

SUPREME COURT OF THE UNITED STATES
NO. 141, ORIGINAL

STATE OF TEXAS,)
)
 Plaintiff,)
)
VS.) VOLUME XIX
)
STATE OF NEW MEXICO)
AND STATE OF COLORADO,)
)
 Defendants.)

TRANSCRIPT OF PROCEEDINGS

The above-entitled matter came on for HEARING
before HONORABLE MICHAEL A. MELLOY, SPECIAL MASTER,
held REMOTELY via Zoom, on NOVEMBER 10, 2021,
commencing at 11:00 a.m.;

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1 **JUDGE MELLOY:** All right. I think we're
2 ready to get started this morning. This is the
3 continuation of the trial in United States Supreme
4 Court Original No. 141, Texas versus New Mexico,
5 Colorado, and the United States. Let me ask the
6 parties who will be appearing for this morning's
7 session to enter their appearance. Ms. Klahn?

8 **MS. KLAHN:** Good morning, Your Honor.
9 I'm not going to be appearing with the witness.
10 That'll be Mr. Deitchman. I'm just here on the
11 evidentiary issue.

12 **JUDGE MELLOY:** Okay. Mr. Wechsler?

13 **MR. WECHSLER:** Good morning, Your Honor,
14 and happy last day of Phase 1 to everyone. I will be
15 -- I'm here only to talk about the deposition
16 designation, also, although I will be putting on
17 Ms. Stahmann. Mr. Ogaz will be putting on our first
18 witness today.

19 **JUDGE MELLOY:** Okay. Mr. Wallace?

20 **MR. WALLACE:** Good morning, Your Honor.
21 Chad Wallace for the State of Colorado.

22 **JUDGE MELLOY:** And Ms. Coleman.

23 **MS. COLEMAN:** Good morning, Your Honor.
24 Judith Coleman for the United States. I won't be
25 talking about the evidentiary designation, but if we

1 need someone, Mr. Dubois will join us.

2 **JUDGE MELLODY:** All right. As I
3 understand it, there's a couple issues with the
4 designation of Cheryl Thacker. One is whether there
5 was a purported agreement to hold off until the
6 spring. The rough draft of the trial transcript from
7 October 18th indicates this issue was brought up and
8 that at Page 4 of the deposition -- or of the trial
9 transcript, Mr. Draper had indicated that all the
10 deposition designations would be offered in the
11 spring, and Ms. Barfield responded that they would
12 offer the deposition exhibits at the time the witness
13 was testifying but that since Ms. Thacker isn't going
14 to testify, they may offer it in the fall, and there
15 was no resolution at that point. I assume there's
16 been no resolution since then. I'm not sure it makes
17 a lot of difference at this point whether we --
18 whether it's admitted at the end of the fall session
19 or whether we admit it at the end of the spring
20 session. It's kind of -- I think that part of it is
21 kind of irrelevant at this point, but what's -- what's
22 your more substantive objection, Mr. Wechsler?

23 **MR. WECHSLER:** Yeah, Your Honor, and I
24 have no objection to it being admitted now. I agree
25 with you. It doesn't matter when. The substantive

1 objection is only to a part of it, and that is Ms.
2 Thacker was a 30(b)(6) designee by the State of New
3 Mexico, and that particular category had two parts to
4 it, one was state water administration, and the other
5 had to do with administration for purposes of the
6 Compact. And so we prepared Ms. Thacker for the state
7 water administration issue and designated her for
8 that, and then we prepared Estevan Lopez for the
9 Compact issue, any administration related to the
10 Compact, and designated him for that, and so there's
11 parts of this designation in which the questions
12 really go to the Compact issue, and Ms. Thacker is
13 basically saying I don't know, and the reason is she
14 wasn't prepared or designated for that. I'll just
15 point you to parts of the transcript. So the
16 objections can be seen multiple times, Page 13, Lines
17 1 to 4, Page 14, Line 20 to Page 15, line 7, Page 17,
18 Line 14 to 15, Page 17, Line 23 to Page 18, Line 4,
19 Page 21, Lines 10 to 23, and then Page 24, Line 6 to
20 Page 25, Line 17. So our only objection to this
21 designation is to parts having to do with that piece
22 for which Ms. Thacker was not designated. My review
23 of this designation, there's actually not very much of
24 it that that falls into, so it looks to me like
25 anything before Page 25 is sort of dealing with that

1 issue, but frankly, most of it is just lawyers
2 talking. It's a lot of that objection stuff I just
3 mentioned. And then there's two other parts, Page 72,
4 Line 25, to Page 73, Line 15, and Page 79, Line 20, to
5 Page 80, Line 7. So it's pretty minimal. Our only
6 objection is to those parts. The rest of it is
7 certainly within Ms. Thacker's designation doing state
8 water administration, and we have no objection to
9 that.

10 **JUDGE MELLODY:** And I -- I did review it.
11 A lot of it is pretty duplicate of what Mr. Serrano
12 testified to yesterday, as well as other witnesses,
13 but in any event, what's your response, Ms. Klahn?

14 **MS. KLAHN:** Well, the 30(b)(6)
15 deposition doesn't have two categories of
16 administration under the Compact and administration
17 under state laws. It has New Mexico's administration
18 implementation and enforcement of its obligations
19 under the Compact state laws, regulations, policies,
20 or actions, and then an enumerated list. Ms. Thacker
21 is identified as a witness under that category, so I'm
22 not sure the distinction that Mr. Wechsler is drawing
23 is legitimate, but he's identified the objections that
24 they had and those are now in the record and I'm -- I
25 mean, I think at this point, the transcript ought to

1 come in.

2 **JUDGE MELLOY:** Well, I want to go over
3 the objections. Mr. Wechsler went through them pretty
4 fast. I don't want to take time going through every
5 one of them this morning. I don't think we need to do
6 that. I'll review the transcript of today's hearing
7 and look at those objections, and in the meantime,
8 Mr. Wechsler, at some point -- and, again, there's no
9 big rush on it -- would you file what was filed as --
10 or designated for this witness so I can see what
11 exactly you designated the witness for, for what
12 purpose, and then -- and then I'll --

13 **MS. KLAHN:** Your Honor, I would just
14 point out, there were three sets of objections from
15 New Mexico. One objection to the 30(b)(6) filed in
16 September, one filed in October, and one filed in
17 November, and so it seems like if there's to be a
18 record made of those, all three of those ought to come
19 in so that it's clear what was happening. And we may
20 want to file something responsive if it seems that
21 it's not clear.

22 **JUDGE MELLOY:** Why don't you file those,
23 Mr. Wechsler, and -- and if you don't feel the record
24 is complete, Ms. Klahn, you can supplement it. I'm
25 not asking for argument at this point. I'd just like

1 to see what was -- what was designated and what the
2 objections were.

3 **MS. KLAHN:** Understand.

4 **MR. WECHSLER:** I understand, Your Honor.
5 We're happy to do that, and I'll confer with Ms.
6 Klahn, and hopefully we can just do one filing.

7 **JUDGE MELLOY:** All right. Very good.
8 Anything else we need to take up this morning before
9 we start with our witness?

10 **MR. WECHSLER:** No, Your Honor. I'm
11 going to just drop off the video for a second so we
12 can change seats.

13 **MR. DUBIOS:** All right.

14 **MS. KLAHN:** And I'm going to drop off,
15 too. Thank you, Your Honor.

16 **JUDGE MELLOY:** Thank you.

17 Welcome back, Mr. Ogaz.

18 **MR. OGAZ:** Good morning, Your Honor.

19 **JUDGE MELLOY:** You may call your
20 witness.

21 **MR. OGAZ:** The State of New Mexico calls
22 Randy Garay.

23 **JUDGE MELLOY:** Is it Garay? Is that how
24 you pronounce it?

25 **THE WITNESS:** Garay.

1 **JUDGE MELLOY:** Okay. Mr. Garay, would
2 you raise your right hand, please, so I can swear you?
3 Do you swear or affirm that the testimony you're about
4 to give will be the truth, the whole truth, and
5 nothing but the truth?

6 **THE WITNESS:** Yes, sir, I do.

7 **JUDGE MELLOY:** All right. I need to go
8 over a couple of the ground rules with you before we
9 get started here. First of all, do you have any --
10 excuse me. Is anybody in the room with you during
11 your testimony?

12 **THE WITNESS:** No, sir. I'm in here by
13 myself.

14 **JUDGE MELLOY:** All right. And then do
15 you have any documents available to you, other than
16 the exhibit book?

17 **THE WITNESS:** Just an exhibit -- exhibit
18 book that they gave me. That's it, Your Honor.

19 **JUDGE MELLOY:** All right. And then I
20 need to advise you that you're not allowed to have any
21 communication devices, such as iPhones, iPads,
22 laptops, or anything of that nature available to you
23 that has any communication facility. Do you
24 understand?

25 **THE WITNESS:** Yes, sir. I have none of

1 those.

2 **JUDGE MELLOY:** And then, finally, for
3 the record, would you state and spell your name,
4 please?

5 **THE WITNESS:** My name is Randy Garay,
6 R-A-N-D-Y, G-A-R-A-Y.

7 **JUDGE MELLOY:** All right. Mr. -- well,
8 and then as far as the exhibits are concerned, New
9 Mexico, as I understand, just has one, which is the
10 New Mexico demonstrative, which is basically the
11 Google Earth demonstrative, and that's already been
12 admitted. For cross-examination, we have New Mexico
13 790 and New Mexico 541, both of which are A exhibits
14 and will be admitted, and then we have Garay
15 Demonstrative -- doesn't appear to be a number
16 attached to that. That's a Texas demonstrative. At
17 this point, I understand it's objected to so we'll
18 take that up when it comes in.

19 **MR. DEITCHMAN:** Your Honor, before New
20 Mexico begins, Texas would like to state a standing
21 objection for the record if I may.

22 **JUDGE MELLOY:** You may.

23 **MR. DEITCHMAN:** Your Honor, Texas
24 objects to this witness' testimony, and we'd like to
25 renew our October 15th, 2021, objection and request to

1 strike cumulative and/or duplicative witness
2 testimony, which is now Docket No. 632. This witness
3 is another farmer that New Mexico has put up who farms
4 in Elephant Butte Irrigation District. I think the
5 record is full of -- no disrespect to Mr. Garay, but
6 the record is full of testimony by farmers talking
7 about farming in the Elephant Butte Irrigation
8 District. We think this is duplicative, and we see no
9 reason to add this to the record.

10 **JUDGE MELLOY:** Well, we've gone over
11 this before. I think New Mexico is entitled to put on
12 its case, and I understand from New Mexico's
13 perspective, they feel that each farmer can add
14 something different in addition to the -- to the
15 record. I certainly am going to encourage Mr. Ogaz
16 not to re-plow, to use probably not a very good term
17 or phrase, subjects we've already gone over, but --
18 but I will allow him to -- to call and examine this
19 witness. You may proceed.

20 **MR. OGAZ:** Thank you, Your Honor.

21 **RANDY GARAY,**
22 having been first duly sworn, testified as follows:

23 **DIRECT EXAMINATION**

24 **BY MR. OGAZ:**

25 **Q. Good morning, Mr. Garay.**

1 A. Good morning, Mr. Ogaz.

2 **Q. Can you tell the Court where you live?**

3 A. I live in the Hatch Valley in Garfield, New
4 Mexico.

5 **Q. How long have you lived there?**

6 A. Lifelong.

7 **Q. How old are you?**

8 A. I'm 55 years old.

9 **Q. Can you tell the Court what you do for a**
10 **living?**

11 A. I'm a farmer in the Hatch Valley, fourth
12 generation. My family has been farming in the Hatch
13 Valley since the '50s. I'm just trying to do the same
14 and pass it on to my kids.

