruments to
12 do that. Those figures fit my recollection of the lands as we
13 worked them.

14 Q Is your testimony then based on a recent review of ASCS
15 records?

16 A That's correct. And my recollection of the way things
17 were during the period of time that I was there.

18 Q Oh, okay. All right.

19 MR. FOSTER: I don't have an objection.

20 THE WITNESS: Okay.

21 MR. SPACKMAN: Thank you. Continue, Mr. Creamer.
22 Or Mr. Hawley.

23 DIRECT EXAMINATION (Continued)

24 BY MR. CREAMER:

25 Q Mr. Hawley, you could continue with your --

1 A Okay. The home where I lived was right around here,
2 wherever this road crosses the river, and I believe it's right
3 here. Where the access road crosses the river, immediately
4 behind the -- we call this piece here behind the house and it
5 is 20 acres. To the north of it --

6 Q Can you draw a boundary around that --

7 A Certainly, I'll --

8 Q -- the areas that we're going to include within the 20
9 acres?

10 A Actually -- whoop. This is a fairly recent photo, isn't
11 it? Do you know the --

12 Q This is 1987, Mr. Hawley.

13 A Yes, okay. Let's draw that boundary right across there,
14 and refer to this as behind the house. This acreage here is
15 what I referred to as the junk yard piece of ground. A piece
16 of ground that when I first leased the place was just rough
17 brush and was not farmed and we went ahead and broke that out.
18 The acreage in there would have been no more than 13 acres.
19 And I say no more than there's a little question in my mind
20 whether the ASCS photos also include some rough ground that
21 actually go down to a -- in a gully and just barely across the
22 gully up to the river, but at any rate, up to 13 acres.

23 Q And 13 -- up to 13 acres --

24 A Yes.

25 Q -- is your recollection of how many acres would have been

1 irrigated?

2 A Right. Right.

3 Q All right.

4 A Just south of the house we had a little pasture where we
5 kept a milk cow, and that is eight acres. The next piece of
6 ground as we -- shall we continue on around?

7 Q Yes, please.

8 A Okay. There were some hay fields on the southwest
9 portion of the Knollin Ranch. The first we referred to as the
10 southwest hay field, and it is in the south, southwest
11 quadrant of the ranch and I'll draw the boundary to that. And
12 that is 68 acres. Now there's a companion hay field that lie
13 just a little bit further south, and that is 16 acres. And
14 that will take care of the lands that lie on the west side of
15 the river. Shall we continue on?

16 Q Please.

17 A Okay. The next piece of ground, or next that we might
18 consider were pieces of ground --

19 MR. SPACKMAN: Just a moment, Mr. Hawley.

20 (Tape Change)

21 MR. SPACKMAN: We're recording again. I'm sorry.

22 THE WITNESS: Okay. Okay, I'll continue and I'll go
23 down here into an area that we called the upper shed field and
24 this map here shows the farmed ground outline. And that's the
25 upper shed. The shed field continued on across the ditch into

1 what I referred to as the middle shed field. The river being
2 the south boundary and the fence between the irrigated lands
3 and the sub-irrigated land, and we called that the middle shed
4 field. And then lastly would have been the lower shed field.
5 It would have gone up to what is now the property line between
6 Phillips and Sage Willow.

7 Q That property line is on the sections between Sections 18
8 and 17?

9 A That is correct.

10 Q All right.

11 A Uh-huh. And once again follows the boundary between the
12 irrigated lands and the subbed pasture, and with the river
13 being the south boundary. All of those shed fields together,
14 upper, middle, and lower are 208 in acreage.

15 The thing next we can -- now everything that we've talked
16 about up till this time was -- let's take one more piece of
17 ground, then we'll make a division. We'll talk about the
18 Brown field. It lies on the far eastern boundary of the
19 Knollin Ranch, near the county main paved county access road,
20 and parts of it show up on this map till we get to the point
21 here where there's a missing piece. But I will outline it the
22 best I can having part of it missing here. There are dry arid
23 rangelands to the east and the boundary of Big Spring Creek.
24 To the west there's a large gully here where one of the old
25 dry creek beds run in, so there's a piece of ground here

1 that's not usable. And back to the beginning that piece of
2 ground is 64 acres.

3 Okay, everything that we've talk about up till now was
4 irrigated and was farmed for hay production except this little
5 pasture south of the house, which I mentioned we kept the milk
6 cow in there.

7 Q But that was irrigated, is that correct?

8 A Yes, that was also irrigated but with the exception of
9 this eight acres the rest of these grounds that we've talked
10 about we took hay off of. This piece down here kind of got
11 the poor --

12 Q Which piece are you talking about now?

13 A The lower shed field. The south -- most southeast corner
14 of the Knollin Ranch. We didn't always get it watered real
15 well. Sometimes we would get a hay crop off it and sometimes
16 all we would get off it was pasture.

17 Q And what was the reason? Was that because of the
18 availability of water or for what reason?

19 A Yeah, mostly availability, sometimes we just wouldn't get
20 that far with the water.

21 Q All right.

22 A Okay. Well, continuing on with the deeded -- or with the
23 irrigated ground the access -- the east west access road that
24 runs into the ranch, to the south of it there were two large
25 irrigated pastures. And I'll do the best I can with this map

1 to show the boundary. But there was fence that came -- well,
2 not a fence but a ditch that came around here approximately
3 like this, and ran through like this, jogged down there. And
4 now at a point here you'll see on this map where there are
5 several rough jogs in the fence and that's because that -- I
6 asked my father why he fenced it that way and he said that's
7 because that's the way the land was, the subbed pasture to the
8 south and the farmable pasture to the north and back along the
9 access road.