15 **Q. Do you have a business name that you farm**
16 **under?**

17 A. Garay Farms.

18 **Q. Do you do anything other than just farming?**

19 A. Yes. We have a chile processing facility in
20 the Hatch Valley in Arrey, New Mexico. It's called
21 M.A. & Sons Chile Products.

22 **Q. Are you the founder of Garay Farms?**

23 A. Garay Farms, yes, I am.

24 **Q. Are you the founder of M.A. & Sons?**

25 A. No. That would be my mother. That's what

1 the MA stands for. That's Mary Alice Garay, and we
2 named it M.A. & Sons after her.

3 **Q. Where are your farming operations located?**

4 A. My farming operations, I farm in Sierra Dona
5 Ana County, in Garfield, Derry, and Arrey.

6 **Q. What is your role at Garay Farms?**

7 A. I'm the owner, manager, oversee day-to-day
8 operations. I work with my brothers. We farm
9 together. Each of us have our own properties, but we
10 share equipment because equipment is very expensive
11 nowadays.

12 **Q. Can you give us a little overview of some of**
13 **your day-to-day responsibilities at Garay Farms?**

14 A. Every morning, we all gather at headquarters
15 and decide and see what needs to be done, what needs
16 to be cultivated, irrigated, if there's hay to be cut
17 or whatever is necessary at that time of the day.

18 **Q. Okay. And how much acreage are you farming**
19 **this year?**

20 A. Me personally, I farm 600 acres.

21 **Q. Do you own all of those acres?**

22 A. No. I own 400 acres, and I lease 200
23 additional.

24 **Q. Okay. What crops are you growing this year?**

25 A. I'm currently growing chile, onions, alfalfa,

1 corn for the dairies for ensilage, and I also grow
2 some barley and triticale, which is grasses that we
3 bail or green chop at the dairies, as well.

4 **Q. How did you get started farming?**

5 A. We've been born and raised in it, you know,
6 since we were little, eight years old getting out
7 there helping irrigate, whatever needed to be done.
8 As we got older, start driving a tractor, cultivating,
9 cutting hay, just whatever was needed day-to-day.

10 **Q. When did you start Garay Farms?**

11 A. In 1990.

12 **Q. What were the circumstances for starting**
13 **that? Is it a company or a business?**

14 A. Garay Farms?

15 **Q. Yeah.**

16 A. It's my business.

17 **Q. Okay.**

18 A. It's -- it used to be my mom's, my
19 grandfather's, and I'm the one who's running it.

20 **Q. Okay. And when you -- what were the**
21 **circumstances for starting working at Garay Farms in**
22 **1990?**

23 A. Well, I was helping my uncles and other
24 farmers while I was going through high school, and I
25 did a four-year stint in college then when I came

1 back, I decided to give it a shot and try my -- try my
2 own success at it.

3 **Q. Okay. And when you started your own farm,**
4 **how many acres were you farming with?**

5 A. My very first year, I farmed ten acres of
6 chile. It went very well for me so the following
7 season, I got started with the whole Garay Farms 60
8 acres, and that's where I got my start.

9 **Q. How many acres are you growing now?**

10 A. Right now, I'm currently farming 600 acres,
11 you know. Over the last 30 years, I've leased other
12 acreages, and I've bought and now own 400 acres
13 myself.

14 **Q. Okay. And what -- how do you decide which**
15 **crops to grow each year?**

16 A. Well, every year at the beginning of the
17 year, we sit down and look at pricing, what the market
18 is for chile, you know, we look at the internet,
19 AgWeb, daily. We also consult with the local dairies
20 there to see what the current price is going to be for
21 alfalfa, for ensilage, which is the corn, and the
22 triticale and the bailed hay, and then from there, you
23 know, I have a program that I developed on my computer
24 where I can see what will make me cash flow better,
25 and from there we decide how many acres of what we

1 will be farming for the current season.

2 Q. And do you use surface and groundwater to
3 irrigate?

4 A. I use them both, yes, I do.

5 Q. Okay. And do you prefer surface or
6 groundwater to irrigate with?

7 A. Surface water, absolutely. It's got less
8 salt in it.

9 Q. Okay. And how does salinity impact your
10 crops?

11 A. Well, it stresses the plant because you're
12 putting salts on top of salt, if you're using nothing
13 but groundwater. We have to use -- I have two
14 consultants that I've hired to help me. We take soil
15 samples, plant and petiole leaf samples and decide how
16 it's affecting it, and from there, we use acid-based
17 fertilizers or a product called a DS-90, Disper-Sul
18 90, humic acid or n-phuric acid to neutralize and help
19 keep the salinity at bay.

20 Q. Have you been more reliant on groundwater
21 since 2008?

22 A. Yes, sir, we have.

23 Q. Can you describe some of the costs associated
24 with using more groundwater?

25 A. Well, one of the major costs is no matter how

1 much water we get from EBID, whether it's 3 inches or
2 a full 36 inches, we have to pay the full allotment,
3 and then like this past season, this current season,
4 we had 4 inches of water. We had to supplement the
5 rest with groundwater. We have all the fuel -- I have
6 propane pumps, I have diesel pumps, and I have
7 electric pumps. So there's maintenance on all the
8 motorized pumps, oil changes, you know, fan belts,
9 radiators, antifreezes, and then as well as the pumps,
10 you have gear heads, transmissions, turbines. When
11 something goes out, you've got to repair it and
12 maintain it to keep it going.

13 **Q. And can you briefly describe the methods you**
14 **use for irrigation? For example, do you use flood**
15 **irrigation or drip irrigation?**

16 **A.** I use both. We have gone to, over the past
17 three years, 100 percent of drip irrigation on our
18 vegetables, which is chile and onions. When we have
19 to supplement with groundwater so much, when we use
20 the drip, the drip tape is right directly under the
21 seed line so it tends to push the water outwards,
22 therefore, pushing the salt outwards away from your
23 root zone, and you get better results, healthier
24 plants, more production.

25 **Q. And is your drip system, is that permanent or**

1 **temporary?**

2 A. We have both, but we've here lately gone to
3 temporary because our water is so hard. The tape has
4 emitters every foot, every 12 inches. After so long,
5 that hard water will plug up those emitters so we get
6 two, maximum three years life out of it and have to
7 pull it and replace it.

8 **Q. How much does it cost to replace that drip**
9 **tape?**

10 A. We currently have our own equipment to do it,
11 but just to replace the tape runs about 450 to \$500 an
12 acre.

13 **Q. And when did you first install your drip**
14 **irrigation system?**

15 A. I think it's been six years ago that we
16 started going to -- to drip. Now, we're on our
17 vegetables, 100 percent drip.

18 **Q. How much have you invested in your drip**
19 **irrigation systems?**

20 A. When you do a first initial install, it runs
21 right at about \$1,900 an acre. There's filter station
22 involved. That's a one-time purchase. That filter
23 station will last for years. The tape is the one that
24 you'll have to replace every two to three years.

25 **Q. Okay. Are you familiar with the term**

1 following?

2 A. Yes, sir, I am.

3 Q. Can you describe what fallowing is to you?

4 A. Fallowing is leaving some land idle for the
5 season. We do it for two different reasons. I do it
6 to rest some land, and here lately, I fallow land so I
7 can stay in compliance with the state engineer on the
8 amount of water, the cap that I'm allowed to use in a
9 crop season.

10 Q. Okay. And how much land to you fallow every
11 year?

12 A. Right now, roughly me personally, almost 600
13 acres I farm. 50 to 55 acres I leave idle/fallow a
14 year.

15 Q. How does the amount of land you farm impact
16 the number of people you employ on your farm?

17 A. Well, if I have less farmland acreage to
18 farm, I need less employees.

19 Q. How many people do you employ on your farm?

20 A. I have nine full-time employees.

21 Q. And how many seasonal employees do you have?

22 A. I have 35 to 40 that I use.

23 Q. Okay. And earlier, you mentioned that you
24 process chile under the name M.A. & Sons. Can you
25 tell the Court a little bit about what M.A. & Sons

1 **processing operations are?**

2 A. M.A. & Sons chile products is red and green
3 chile facility that we have built. We started that in
4 1989. Used to be my grandfather's. It used to be
5 called Uvay & Sons. We took it earlier. That's like
6 where I said earlier, MA came from. My mother's name
7 is Mary Alice, and we moved it from Uvay & Sons to
8 M.A. & Sons. We've over the years have grown quite a
9 bit. We process green chile/red chile. The green
10 chile, we bring it in, roast it, peel it, dice it,
11 freeze it, and sell it to food service, restaurants,
12 salsa companies, just different customers. Our red
13 chile is a dehydration facility. We bring the chiles
14 in fresh, wash them, dehydrate them. We do a variety
15 of things there such as whole pods, chile powders.
16 The bulk of it, I'll flake it and send it to the major
17 spice companies here in the United States.

18 **Q. Do you sell to any grocery stores?**

19 A. Yes. We do have a retail line. We sell to
20 Wal-Mart, Albertson's, Fiesta, Save Marts, and a few
21 others.

22 **Q. What is your role at M.A. & Sons?**

23 A. I am vice president of operations. I'm in
24 charge of buying and selling and all the logistics to
25 move the product to and from.

1 **Q. And you said your brothers also help you.**
2 **What are their roles?**

3 A. Well, there's three of us. My older brother,
4 Frank, myself, Randy, and my younger brother, Patrick.
5 We all farm together. Between the three of us, we
6 farm roughly just shy of 1,500 acres. When green
7 chile season starts, we all work together. Frank will
8 run the farm, take care of harvest. Me and Patrick
9 will be at the farm, and like I said, I'm in charge of
10 buying and selling, logistics, and Pat is our SQF
11 practitioner. He's in charge of food safety.

12 **Q. What is SQF?**

13 A. Safe quality food. It's compliance with Food
14 Safety Modernization Act. There's different levels of
15 food safety. SQF is second to the highest level. We
16 are SQF at our facility.

17 **Q. And what months of the year do you do most of**
18 **your processing?**

19 A. Green chile harvest starts in July, and it'll
20 run into October. Red chile will start in September.
21 We try to finish before Christmas, but we have run
22 into the first/second week of January.

23 **Q. Does your processing operation use any water?**

24 A. Yes, sir, we do. We use water to wash both
25 the red and green chile.

1 **Q. How much water does it use?**

2 A. At our facility on an average day on a
3 24-hour shift, we use roughly 20,000 gallons of water
4 daily.

5 **Q. And do you -- is that surface or groundwater?**

6 A. It's groundwater, but when I hit my cap, then
7 I have to supplement with Garfield Municipal Water.

8 **Q. Okay. Do you have a permit for that water**
9 **use?**

10 A. Yes, sir, I do. The permit is under M.A. &
11 Sons.

12 **Q. How many pounds a year do you process?**

13 A. This season in green chile, I processed 10.3
14 million pounds of frozen green chile. We're still
15 currently processing red. My goal is to reach 4.5
16 million pounds of dehydrated product.

17 **Q. And do you sell all the -- all the chile that**
18 **you process in a year?**

19 A. Excuse me?

20 **Q. Do you sell all of the chile in the same year**
21 **that you process it?**

22 A. Well, the frozen green chile, we carry -- I
23 can't run out. I have to have it until the next crop
24 starts, but the red chile, yes, the red chile is all
25 gone by the end of January.

1 **Q. Okay. And how do you keep your chile from --**
2 **your green chile throughout the year?**

3 A. We're currently building a brand new freezer
4 on site there in Arrey, but currently, I'm storing it
5 in El Paso.

6 **Q. And why is it you're storing it in El Paso?**

7 A. Well, because the freezer I have where I
8 blast freeze it, I exceeded its capacity. We've
9 grown. Our product has just taken off on us. I went
10 from my first year starting at 800,000, and now we're
11 at 10 million pounds. I've just outgrown my facility.

12 **Q. How has your facilities grown over the years?**

13 A. Well, thank God, the products we've been
14 billing and with the help of my consultants and
15 everybody, they like our chile. They keep buying it.
16 I can't keep up.

17 **Q. Have you expanded your facilities over time?**

18 A. Yes, sir. We've done, since 1990 to present
19 on the chile plant, we've expanded four times, and
20 right now currently, I'm building a 30,000 square foot
21 cold storage freezer.

22 **Q. Okay. How many employees do you have at your**
23 **processing plant?**

24 A. Full time year round, I have 14 full-time
25 employees who take care of prepping, getting the plant

1 ready for production so we have minimal breakdown
2 periods. The other ones are getting orders ready that
3 go out on a weekly and sometimes daily basis.

4 **Q. Okay. Where do you hire your employees from?**

5 A. They're all from the Hatch Valley, from
6 Arrey, Salem, Garfield, some from Hatch.

7 **Q. Okay. Mr. Garay, are you associated with any**
8 **local farm organizations?**

9 A. Yes. I am the vice president of Hatch Chile
10 Association.

11 **Q. Can you tell me a little about what the Hatch**
12 **Chile Association does?**

13 A. Seven years ago, several of us farmers got
14 together and formed the association because they were
15 using the name Hatch on chile that wasn't from Hatch
16 to sell it so -- so they wouldn't take away our niche
17 from our Hatch Valley, which, of course, you know,
18 we're the chile capital of the world. We formed this
19 association to try to kind of police it, and we still
20 have several ongoing lawsuits with people who are
21 using the Hatch name falsely or illegally, whatever
22 the word is.

23 **Q. Do you know how many chile processing**
24 **operations are located in the Hatch Valley?**

25 A. I believe there's eight of them.

1 **Q. Do you know how many acres of chile are being**
2 **grown in the Hatch Valley?**

3 A. This year, it's in the neighborhood of 1,200
4 acres.

5 **Q. Okay. Do you know how many pounds of chile**
6 **are harvested out of the Hatch Valley every year?**

7 A. Green chile, about 45 million fresh pounds,
8 and red chile in the neighborhood of 20 dry dehydrated
9 pounds.

10 **Q. Okay. And going back, how much of the chile**
11 **that you process do you grow yourself?**

12 A. Green chile, me and my brothers supply about
13 80 -- 80 to 85 percent of it. I source the rest from
14 the Las Cruces area, which is the Mesilla Valley and
15 Deming, which is the Luna area.

16 **Q. For your red chile?**

17 A. Red chile, we supply probably maybe 30
18 percent. Sources are the same, Mesilla Valley, Luna
19 County, and the rest is sourced from across the
20 border.

21 **Q. Okay. Do you have to buy chile from outside**
22 **New Mexico?**

23 A. Yes, I do. Here the last ten years or so,
24 we've had to buy quite a bit from across the border.

25 **Q. How does importing chile impact the cost of**

1 **your processing operations?**

2 A. Well, it raises my price per pound because
3 when I have to freight it in from that far, you have
4 additional freight. Coming across the border at
5 customs, we have import/export costs so that raises my
6 cost, which in turn, I have to raise the cost to sell
7 it.

8 **Q. If you had to rely solely on imported chile**
9 **from other areas, how would that impact your**
10 **processing operations?**

11 A. Well, I don't know if we could stay in
12 business if I had to rely solely on import. They
13 don't honor contracts like you do here in the United
14 States.

15 **Q. If you were unable to use groundwater, how**
16 **would that impact the amount of land you farm?**

17 A. If we were unable to use groundwater, the
18 current situation, we wouldn't be able to farm. This
19 year currently, we had 4 inches of water. There's not
20 a single crop you can grow with 4 inches of water.

21 **Q. Okay. How would the decreasing land you farm**
22 **impact your processing operations?**

23 A. Well, I've had to fallow 50 to 55 acres a
24 year in order to stay compliant with my water use the
25 cap will allow. That kind of hurts because some of

1 this land, I still have mortgages on, and when I have
2 land idle, it doesn't make me money so, you know, it
3 definitely hurts that you have to leave that land
4 idle.

5 Q. Okay. And how would that change the number
6 of employees you hire on the farm?

7 MR. DEITCHMAN: Your Honor, I'd like to
8 object. This line of questioning goes to the remedy
9 issue in this case, and this is the liability phase.
10 We're getting into, I don't know, remedy issues, which
11 are not before the Court at this time.

12 JUDGE MELLOY: Well, I'll allow some of
13 this, but let's -- let's not go too far down this
14 road, Mr. Ogaz.

15 Q. (BY MR. OGAZ) So how would the decrease in
16 land that you farm change the number of employees you
17 hire?

18 A. Well, if I had to reduce the acreage, the
19 farming, I would have less work available for them. I
20 would have to let some people go.

21 Q. And would that also impact the employees you
22 hire at the processing facilities?

23 A. Absolutely.

24 MR. OGAZ: I have no further questions,
25 Your Honor.

1 **JUDGE MELLOY:** All right. Then,
2 Mr. Deitchman, are you going first?

3 **MR. DEITCHMAN:** Yes, I am. Thank you,
4 Your Honor.

5 CROSS-EXAMINATION

6 BY MR. DEITCHMAN:

7 **Q.** Mr. Garay, my name is Rich Deitchman. I'm
8 one of the attorneys for Texas in this case. Nice to
9 meet you today.

10 **A.** Likewise. Nice to meet you.

11 **Q.** Mr. Garay, ultimately, isn't it true you want
12 more surface water and the ability to continue to pump
13 groundwater to the extent your crops need them?

14 **A.** Well, we -- the reason we want surface water
15 is because our crops produce better on them. It's not
16 a combination of wanting more. It's a combination of
17 wanting the better water.

18 **Q.** Am I correct that if you had 36 inches of
19 surface water, you would continue to still pump
20 groundwater, correct?

21 **A.** On a limited basis, yes.

22 **MR. DEITCHMAN:** I have no further
23 questions for this witness.

24 **JUDGE MELLOY:** Ms. Coleman, do you have
25 any questions?

1 **MS. COLEMAN:** Just a couple, Your Honor.

2 CROSS-EXAMINATION

3 BY MS. COLEMAN:

4 **Q.** Good morning, Mr. Garay.

5 **A.** Good morning.

6 **Q.** You mentioned the drip irrigation and drip
7 tape earlier. Do you run the surface water through
8 the drip tape, too?

9 **A.** Yes, ma'am, we do.

10 **Q.** Okay. And a moment ago, you mentioned that
11 the cost associated with importing chiles you pass
12 onto your purchasers, right?

13 **A.** We try to, yes, ma'am.

14 **Q.** Does that also happen with the cost
15 associated with groundwater pumping? Does that cost
16 get passed on to the buyers, too?

17 **A.** Not necessarily.

18 **Q.** How is it that those costs would not also be
19 passed along to the consumers?

20 **A.** Because that's from the farm. It's a little
21 different. When we make contracts with the dairy, the
22 price is set, it doesn't matter what my pumping costs
23 or any other fertilizer costs or any other inputs that
24 I have to put in it. I'm getting a certain price for
25 it and that's it. The rest is up to me and what

1 inputs I want to put on my crop.

2 Q. But as far as the chiles go, your demand is
3 going up, right?

4 A. On green chile, yes, ma'am, it is.

5 Q. Okay. And you're able to invest in a 30,000
6 square foot cold storage facility notwithstanding its
7 cost, correct?

8 A. That's correct.

9 MS. COLEMAN: That's all the questions I
10 have.

11 JUDGE MELLOY: Mr. Wallace, I assume you
12 don't have anything or do you?

13 MR. WALLACE: No questions, Your Honor.
14 Thank you.

15 JUDGE MELLOY: All right. Mr. Ogaz, any
16 redirect?

17 MR. OGAZ: No, Your Honor.

18 JUDGE MELLOY: All right. Well, then,
19 Mr. Garay, you're free to go. Thank you for your
20 testimony, and, as I said, you're free to go. Thank
21 you.

22 Let's take five minutes while we get
23 resituated with our next witness. All right?

24 (Recess.)

25 JUDGE MELLOY: All right. Are we ready

1 to resume?

2 **MR. WECHSLER:** We are.

3 **JUDGE MELLOY:** All right. Mr. Wechsler,
4 would you call your witness, please?

5 **MR. WECHSLER:** New Mexico calls
6 Ms. Sally Stahmann.

7 **JUDGE MELLOY:** Ms. Stahmann, would you
8 raise your right hand so I can administer the oath?
9 Do you swear or affirm that the testimony you're about
10 to give will be the truth, the whole truth, and
11 nothing but the truth?

12 **THE WITNESS:** I do.

13 **JUDGE MELLOY:** Would you state and spell
14 your name for the record, please?

15 **THE WITNESS:** Sally Stahmann, S-A-L-L-Y,
16 S-T-A-H-M-A-N-N.

17 **JUDGE MELLOY:** All right. Ms. Stahmann,
18 I need to go over a few of the ground rules we've
19 reviewed with each of the witnesses. Let me first ask
20 you: Is there anyone in the room with you?

21 **THE WITNESS:** No, sir.

22 **JUDGE MELLOY:** Do you have any documents
23 available to you, other than the exhibit book.

24 **THE WITNESS:** No.

25 **JUDGE MELLOY:** Finally, I need to advise

1 you that you're not allowed to have any communication
2 devices such as laptops, iPads, iPhones, et cetera,
3 available during your testimony. Do you understand?

4 THE WITNESS: Yes.

5 JUDGE MELLOY: All right. And then as
6 far as the exhibits are concerned, we have New Mexico
7 Demonstrative 60 and 61, which are A and will be
8 admitted. I guess everything else is objected to, and
9 the same with all of the exhibits on the
10 cross-examination with the exception of New Mexico
11 689, which has already been admitted.

12 MR. DEITCHMAN: Your Honor, I suspect I
13 know your ruling, but Texas would like to state an
14 objection for the record.

15 JUDGE MELLOY: Go ahead.

16 MR. DEITCHMAN: Your Honor, Texas
17 objects to Ms. Stahmann's testimony. We renew our
18 cumulative objection that was filed on October 15th,
19 2021, and is Docket 632. Again, it's -- no disrespect
20 to Ms. Stahmann, but we've heard plenty from farmers
21 in EBID in this case. In particular, we already heard
22 from Mr. Salopek, who is a pecan farmer. In addition,
23 we also object to the extent this testimony will rate
24 to the history of pecan farming in the valley. That's
25 what we understand to be the topic for the testimony

1 based on the direct exhibits. This witness has not
2 been disclosed as an expert, and it would be improper
3 testimony.