10 There are -- in this lands that I've just drawn the large
11 circle around, there were a couple of dry pieces and they show
12 up on this aerial fairly well. And I'll exclude those,
13 there's a couple of little pieces along through here that were
14 dry. Now this was cross fenced into two separate pastures,
15 and the cross fence I believe ran down through here. The west
16 -- what's called the west steer pasture, and it was 1906
17 acres.

18 Q It was called the west what pasture?

19 A The west steer pasture.

20 Q Steer, all right.

21 A The east was call the east steer pasture, and it was 216.
22 Now those two pieces of ground to my recollection were never
23 farmed for production of hay, but the ditches were cleaned, we
24 had tractors out there cleaning the ditches, and we did
25 irrigate it.

- 1 Q All right. We're adding up those numbers here to see
2 what we come up with and I believe it's about 1,158 acres --
- 3 A Okay, my figure on --
- 4 Q -- including the Bird Ranch.
- 5 A -- adding that was 1,176.
- 6 Q Okay. I'm sorry?
- 7 A My figures on adding that was 1,176.
- 8 Q 1,176. And that includes the area that the 297 acres
9 that you've shown on the Bird Ranch?
- 10 A That's correct.
- 11 Q Well, we get 1,176 now too. That's comforting.
- 12 A Good.
- 13 Q So we've come up with 1,176 acres of ground that you
14 recall having flood irrigated during the years that you were
15 on the property. Does 1,176 when we come up with that number,
16 does that sound -- how does that reflect with your memory?
- 17 A When I was first asked if I would have any recollection
18 of how lands were managed there, the figure that I had
19 remembered from the years before I did any of the -- any of
20 the review was 1,200 acres. So 1,176 is very close.
- 21 Q All right. And how often was -- were these lands
22 irrigated? We've talked about the Bird Ranch how that was
23 irrigated, were these lands irrigated differently than the
24 Bird Ranch?
- 25 A Well, I've already made a comment that the lower shed

1 field sometimes wouldn't get irrigated at all, if it did get
2 irrigated it was irrigated once. Probably the fields that got
3 the best attention, the most attention and got irrigated twice
4 would have been the cattle guard field, which we've referred
5 to as being on the east side of the river and north to the
6 access road. The piece of ground behind the house would have
7 gotten good attention and the southwest hay fields, both the
8 southwest and the separate piece of hay fields would have
9 received good attention being irrigated twice.

10 Q If we look in the south -- you're talking about the
11 southwest fields and you've indicated there was 68 acres of
12 ground there, if you look on the map in the southwest. To the
13 extreme southwest corner there is some ground that you didn't
14 include, but there's been testimony that there's a ditch that
15 runs south along the west boundary and then turns and runs
16 east along the south boundary. And Mr. Pancheri testified
17 yesterday that there had been some irrigation in there at --
18 can that land in fact be irrigated from those ditches?

19 A Yes, it could be. The main water that -- the main ditch
20 that transports water to the southwest hay fields does run
21 along the boundary of the property and there are old ditch
22 courses out in here where you can see that at one time
23 somebody irrigated that land. Of course all the land was
24 irrigated at one time in its distant past, and it could be
25 irrigated from that ditch.

1 Q During the years that you were on the property, was there
2 any attempt made to harvest hay off of that ground?

3 A No. That --

4 Q The southwest.

5 A -- that ground was a grass, it could well have been
6 crested wheat, I'm not sure. And there's a spring that sits
7 in that piece of ground kind of to the north -- northeast
8 corner of it. And cattle will trail in there a lot off of the
9 BLM range to water there. So the grass up there is poor, it's
10 full of cow trails, and no, no effort was made to harvest
11 anything there.

12 Q And did you make any attempt or are you aware of any
13 attempt during the years you were on the property to irrigate
14 that ground?

15 A No, I don't have any recollection of trying to irrigate
16 it.

17 Q All right. I would like to talk now about a portion of
18 ground that sits north of the east west access road that
19 you've described and north of the series of five wells. Are
20 you familiar with that ground?

21 A Yes, I am.

22 Q Did that also belong, and was that a part of the Knollin
23 Ranch when your father owned it?

24 A Well, a portion of it was, up to the original fence, I
25 believe a quarter -- well, no, it must have been a half a mile

1 north.

2 Q During the time that you were on the property, do you
3 recall that land ever having been irrigated?

4 A No.

5 Q Was that land homesteaded by your family?

6 A It -- my understanding is that it was homesteaded by my
7 uncle and my aunt.

8 Q And do you know whether -- was that proved up in the same
9 way as the Bird Ranch?

10 A It's my understanding that it was.

11 Q By irrigation?

12 A Yes.

13 Q Was -- were there any irrigation ditches on the property
14 while you were familiar with it?

15 A Yes, there were.

16 Q And was there a well that served that property?

17 A Yes, that large well that we've talked about previously
18 that sits in the far northwest corner of the Knollin proper,
19 the ditches are set up to water from that well.

20 Q Do you have an understanding why those lands in spite of
21 the ditches and the well were never irrigated?

22 A Well, my testimony on that won't be too much different
23 than my mom's homestead. My father seeded into crested wheat
24 and while the feed was similar to the BLM crested wheat it
25 gave him an opportunity to manage cattle on deeded land during