4 **JUDGE MELLOY:** Well, again, with the
5 understanding that we're not going to spend a lot of
6 time on subjects that have already been discussed and
7 that Ms. Stahmann will be adding something to the
8 record as -- as to farming practices in the -- in the
9 Lower Rio Grande Valley, I'm going to allow her to
10 testify. As to the history of the pecan growing,
11 Ms. Stahmann has not been disclosed as an expert so
12 she cannot testify as an expert, but she can testify
13 as to her personal experience and knowledge as a
14 farmer growing pecans and so I'll -- so if there are
15 specific questions you think go beyond her personal
16 knowledge and go into expert testimony, you're
17 certainly free to raise those objections at the time,
18 but I'm not going to categorically bar her testimony.

19 All right. Mr. Wechsler, you may
20 proceed.

21 **MR. LEININGER:** Your Honor, before we
22 proceed --

23 **JUDGE MELLOY:** Mr. Leininger?

24 **MR. LEININGER:** I'm sorry, Your Honor.
25 Just for the record, I'd like to enter my appearance,

1 Lee Leininger for the United States.

2 JUDGE MELLOY: Thank you, Mr. Leininger.

3 MR. WECHSLER: May I?

4 JUDGE MELLOY: You may.

5 SALLY STAHMANN,
6 having been first duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. WECHSLER:

9 Q. Good morning, Ms. Stahmann.

10 A. Good morning.

11 Q. Where do you live?

12 A. I live in La Mesa, New Mexico.

13 Q. How long have you lived in La Mesa?

14 A. I have lived in La Mesa for 56 years.

15 Q. What is your education?

16 A. I have a bachelor's of science in industrial
17 engineering and a minor in math from New Mexico State
18 University.

19 Q. Do you speak Spanish?

20 A. I do. It was actually my first language. I
21 spoke only Spanish until I was six years old right
22 before I went into first grade.

23 Q. What do you do for a living?

24 A. I am the CEO/President of Stahmann, Inc., and
25 we are an estate-grown pecan producer and sheller, one

1 of the few that exist in the United States right now.

2 **Q. How long have you been in pecan farming?**

3 A. My whole life. I started by picking pecans
4 when -- probably when I was four or five and selling
5 them when visitors would come on the weekends. I'd
6 sell them in brown paper bags to people who wanted
7 pecans on the weekends.

8 **Q. Are you a member of the New Mexico Pecan**
9 **Growers?**

10 A. Yes, I am.

11 **Q. But I understand you've never been on the**
12 **Board?**

13 A. I have not, never been on the Board.

14 **Q. The Special Master had the opportunity to**
15 **visit your farm on the basin tour. Your family has a**
16 **reputation for being on the cutting edge of**
17 **agriculture in the Rio Grande Valley. Does Stahmanns**
18 **have a mission statement?**

19 A. Yes, we do.

20 **Q. What is it?**

21 A. It is to continue to build an enduring
22 company who pursues excellence -- who intentionally
23 pursues excellence in our teams, in our products, in
24 our -- with our customers, our service to our
25 customers, our support of our community, and our

1 stewardship of the environment. And our values are
2 quality, integrity, respect, continual improvement and
3 grit, and grit is a combination of passion and
4 courage.

5 Q. We're going to talk about your farming
6 operation in its various iterations your family farm.
7 Are you familiar with the background of your family
8 farming operation?

9 A. Yes.

10 Q. Has it been important to your professional
11 responsibilities as the owner and operator of Stahmann
12 to understand the background of your personal farm?

13 A. Yes, it is.

14 Q. Why is that?

15 A. Well, because you learn about what's been
16 done in the past, and you don't make the same mistakes
17 over again.

18 Q. How did you become familiar with the history
19 of Stahmann Farms?

20 A. Well, through our -- through family
21 conversations, through newspaper articles, through all
22 of our records that we keep, through old employees
23 that used to work there that come by our office and
24 talk to me.

25 Q. And as part of your job responsibilities,

1 have you investigated the history of Stahmann Farms?

2 A. Yes, I have.

3 Q. It sounds like you've discussed that history
4 with your family members; is that right?

5 A. Yes.

6 Q. And I understand many people have worked for
7 Stahmanns over the years. Do you -- have you
8 periodically discussed Stahmann Farms with them?

9 A. Yes. So many people have actually just, you
10 know, it's been their first job coming through when
11 they -- when they left Mexico and so many of the
12 families still come by the office and talk to me about
13 growing up there and -- and they -- there's even a
14 group of people that grew up on Stahmanns that still
15 get together. They don't work there anymore, but they
16 still get together on an annual basis to reminisce
17 about growing up on the farms.

18 Q. And, in fact, I understand there's an ongoing
19 oral history project funded by a national grant for
20 humanities that's addressing Stahmann Farms; is that
21 right?

22 A. Yes.

23 Q. And you've been involved in that project?

24 A. I have. I've helped them out by giving them
25 information, by talking to them, by encouraging them.

1 **Q. Do you keep documents on file at your farm?**

2 A. Yes. We have so many documents. We have
3 documents that relate to, like, everyday work, like
4 work documents, farming documents, processing plant,
5 food safety documents. We have newspaper articles.
6 We have magazine articles. We have just all the --
7 all the correspondence.

8 **Q. How far back do those documents go?**

9 A. Well, one of them that I didn't mention there
10 are the abstracts that we have for our farm when --
11 when my grandfather and great grandfather purchased
12 it, and so they -- we have the abstracts from the
13 Santo Tomas de Yturbide land grant, and it has the
14 Spanish deeds in them so that's about late 1800s is
15 where it goes back.

16 **Q. You mentioned newspapers and magazines. Have**
17 **newspapers and magazines written articles about**
18 **Stahmann Farms?**

19 A. Yes.

20 **Q. Can you give us an example of some of the**
21 **publications that Stahmanns has been featured in?**

22 A. For example, I remember it was featured in
23 Life Magazine and in National Geographic a couple of
24 times, and several newspapers throughout the United
25 States. One of the ones that -- that I remember was a

1 Denver Post article and one in Washington DC.

2 Q. Many local publications, as well; is that
3 right?

4 A. Yes. That was -- those were -- they
5 interviewed us and interviewed the family more with
6 the local, with the Las Cruces Sun News, the El Paso
7 Herald Post.

8 Q. Have you personally been interviewed for some
9 of those publications?

10 A. I have.

11 Q. I understand you were also interviewed about
12 the history of Stahmanns for a PBS special; is that
13 right?

14 A. I was. I was interviewed for a program that
15 they still have on PBS that talks about farming and
16 ranching.

17 Q. Do you also have a Website?

18 A. Yes. We do have a Website.

19 Q. Does your Website include information about
20 the farm history?

21 A. Yes, it does.

22 Q. Did you have to conduct research in order to
23 provide information for that effort?

24 A. Oh, yes, we did. We looked through our
25 files.

1 **Q. Is knowing the history of the farming**
2 **operation also important in order to protect your**
3 **water rights?**

4 A. Absolutely.

5 **Q. And why is that?**

6 A. That's because we need to be able to prove up
7 our water to -- to set up -- you know, to protect our
8 water and have the information and what we did in the
9 past be able to support what we're saying to protect
10 our water.

11 **Q. All right. With that as background, when did**
12 **your family first come to the Rio Grande Valley?**

13 A. They came to the Rio Grande Valley in about
14 1909, when they landed in Clint. They settled in
15 Clint, Texas.

16 **Q. How did they get there?**

17 A. They got -- they traveled down the
18 Mississippi River from Wisconsin on two barges, went
19 all the way down the Mississippi and then traveled
20 across land until they got to -- to the Lower Rio
21 Grande Valley.

22 **Q. I understand they actually brought bees with**
23 **them; is that right?**

24 A. Yes.

25 **MR. DEITCHMAN:** Your Honor, I'd like to

1 object to this whole line of questioning on relevance.
2 I'm not sure how the history of Ms. Stahmann's family
3 farming relates to the liability issues in this
4 interstate Compact case.

5 **MR. WECHSLER:** Do you want me to
6 respond?

7 **JUDGE MELLOY:** Go ahead.

8 **MR. WECHSLER:** At this point, we're
9 simply laying background, but Ms. Stahmann's testimony
10 is relevant to water use, beneficial use in the Rio
11 Grande, ultimately if Mr. Deitchman will allow us to
12 testify to cropping patterns. It serves as the
13 foundation for multiple experts. It talks about the
14 course of performance, and it rebuts certain
15 assertions made by Texas and the United States
16 concerning the absence of pecans in the valley.

17 **JUDGE MELLOY:** All right. Overruled.
18 You may answer. Maybe you should restate your
19 question.

20 **Q. (BY MR. WECHSLER)** My question was just --
21 it's sort of an interesting feature. Ms. Stahmann,
22 you actually brought bees -- your great grandfather
23 brought bees with him down the Mississippi; is that
24 right?

25 **A.** That's correct.

1 **Q. What did W.J. do while living in the El Paso**
2 **Valley?**

3 A. He actually built several cotton gins. He
4 had a tomato canning company, and he grew onions and
5 all different kinds of vegetables.

6 **Q. When your great grandfather, W.J. came to the**
7 **area in the 1900s, and at this point he was in Texas,**
8 **did he start farming pecans?**

9 A. No. He wasn't farming pecans yet, but pecans
10 were growing in that area, and they were -- they were
11 being looked at as -- as a really good crop to grow.

12 **Q. Did W.J. continue to farm in the El Paso**
13 **Valley until the 1920s?**

14 A. Yes, he did.

15 **Q. Let's take a look at a first exhibit. This**
16 **is New Mexico 890. We're going to look at Page 1. Do**
17 **you recognize this document, Ms. Stahmann?**

18 A. Yes, I do.

19 **Q. What is it?**

20 A. Can I -- can I look it up here on -- on my --
21 here we go.

22 **Q. The paper copy? Yes, you may.**

23 A. It's -- it's a report on -- in a newspaper
24 article in the El Paso Herald that states that pecan
25 growing in the Rio Grande Valley was urged --

1 Q. That's actually --

2 A. -- pecan growing.

3 Q. If we look at the top, let's talk about the
4 date first. So here, we have January 29 -- 28 to 29,
5 1922. Do you see that at the very top?

6 A. Yes.

7 Q. Under El Paso Herald? And that's the time
8 period in which year we're talking about; is that
9 right?

10 A. That's correct.

11 Q. And I understand this is a newspaper article
12 that you reviewed as part of the work that you were
13 describing earlier; is that right?

14 A. Yes.

15 Q. Now, this article actually references -- or
16 the newspaper references W.J. Stahmann; is that right?

17 A. Yes.

18 Q. So let's look at -- I think it's on Page 2.
19 If you blow up under this, it says, "The cows supply
20 El Pasoans with milk every day." See that?

21 A. Yes, I see that.

22 Q. I'm looking here for your grandfather's name
23 just to show the Special Master where we see it.
24 There we go. W.J. Stahmann. Do you see it under,
25 "alfalfa's big crop"?

1 A. Yes.

2 Q. Yeah. And so the -- we also saw you talked
3 about some of the other discussions in this article
4 about pecans, does this support the testimony that you
5 just gave?

6 A. Yes, it does.

7 MR. WECHSLER: Your Honor, at this
8 point, I move New Mexico 890. Its authenticity has
9 been stipulated. It's also self-authenticating. It
10 qualifies as an ancient document. It obviously is
11 relevant in that it includes discussion of Ms.
12 Stahmann's family, and it corroborates her testimony.

13 JUDGE MELLOY: Any objection?

14 MR. LEININGER: Yes, Your Honor, we
15 object. This is not based on her personal experience
16 and knowledge. This is based upon a document -- a
17 newspaper article decades old before Ms. Stahmann was
18 even born. She's -- she's providing historical
19 analysis based upon these newspaper article accounts,
20 and they should not be admitted into the record.

21 MR. DEITCHMAN: Texas joins that
22 objection, Your Honor.

23 MR. WECHSLER: Your Honor, we're not
24 offering any analysis. Ms. Stahmann is purely
25 offering factual testimony, so I'm not clear on what

1 that objection is. As to the exhibit itself, it
2 clearly qualifies for any -- it is not hearsay, and I
3 didn't hear otherwise. It's self-authenticating.
4 It's something that Ms. Stahmann is familiar with in
5 her previous work in developing the history of
6 Stahmann Farms. We're just offering it as a way of
7 corroborating her own personal knowledge.

8 **JUDGE MELLOY:** I'll admit Exhibit 890.

9 And I understand that at least some of
10 these exhibits go not only to the history of the farm,
11 but is from what you -- what you've indicated,
12 Mr. Wechsler, you're also laying foundation for later
13 expert testimony to either support or -- your position
14 or rebut Texas and the United States position; is that
15 correct?

16 **MR. WECHSLER:** It is correct, Your
17 Honor. There are multiple experts for whom Ms.
18 Stahmann's testimony will lay foundation.

19 **JUDGE MELLOY:** What is -- what is --
20 just without getting too far into the weeds, what is
21 the issue about when the pecan growing started? Is
22 that -- is that an issue in dispute?

23 **MR. WECHSLER:** Well, it is an issue in
24 dispute because it goes to the cropping pattern and
25 the amount of consumptive use, which is an issue on

1 which the experts on either side have some
2 disagreement about and so at various times in the
3 case, and, you know, they -- the way the case has
4 unfolded obviously with Texas and the United States
5 not having put on their entire case, and we understand
6 they have issues about the growth of the pecan
7 industry and that that's causing much more water use
8 in recent years, and our -- one of the points of Ms.
9 Stahmann's testimony is her farm at least has been
10 using pecans for many, many generations.

11 **MR. DEITCHMAN:** Your Honor, may I
12 respond?

13 **JUDGE MELLODY:** You may.

14 **MR. DEITCHMAN:** I don't believe there's
15 an issue in dispute, as Mr. Wechsler says. Also, Ms.
16 Stahmann can merely just provide, you know, a history
17 of her own farm, which is about one farm in the entire
18 valley. The experts have their own facts that they've
19 relied upon. You'll hear about that in the spring.
20 I'm not aware of any expert relying on Ms. Stahmann's
21 testimony, and Texas has not disputed that there were
22 pecans in the Lower Rio Grande, just the extent of how
23 many.

24 **MR. WECHSLER:** Yeah. Ms. Stahmann will
25 not be offering testimony other than about her own

1 farm so --

2 **MR. DEITCHMAN:** Your Honor, then I would
3 object on relevance. We're talking about a whole
4 valley.

5 **JUDGE MELLOY:** Well, I'm going to --
6 until we know where we're going in the spring, I'm
7 going to let it in. So go ahead.

8 **Q. (BY MR. WECHSLER)** When did your family begin
9 farming in New Mexico, Ms. Stahmann?

10 A. We began farming in New Mexico in 1925, when
11 my great grandfather and my grandfather came up and
12 purchased land in La Mesa, New Mexico, and purchased
13 the Santo Tomas Farm.

14 **Q. Where did they farm?**

15 A. In La Mesa, New Mexico on our Santo Tomas
16 Farm.

17 **Q. Let's take a look at that farm. It's New**
18 **Mexico Demonstrative 61. Do you recognize that?**

19 A. Yes. That's the Santo Tomas Farm.

20 **Q. Do you still own it?**

21 A. Yes.

22 **Q. Where is it located?**

23 A. It is located in La Mesa, New Mexico. That's
24 about 6 miles south of -- of Las Cruces on Highway 28,
25 and on the basin tour, we all actually drove through

1 it. That's where the canopy of the trees were on
2 Highway 28.

3 Q. All the way over the road?

4 A. All the way over the farm, yes -- all the way
5 over --

6 Q. And this is located within EBID?

7 A. Yes.

8 Q. How many acres was it when your family
9 originally purchased it?

10 A. When they originally purchased it, it was
11 2,900 acres.

12 Q. How many acres is it today?

13 A. Today, it's about 2,100.

14 Q. When your family first purchased the farm in
15 1925, what did they grow on it?

16 A. They grew cotton, alfalfa, and other -- other
17 vegetables.

18 Q. Did your family grow cotton in other
19 locations?

20 A. Yes, they did. My grandfather actually did.
21 He was a cotton breeder, and he'd grow -- he'd grow
22 cotton all year round. So he'd go to Jamaica and
23 Mexico to -- to be able to breed his cotton and come
24 up with varieties faster.

25 Q. How long did W.J. farm in New Mexico?

1 A. He farmed up to 1929.

2 **Q. Is that when he passed away?**

3 A. That's when he passed away.

4 **Q. And who took over the farming operations?**

5 A. His son, which was my grandfather, Dean
6 Stahmann, took over.

7 **Q. And when was your father born?**

8 A. My father was born in 1930.

9 **Q. Did Dean, your grandfather, continue farming**
10 **cotton?**

11 A. Yes, he did. He continued farming cotton and
12 other -- other vegetables, alfalfa.

13 **Q. When did he begin planting pecans?**

14 A. He began planting pecans in 1932, and that's
15 when -- when a truckload of about 1,200 pecans came
16 through, and the other farmer -- another farmer
17 couldn't take delivery of it. Since they were bare
18 root and they were a little bit distressed, my
19 grandfather bought them because he got a good deal on
20 them.

21 **Q. I understand that planting pecans, though,**
22 **was your great grandmother's idea?**

23 A. It was. My -- my grandmother always told me
24 it was always a woman's idea to build this business
25 like this and plant the trees.

1 Q. Let's look at another newspaper article that
2 confirms this. It's New Mexico 904. And this is --
3 well, we can see both pages have been called out here.
4 Do you recognize this document?

5 A. Yes, I do.

6 Q. What is it?

7 A. It is an article from the El Paso Times on a
8 Tuesday, August the 23rd of 1932.

9 Q. That's the -- just around the time you were
10 talking about, right?

11 A. Right.

12 Q. And then if you look at the second page, it's
13 the -- it's on the right side of the screen where it
14 says, "50 attend." Does this article also reference
15 your family?

16 A. Yes, it does. It actually says that my
17 grandfather and my grandmother, and they still say
18 they were from Clint because it was in 1932. They
19 still lived in that area. They both attended pecan
20 school.

21 MR. WECHSLER: Your Honor, I'll offer
22 New Mexico 904.

23 MR. DEITCHMAN: Your Honor --

24 MR. LEININGER: Same objections, Your
25 Honor, relevance.

1 **MR. DEITCHMAN:** Same objection, plus I
2 add foundation. Your Honor, if I may voir dire the
3 witness about this document?

4 **JUDGE MELLOY:** Go ahead.

5 **MR. DEITCHMAN:** Ms. Stahmann, my name is
6 Rich Deitchman. I'm one of the attorneys for Texas in
7 this case. Looking at exhibit that's on the screen --
8 what was the number -- 904, New Mexico 904, do you
9 know who Dr. Jennifer Stevens is?

10 **THE WITNESS:** No.

11 **MR. DEITCHMAN:** Do you know -- so you
12 don't know if -- did you provide this document to
13 Dr. Jennifer Stevens?

14 **THE WITNESS:** No.

15 **MR. DEITCHMAN:** Did this document come
16 from your files?

17 **THE WITNESS:** Yes.

18 **MR. DEITCHMAN:** Thank you.

19 **JUDGE MELLOY:** Do you have any
20 objections, Mr. Deitchman?

21 **MR. DEITCHMAN:** Yeah. We object for the
22 same reasons, same objections as the last newspaper
23 article.

24 **JUDGE MELLOY:** I'll admit 904.

25 **Q. (BY MR. WECHSLER)** How did those initial trees

1 do, Ms. Stahmann?

2 A. The trees did well. We have 168,000 trees
3 now. So they're still growing -- the original trees
4 are still growing on our farm.

5 Q. Let's look at some of the photographs from
6 your farm. We'll look to New Mexico 912A. We're
7 having just a short technical issue. See if we can
8 get it fixed. Apologize for the delay. We're trying
9 to get our program to work. There we go.

10 Ms. Stahmann, do you recognize this? You can
11 see it's 31 pages. It's 31 pages of photographs. Do
12 you recognize this document?

13 A. Yes, I do.

14 Q. What is it?

15 A. It's a photograph of two men holding pecan
16 trees, baby pecan trees that are bare root, and that's
17 a picture of one of the nurseries that we had.

18 Q. Well, before we talk about this one in
19 particular, are all of the photographs on this -- in
20 this particular exhibit, 912A, photographs taken as
21 Stahmann Farms?

22 A. Yes.

23 Q. Did your family periodically have
24 professional photographs taken?

25 A. Yes. My grandfather always had photographers

1 out there. That's when most of the photographs, I
2 think, were taken.

3 Q. So let's take a look at just a couple of
4 pages here. I want to talk about when each of these
5 photos are taken before I offer this exhibit. So we
6 talk about -- let's look first at Page 9. And you see
7 there at the bottom right-hand corner is a stamp of
8 Baker Studio, December 28th, 1954?

9 A. Yes.

10 Q. And was that one of the photographers that
11 was taking pictures?

12 A. Yes.

13 Q. And 1954 is the time period for many of these
14 photographs; is that right?

15 A. That's correct.

16 Q. Then if we turn to Page 22, in here you see a
17 stamp from Life Studios, and you mentioned Life
18 Magazine did a feature of Stahmann Farms; is that
19 right?

20 A. That's correct.

21 Q. And so others of these photographs are from
22 that collection; is that right?

23 A. Yes.

24 Q. And you can see there the date, October 27th,
25 1951?

1 A. Yes.

2 Q. So most of these photographs are from that
3 period, 1954 and 1951; is that right?

4 A. That's correct.

5 Q. And I just want to show you the -- the few
6 exceptions that we found. So if you look at Page 12,
7 do you have an idea, Ms. Stahmann, when this picture
8 or these two pictures that we're looking at on Page 12
9 of New Mexico 912A were taken?

10 A. Yes. That was -- that was much later. That
11 was in the 1970s.

12 Q. Then if we look at Page 13, do you recognize
13 when this picture would have been taken?

14 A. Yes. Well, that was my grandfather, and I
15 know that we had the chickens in the 1960s, and he
16 died in 1970, so I would say that's right around the
17 late 1960s.

18 Q. And finally, Page 19, is this from that same
19 time period?

20 A. Yes. Those were the eggs from the chickens.

21 Q. So with those three exceptions, the rest of
22 these documents are the 1950s; is that right?

23 A. Yes.

24 Q. Are all of these photographs kept in the
25 files at Stahmann Farms?

1 A. Yes, they are.

2 **Q. And are you familiar with all of these**
3 **photographs?**

4 A. I happen to be familiar with all those
5 photographs because I'm the one that they gave them
6 to, to take care of.

7 **Q. And are you --**

8 A. I love photographs. I love photography so...

9 **Q. Are you able to describe where they're taken**
10 **and when?**

11 A. Yes. For the most part, I am.

12 **MR. WECHSLER:** Your Honor, I'll offer
13 New Mexico Exhibit 912A.

14 **JUDGE MELLOY:** Any objection?

15 **MR. LEININGER:** Same objection, Your
16 Honor. I don't think there's any expert evidence on
17 the amount of water that poultry farms require so
18 foundational, also.

19 **MR. DEITCHMAN:** Texas joins the
20 objection, and also adds relevance.

21 **JUDGE MELLOY:** All right. I'll admit
22 the exhibit. 912A is admitted.

23 **Q. (BY MR. WECHSLER) Did -- let's look at Page 1**
24 **of that document and just give you one more chance,**
25 **Ms. Stahmann, to describe what we're seeing here now**

1 **that the exhibit has been admitted. What are we**
2 **looking at here on Page 1?**

3 A. Okay. So you're -- we're looking at two men.
4 They're standing at the nursery on our farm, and
5 they're holding pecan trees, bare root pecan trees
6 that they've just pulled out of -- out of the ground.

7 **Q. Did your father plant any more trees, other**
8 **than that first shipment that you described?**

9 A. My grandfather did. He planted a lot more
10 trees. He planted over 168,000 trees.

11 **Q. Did your grandfather sell pecan trees?**

12 A. He also sold pecan trees.

13 **Q. And you mentioned a nursery. Let's take a**
14 **look at Page 2. What are we looking at on Page 2 of**
15 **New Mexico 912A?**

16 A. That's another nursery.

17 **Q. Those are --**

18 A. Those are baby pecan trees.

19 **Q. And how about Page 3?**

20 A. That is another nursery that's -- that are a
21 bunch of baby pecan trees that are planted in -- that
22 are being grown in between more mature pecan trees. I
23 would say teenage pecan trees.

24 **Q. Let's talk more about the 1930s. So did your**
25 **grandfather buy any additional land in the Rio Grande**

1 **Valley?**

2 A. Yes, he did. In 1936, he bought the Snow
3 Farm from Oscar Snow.

4 **Q. Who was Oscar Snow?**

5 A. Oscar Snow was actually a man who was one of
6 the ones responsible for developing Las Cruces. He
7 was the first -- he was the one that started the bank,
8 the First National Bank there, and his house was on
9 that farm. He hung out during his time in the wild
10 west with Billy the Kid and Pat Garrett and the Coxs
11 and Fountains and all that. So he was a character,
12 but he sold his farm to my grandfather.

13 **Q. Let's look at New Mexico Demonstrative 60.**
14 **Can we see the Snow Farm on this demonstrative?**

15 A. Yes, you can. It's up towards the top left
16 of the screen.

17 **Q. How many acres of the Snow Farm?**

18 A. A thousand acres.

19 **Q. We see below there the Santo Tomas Farm; is**
20 **that right?**

21 A. Yes.

22 **Q. Did Dean Stahmann plant pecans on the Snow**
23 **Farm?**

24 A. Yes, he did. He planted it all in pecans.

25 **Q. Let's look at another exhibit, New Mexico**

1 **911A. Do you recognize this document, Ms. Stahmann?**

2 A. Yes, I do.

3 **Q. What is it?**

4 A. It is a document from the Bureau of
5 Reclamation, and it's a memo from the investigator
6 that was sent out to the Lower Rio Grande to
7 investigate the 160-acre limitation on land ownership.

8 **Q. In creating this report, did that**
9 **investigator come to Stahmann Farms and interview your**
10 **family?**

11 A. He did. He interviewed my grandfather, and
12 he interviewed other big farmers and other small
13 farmers and interviewed all different types of people,
14 so I read.

15 **Q. And let's look at Page 22. You can see**
16 **reference here to your family, I think. You see your**
17 **dad's name mentioned there -- sorry, your**
18 **grandfather's name, Dean Stahmann?**

19 A. Yes.

20 **Q. Is this a document that's kept on file in the**
21 **Stahmann Farms?**

22 A. Yes, it is. My father actually used that
23 document to prove up his -- the water rights.

24 **MR. WECHSLER:** Your Honor, I offer New
25 Mexico Exhibit 911A.

1 JUDGE MELLOY: Objection?

2 MR. LEININGER: No objection.

3 MR. DEITCHMAN: Texas objects.

4 Foundation, hearsay, relevance.

5 JUDGE MELLOY: Well, I think it
6 qualifies as an ancient document so I'll overrule the
7 objection.

8 Q. (BY MR. WECHSLER) If we turn back, Ms.
9 Stahmann, to Page 22, here we can see it's talking
10 about the -- there we go, a little better to see --
11 the thousand acres of the Stahmann Farms being planted
12 in pecans, and that's consistent with the testimony
13 you just gave; is that right?

14 A. That's correct. That's the thousand acres on
15 -- on Snow Ranch.

16 Q. And then it goes -- then next, it talks about
17 the necessity for perfect land leveling. What is land
18 leveling?

19 A. That's where you make the -- the land, the
20 farmland smooth so that you can run equipment over it
21 better and you can irrigate better and be more
22 efficient with everything, including the irrigation.

23 Q. And a little bit further down, it talks about
24 families that actually lived on the farm, 150
25 families. Were there families that were living on the

1 farm?

2 A. Yes. That says 150 families that were living
3 on the farm, and I've heard stories that even -- we
4 had even more than that, but that says 150 families,
5 yes.

6 Q. Let's move to New Mexico Exhibit 895. Do you
7 recognize this document?

8 A. Yes.

9 Q. Is this another -- I'm sorry? You can look
10 at the paper if that's easier.

11 A. Okay. 895?

12 Q. And here, we see the date is called out,
13 December 14th, 1939; is that right?

14 A. Yes. That's correct.

15 Q. And that's the time period you were just
16 discussing?

17 A. Yes.

18 Q. And if you look at that middle column there,
19 the one that says the Henry Ford -- oops. Let's get
20 the -- Henry Ford of the Upper Valley. There we go.
21 Is that -- is that actually talking about your
22 grandfather, this whole article?

23 A. It is talking about my grandfather.

24 Q. And also talking about the development of
25 pecans on your -- your family farm, the historic

1 development; is that right?

2 A. Yes.

3 Q. And this is consistent with the testimony
4 that you just gave?

5 A. It is.

6 MR. WECHSLER: Your Honor, I offer New
7 Mexico Exhibit 895.

8 JUDGE MELLOY: Objection?

9 MR. DEITCHMAN: Texas restates the
10 objection to the other newspaper articles we've
11 already made.

12 MR. LEININGER: United States joins.

13 JUDGE MELLOY: 895 will be admitted.

14 Q. (BY MR. WECHSLER) Ms. Stahmann, at this
15 point, was it a risk -- you know, this is talking
16 about the quitting cotton for pecans. Was it a risk
17 for your grandfather to be switching from cotton to
18 pecans?

19 A. I would say it was a big risk because he
20 didn't really know how they were -- you know, how they
21 were going to do in the long run. Although I can say
22 that he -- he mitigated a little bit because he
23 inter-cropped cotton in between the tree rows.

24 Q. Smart businessman.

25 A. He was very smart.

1 Q. It talks here about him, he wanted to be the
2 biggest pecan man in the world, and I understand at
3 one point, Stahmanns was the biggest pecan farm in the
4 world; is that right?

5 A. Yes. At one point, we were the biggest pecan
6 farm in the world. We also had a farm in Australia,
7 and it made us the biggest pecan farm in the world.

8 Q. Let's look at another picture from New Mexico
9 912A. This time we're going to look at Page 4. And
10 you talked about inter-cropping cotton. Can you tell
11 us what inter-cropping is?

12 A. It means growing a different crop in between
13 the tree rows.

14 Q. And what are we looking at here on New Mexico
15 912A, Page 4?

16 A. That is a man standing in tall cotton.

17 Q. And so there's pecans grown on either side
18 and cotton in the middle?

19 A. Right. Correct.

20 Q. If we look at the next page, Page 5, is this
21 also another picture of inter-cropping?

22 A. Yes, it is, but that's actually alfalfa.

23 Q. Different crop in between?

24 A. Yes.

25 Q. How far were your -- were the rows of pecans

1 **at that time?**

2 A. At that point, they were -- they were planted
3 at 60 by 30. So 60 between the rows and 30 between
4 the trees, 30 feet, and 60 feet between the rows.

5 **Q. What is it now on your farm?**

6 A. We do -- we still have some 30-by-60
7 plantings, and we have some 30-by-30 plantings, as
8 well.

9 **Q. From 1939 until 1950s, did the Stahmann**
10 **operations involve pecan growing and shelling?**

11 A. Yes, it did. Obviously the -- it took a
12 while for the pecans to -- pecan trees to start
13 producing, but since we started -- since my
14 grandfather started planting them in 1932, by 1939, he
15 had a few so they built two shelling plants, one on
16 each farm.

17 **Q. And by that period, there were how many acres**
18 **in pecans?**

19 A. 4,000 acres.

20 **Q. Did you use -- did the farm use water in the**
21 **shelling process?**

22 A. Yes.

23 **Q. How?**

24 A. The pecans have to be washed, and they also
25 have to be sanitized, so they would get washed and

1 sanitized with a chlorine solution and water, and
2 also, the -- it's a food processing facility so it has
3 to be cleaned with water.

4 **Q. What was the source of the water?**

5 A. It was groundwater.

6 **Q. The Bureau of Reclamation report noted that**
7 **150 families living on the farm. Where did they live?**

8 A. They lived in different communities that were
9 scattered throughout the 4,000 acres. My grandfather
10 split up the farm in about -- with about 11 different
11 communities, and in each of those communities, there
12 was -- there was a foreman and there was other farm
13 workers and so each of those communities had their own
14 -- own workers that worked on that particular spot on
15 the farm, had houses, some even had a school.

16 **Q. Did the Stahmanns use water for those**
17 **families' domestic needs?**

18 A. Yes, they did.

19 **Q. What --**

20 A. Each community had its own well or wells.

21 **Q. Let's look at Page 912A or Exhibit 912A, this**
22 **time Page 6. Maybe we can blow that up for you, Ms.**
23 **Stahmann, and you can tell us, what is this picture**
24 **showing?**

25 A. So that's actually one of the communities,

1 and the -- the two big buildings there in the center
2 are the shelling plant, the first shelling plant, and
3 a warehouse and then up above that, there was, in that
4 particular area, there was a school, there was a
5 little church, and the houses across the highway there
6 were employee houses, and that is actually -- that's
7 actually the highway that we drove on, on -- on the
8 basin tour that was underneath the canopy.

9 **Q. The one that -- the one on the left-hand side**
10 **that we're looking at?**

11 A. Right. The highway that's kind of down
12 diagonally there.

13 **Q. Now, I understand during this time, Stahmanns**
14 **developed a national reputation; is that right?**

15 A. Everybody was really interested about how big
16 the farm was and what my grandfather was doing and so,
17 yes, it did develop a national reputation.

18 **Q. It was visited by a number of celebrities?**

19 A. It was. One of -- one of the celebrities
20 that visited was actually Ronald Reagan, and my
21 grandfather would always take all the visitors out and
22 get their -- their shoes muddy to show them what he
23 was doing. That day, my -- my grandmother told me
24 this story, she said, That day, he brought him home,
25 and I was -- I had a migraine headache and I made him

1 take his shoes off outside and come in in his socks
2 and I fed him cold coffee and a hard donut. She
3 actually liked Ronald Reagan.

4 Q. Let's look at just a couple more pictures to
5 get a feel for how the families were living. This is
6 -- we're going to look at Page 22. Here, I'm just
7 showing that this is coming from some of those Life
8 Magazine photos. Then let's turn to Page 20. What
9 are we seeing here? Is this actually on the farm?

10 A. So, yes, that was one of the festivals, one
11 of the several -- you know, many festivals that my
12 grandfather would have for all the employees, and so
13 that -- that was a festival, and those are the
14 families that were living on the farm.

15 Q. Look at the next page, I think there was a
16 rodeo at the same time?

17 A. Right.

18 Q. Is this a pecan festival?

19 A. It is a pecan festival.

20 Q. We can scroll through these, and as -- as we
21 scroll through those, Ms. Stahmann, do you ever hear
22 from families that grew up at Stahmanns today?

23 A. Oh, I do. They come by all the time, you
24 know, occasionally to our office, and want to talk
25 about when they grew up here or grew up on our farm.

1 Q. Now, we talked about using water to irrigate
2 crops and you mentioned some of the commercial
3 purposes and the domestic purposes. Were there other
4 ways that Stahmanns used water?

5 A. Yes. We watered livestock, which consisted
6 of cattle, sheep, geese, and chickens, as well, and
7 then you mentioned commercially for -- for the
8 shelling plants.

9 Q. Water was used for the livestock?

10 A. Yes.

11 Q. Was that also from groundwater wells?

12 A. Yes, it was.

13 Q. Let's look at New Mexico Exhibit 921A, which
14 I -- it might be easier to look at the -- well, let's
15 look in the upper right-hand corner first just to get
16 a date here so we can orient ourselves. I think it's
17 over further to the right. There we go. Sunday
18 morning, November 22nd, 1942, and that was the time
19 period that you were just discussing; is that right?

20 A. Yes.

21 Q. And I understand this is actually one of your
22 favorite articles about your family and your
23 grandfather; is that right?

24 A. That's right. That was --

25 Q. And --

1 A. I -- it -- I love it because my father's on
2 the front of it with -- with the cow. I don't know if
3 I should call it a cow or a steer or whatever, but
4 it's a --

5 **Q. Yeah. Is that your father actually in the**
6 **picture?**

7 A. And that's actually my father. He was 12
8 years old at that time.

9 **MR. WECHSLER:** Your Honor, at this
10 point, I'll move New Mexico Exhibit 921A.

11 **MR. DEITCHMAN:** Texas makes the same
12 objection to the newspaper article. I'm also going to
13 object on relevance. I think we're getting pretty far
14 afield here, Your Honor, of, you know, historic water
15 use that this witness is allegedly here to testify
16 about. While some of the stories may be interesting,
17 I'm not sure they're relevant in any way to the
18 interstate Compact dispute that's at issue in this
19 case.

20 **MR. LEININGER:** Your Honor, I'll be
21 joining that objection. Also, this testimony appears
22 to be oriented for equities of farm practices and the
23 need to maintain farm practices. This is not the
24 equities phase of the trial. That's the next phase.
25 Object on that basis, also.

1 **MR. WECHSLER:** Yeah, Your Honor, as to
2 the equities, I just want to address that because this
3 is some sort of newly-crafted argument of the United
4 States, and clearly this is all very relevant to the
5 water use of how much water was used, course of
6 performance, all of those things I mentioned earlier.
7 So I understand that the United States is very
8 sensitive about the equities, and I might be, too, if
9 I were them, but this is relevant to this phase of the
10 case.

11 **MR. DEITCHMAN:** Your Honor, I'll just
12 use this as the opportunity. I was going to wait
13 until the end of direct, but Mr. Wechsler has
14 represented that the testimony today will be relied
15 upon by experts in the spring, so Texas would just
16 like to state for the record that we're going to
17 reserve the right to move to strike the testimony
18 given today to the extent it's not relied upon by
19 experts in the spring.

20 **JUDGE MELLOY:** All right. 921A is
21 admitted.

22 **Q. (BY MR. WECHSLER)** Were cattle and sheep the
23 only livestock, Ms. Stahmann, that were consuming
24 water on the farm?

25 **A.** No. We actually had geese and chickens later

1 on.

2 Q. Let's take a couple of -- look at a couple
3 pictures of those geese. So if we look at New Mexico
4 912A, this time Page 15, what are we looking at in
5 Page 15?

6 A. So that's my grandfather standing up on a --
7 on a lava bluff, on a volcanic bluff, looking down on
8 the pecan trees, and all those little white dots that
9 you see are actually geese running through the farm.

10 Q. How many geese were on the farm?

11 A. Throughout the entire farm, we had about
12 500,000 geese.

13 Q. You mentioned chickens. Let's take a look at
14 Page 13. You mentioned this picture earlier. As --
15 and so I think you describe that, but let me just ask
16 you: How many chickens did you have on the farm?

17 MR. DEITCHMAN: Objection; relevance.

18 MR. WECHSLER: Goes to amount of water
19 used, Your Honor.

20 JUDGE MELLODY: Go ahead.

21 A. So we had about 500,000 chickens, laying
22 hens, and another 200,000 pullets, and these were all
23 housed in chicken houses that were scattered
24 throughout the farm.

25 Q. (BY MR. WECHSLER) And let's look at the --

1 **MR. DEITCHMAN:** Your Honor, I'd also
2 like to object on foundation. Obviously the
3 photograph is in evidence, but -- but there hasn't
4 been foundation for Ms. Stahmann to have personal
5 knowledge of all these practices that were before she
6 was born.

7 **JUDGE MELLOY:** Well, I understand it's
8 -- this is information from the farm records, so I'll
9 allow it. Go ahead.

10 **Q. (BY MR. WECHSLER)** If we turn to Page 19, here
11 we're looking at the chickens. Where were the --
12 where were the eggs sold?

13 **A.** The eggs were sold all over the southwest.

14 **Q.** How was water used for the production of
15 eggs?

16 **MR. DEITCHMAN:** Objection; relevance.
17 I'll just state a standing objection to all the
18 testimony about chickens and eggs.

19 **JUDGE MELLOY:** All right. You may have
20 a standing objection. Go ahead.

21 **A.** The water was used to -- first of all, to
22 clean the processing plant and to also clean the eggs
23 to wash the eggs.

24 **Q. (BY MR. WECHSLER)** Did your grandfather farm
25 in the Mesilla Valley up until the time he passed

1 away?

2 A. Yes, he did. Until 1970.

3 Q. Who took over when he passed away?

4 A. My father, Bill Stahmann.

5 Q. At that time, was your father still growing
6 other crops between the pecan trees?

7 A. He was. He continued growing them just for a
8 couple more years, and the trees started to get big
9 and so he -- he decided not to grow anything else
10 under the -- the trees or between the tree rows.

11 Q. Was your father involved in the on-the-ground
12 operations, farm operations?

13 A. He was very involved on the on-ground
14 operations, and everything, he was involved in.

15 Q. Under your father's tenure, were there
16 changes made to the business?

17 A. There were. There were a lot of changes. He
18 was always -- he was very innovative and -- and he was
19 always figuring out how to -- how to irrigate better.
20 He started using laser levels. He started using
21 different types of technology to measure moisture in
22 the soil. He actually put in a big mainframe computer
23 at our office, and he -- he started our candy company
24 that we grew.

25 Q. Was water used in the candy operation?

1 A. Yes. To make candy and to clean the -- the
2 food processing plant.

3 **Q. When did you start working on the farm?**

4 A. Well, I started working officially when I was
5 nine, when I started working at our store, and then
6 continued working there in different -- different
7 jobs, like the switchboard operator, and then when I
8 graduated from college, I took over managing the candy
9 plant.

10 **Q. What's your official role in the company**
11 **today? Did you say CEO?**

12 A. I'm the CEO and president of Stahmanns, yes.

13 **Q. When did you take that job?**

14 A. I took over that job in 2006, when my father
15 passed away.

16 **Q. Anyone else in your family work for the**
17 **company?**

18 A. Yes. My son now works for the company. He
19 will be -- actually, he's the fifth generation pecan
20 farmer in the -- in the Mesilla Valley, and he is the
21 director of operations.

22 **Q. What does he do as the director of**
23 **operations?**

24 A. He manages all the day-to-day work for the --
25 for the farm and the shelling plant.

1 **Q. Who handles the irrigation on the farm today?**

2 A. The farm operations manager handles most of
3 the irrigation, and -- in terms of scheduling, along
4 with my son, and then he -- he out -- not out sources
5 it. He gives it to the -- he gives a schedule to the
6 supervisors and then the irrigators actually execute.

7 **Q. When did Stahmanns first start using EBID**
8 **surface water?**

9 A. They started using EBID surface water in
10 1925.

11 **Q. And does Stahmann use all of the surface**
12 **water it can get?**

13 A. Yes, we do.

14 **Q. Why is that?**

15 A. Because there's -- there's a lot of
16 advantages to the surface water. One of them is that
17 we can irrigate faster and more efficiently with it
18 because it -- it can -- we can use a bigger -- like, a
19 bigger pressure head of water and -- and it irrigates
20 faster, and it also cleans out the salts in the soil.

21 **Q. You mentioned that Stahmanns also uses**
22 **groundwater. Is that still true today?**

23 A. Yes.

24 **Q. For what purposes?**

25 A. We have to use it in order to irrigate, give

1 our trees water so they keep on living when we don't
2 have surface water.

3 Q. Do you still use groundwater for domestic and
4 commercial purposes?

5 A. We still use groundwater for domestic and
6 commercial purposes, and we have several houses still
7 that -- that have wells, and we have the shelling
8 plant that uses the water.

9 Q. Do you have records of when your groundwater
10 wells were drilled?

11 A. Yes, we do.

12 Q. When were the first groundwater wells on your
13 farm drilled?

14 A. In the 1940s.

15 Q. And how many wells were drilled in the 1940s?

16 A. 16.

17 Q. What portions of the farm were able to be
18 irrigated with those 16 wells?

19 A. Most of it.

20 Q. Let's take a look at one of those wells,
21 Exhibit 912A, Page 17. Is this one of the wells that
22 was drilled in the 1940s?

23 A. Yes.

24 Q. Where is this located?

25 A. It is located actually in the other picture

1 that showed the community, and it's located on Santo
2 Tomas, and that's putting water out into one of the
3 Santo Tomas laterals.

4 Q. Is it correct that since the 1940s, Stahmanns
5 has used both surface water and groundwater to
6 irrigate?

7 A. Yes.

8 Q. Has Stahmanns had to replace any of the old
9 wells?

10 A. Yes.

11 Q. And have you done any replacement wells
12 recently?

13 A. Yes, we have.

14 Q. At what depth were those wells drilled?

15 A. They were drilled between 700 and 800 feet.

16 Q. Why so deep?

17 A. Because the water quality is better.

18 Q. Have all the Stahmann wells used today been
19 permitted?

20 A. Yes.

21 Q. And have they ever been protested?

22 A. Not that I'm aware of.

23 Q. Has Stahmanns kept track of its water usage?

24 A. Yes.

25 Q. Are your wells still metered?

1 A. All of our wells are metered.

2 Q. And do you track how much surface water you
3 use?

4 A. Yes.

5 Q. How much water do the pecan trees at
6 Stahmanns use on average?

7 A. We use about 5.2 acre-feet.

8 Q. I want to ask you a few questions about
9 conservation. Is -- is water conservation important
10 to Stahmanns?

11 A. It is. It's part of our mission statement,
12 and in terms of being good stewards of our
13 environment.

14 Q. Did your grandfather take any steps to
15 conserve water?

16 A. Yes, he did. He -- he was one of the first
17 farmers that was very active in -- in preparing --
18 doing a lot of preparation for the land and land
19 leveling.

20 Q. Did your father take any actions to conserve
21 water?

22 A. Yes. He did, also. He -- he actually
23 started laser leveling, which was more precise, and he
24 started using technology to measure the moisture in
25 the soil so that we would irrigate more effectively

1 and efficiently.

2 **Q. Did he line any of the laterals on your farm?**

3 A. He actually lined, like, 7 miles of canals on
4 our farm in concrete.

5 **Q. What's being done currently to conserve water**
6 **at Stahmann Farms?**

7 A. Well, we are doing a lot of experiments with
8 the pressurized irrigation system, which is either
9 with sprinklers or with drip irrigation, and we're --
10 we're trying those out on mature trees. We're also
11 using technology to measure evapotranspiration. We
12 have several weather stations throughout our farms so
13 we can monitor the heat and -- and then the other
14 technology that there is, is infrared satellite
15 technology that we try out with another company, and
16 we are -- are very -- I -- I think we're very happy
17 with -- I know we're very happy with the way the --
18 with the drip system is working on mature pecan trees.

19 **Q. How many acres have you put into drip in that**
20 **system that you were describing so far?**

21 A. Right. We -- we put into drip right around
22 250 acres.

23 **Q. Does that come with a cost?**

24 A. Very expensive. It's about -- it's been
25 anywhere from 2,500 to \$3,000 an acre.

1 **Q. And what have been the results? How is it**
2 **looking so far?**

3 A. It looks very good. We have not seen any
4 adverse effects on our mature trees. And our trees
5 are big. They're old. Their roots are substantial
6 underground, and -- and they've done very good.

7 **Q. Has Stahmanns, over the years, worked with**
8 **universities and scientists on conservation projects?**

9 A. Yes. We have always worked with NMSU and
10 scientists and -- and other scientists, too, from
11 Texas A&M that we've worked with to -- to help
12 conserve water and -- and measure -- they've actually
13 built, like, antennas that are in the middle of the
14 farm that measure evapotranspiration. We work with --
15 with them on putting -- on seeding ground cover under
16 the canopy so that it'll conserve water, as well, take
17 care of our soil.

18 **Q. Is Stahmanns still a family-run operation?**

19 A. It is still a family-run operation.

20 **Q. Do you still have the candy store?**

21 A. We do not have the candy store anymore.

22 **Q. Approximately when did you get rid of the**
23 **candy store?**

24 A. 2012.

25 **Q. Do you still shell your own pecans?**

1 A. We still have -- we still shell our own
2 pecans.

3 **Q. How many pecans does Stahmanns produce?**

4 A. We produce on the average of about 8 million
5 pounds a year. I mean, it can be as low as 6 million
6 pounds and up to almost 12 million pounds produced.

7 **Q. How many people does Stahmanns employ full**
8 **time?**

9 A. Right now, 120.

10 **Q. And do you have additional people during**
11 **harvest?**

12 A. We do. We have anywhere from about 60 to 80
13 additional employees during harvest.

14 **Q. We're going to look -- I'm going to ask you**
15 **to narrate a short demonstrative video. It's New**
16 **Mexico Demonstrative 62. The Master was there during**
17 **the summer but not during the harvest season, and we**
18 **haven't had testimony yet about harvest. This is a**
19 **short three-minute video, if you call that up.**

20 **MR. DEITCHMAN:** Your Honor, Texas
21 objects to the showing of this video.

22 **MR. WECHSLER:** Your Honor, I'm going to
23 lay foundation here first, and then Texas will have
24 its opportunity to object.

25 **JUDGE MELLOY:** Go ahead.

1 Q. (BY MR. WECHSLER) Ms. Stahmann, looking at
2 this, do you recognize this video?

3 A. Yes, I do.

4 Q. What is it?

5 A. It's a video of the way our harvest works and
6 a video of our shelling plant.

7 Q. Who created it?

8 A. Some -- I hired some NMSU students to create
9 that.

10 Q. And did you assist with the production of the
11 video?

12 A. I -- I did. In the way that I bossed them
13 around, I told them where to go and what to take video
14 of.

15 Q. Does the video accurately depict the harvest
16 and shelling process at Stahmanns?

17 A. Yes.

18 Q. And is this video actually on your Website?

19 A. Yes.

20 MR. WECHSLER: Your Honor, this video is
21 only three minutes. I would offer New Mexico
22 demonstrative 62 now and ask that Ms. Stahmann be
23 allowed to explain what's happening in the video.

24 MR. DEITCHMAN: Your Honor, Texas
25 objects. I mean, as you can see from the start of the

1 video, this is, you know, commercial or
2 infomercial-type advertising material for Ms.
3 Stahmann's farm. You visited the farm on the basin
4 tour. There's no relevance to the water issues in
5 this case. We've heard about pecan harvesting from
6 Mr. Salopek, so it's cumulative. We just don't see
7 the need to spend time watching this. We're happy to
8 get you videos of farming in Texas if this is how this
9 is going to go.

10 **MR. LEININGER:** Your Honor, if I may
11 comment, too, the witness said this is a video about
12 harvesting and processing of pecan shells. I just
13 don't see the relevance of this at all. It's
14 cumulative as to their farm practices.

15 **JUDGE MELLOY:** Well, I'll see the video.
16 Go ahead.

17 **Q. (BY MR. WECHSLER)** Ms. Stahmann, if you could
18 **just tell us what we're watching as the video plays.**

19 **A.** Okay. So those are the pecan trees after a
20 big freeze. Those are the pecans with the hulls open,
21 and they're being shaken off the tree, and those are
22 the shakers that actually grab the branches and shake
23 the pecans off the trees. Those are the pecans being
24 shaken off. That is the sweeper that sweeps the
25 leaves -- that sweeps the tree row. It sweeps and

1 blows the leaves out of the tree row and into a wind
2 row so the main harvesting team can harvest it. That
3 is one of the main harvesting team equipment. That's
4 a V sweep, a tractor, a harvester, and a trailer where
5 the pecans go. That's a continual harvesting system,
6 and that's a jack runner that's backing up to the
7 trailer. It'll hit a lever there and all the pecans
8 will go into the jack runner so the -- that tractor
9 and harvester never have to stop unless there's a
10 problem, a breakdown. That jack runner is taking it
11 to the pecan elevator where they dump it into the
12 elevator, and they -- all the pecans go up and into a
13 red trailer. That red trailer is taken to our
14 cleaning plant where all the sticks and stones and --
15 and the pecans are sized into different sizes and
16 cleaned out. That's our shelling plant. Those are
17 the clean pecans going into the shelling plant and
18 into the crackers. Those are the cracked pecans, and
19 those are color sorters that separate -- you can
20 program them to separate shell out of the pecan meats
21 or actually the different colors of the pecan meats,
22 as well. That's quality control. Those are the pecan
23 halves. Those pecans are getting boxed into boxes
24 that hold 30 pounds of pecans.

25 Q. Once you -- those pecans are boxed, Ms.

1 **Stahmann, where do you sell your pecans?**

2 A. We sell them throughout the United States,
3 but most of our customers are in Texas.

4 **Q. Over the history of your farm, has Stahmanns**
5 **been one of the largest stakeholders in the Rio Grande**
6 **Project?**

7 A. Yes, it has.

8 **Q. Could Stahmanns have stayed in business if it**
9 **could not have used water in the 1950s?**

10 A. No. If we were not able to irrigate in the
11 1950s, there would not be pecan trees.

12 **Q. Ms. Stahmann, could you stay in business**
13 **today if you couldn't use groundwater?**

14 A. We could not stay in business today if we
15 were not allowed to use groundwater. Absolutely not.

16 **MR. WECHSLER:** No further questions,
17 Your Honor. Thank you.

18 **JUDGE MELLOY:** Well, it's just about
19 1:00. Why don't we take our recess for 20 minutes.
20 We'll recess until 1:15 our time, and then we'll come
21 back for the cross-examination.

22 (Recess.)

23 **JUDGE MELLOY:** All right. Looks like we
24 have everyone back. Mr. Deitchman, are you going
25 first?

1 **MR. DEITCHMAN:** Yes, Your Honor. Looks
2 like there's a person with the witness.

3 **JUDGE MELLOY:** Oh.

4 **MR. DEITCHMAN:** And, Your Honor, Texas
5 has no cross-examination for this witness.

6 **JUDGE MELLOY:** Mr. Leininger?

7 **MR. LEININGER:** United States has no
8 questions for this witness, Your Honor. Thank you.

9 **JUDGE MELLOY:** Guess we didn't need to
10 take the break. I assume you didn't -- you don't have
11 anything, Mr. Wallace?

12 **MR. WALLACE:** No, no questions. Thank
13 you.

14 **JUDGE MELLOY:** All right. Well, then,
15 Ms. Stahmann, your testimony is concluded. We
16 appreciate your evidence, and you're excused. Thank
17 you very much.

18 **THE WITNESS:** Thank you so much.

19 **JUDGE MELLOY:** All right. Well, as I
20 understand it, that is the end of the testimony for
21 this phase of the trial; is that correct?

22 **MR. WECHSLER:** Yes, Your Honor.

23 **MR. DEITCHMAN:** Yes, Your Honor. Texas
24 has two housekeeping items we'd like to address before
25 we finish today.

1 **JUDGE MELLOY:** That's fine because I
2 have several, as well, so go ahead. You can do yours,
3 Mr. Deitchman.

4 **MR. DEITCHMAN:** Thank you, Your Honor.
5 Just two items. Yesterday, when we were talking about
6 the factor designation, Ms. Klahn requested the
7 opportunity to file an amended exhibit list. We'd
8 like to renew that request. I don't think Your Honor
9 ruled on that. These aren't new exhibits, but they're
10 exhibits that have been marked with exhibit numbers
11 over the course of the fall trial, so we think it'd be
12 a good time to circulate an amended exhibit list that
13 includes those exhibits.

14 **JUDGE MELLOY:** Well, let me -- let me
15 say this, that's one of the things I want to talk
16 about is the exhibits. My judicial assistant has been
17 keeping a running list of the exhibits used in the old
18 exhibit list, and I think a whole new list will be
19 somewhat difficult to deal with so she's been adding
20 those exhibits as we go along so what -- what I'm
21 going to suggest is -- is that you have all been
22 submitting or had submitted a master list, and, of
23 course, some exhibits have been added to it now, but
24 she will, over the next week or so, go through the
25 various daily lists and make sure that what she has on

1 the master list is correct, and then what she is going
2 to do, if there's no objection, is she'll send that to
3 the people who she has been communicating with, I
4 assume essentially your paralegals in your respective
5 offices, so that she'll then have an opportunity to
6 check it against your records, and assuming there's no
7 questions -- we'll give you a couple weeks to do that.
8 There's no rush. Assuming there's no questions, we'll
9 then file that as the official exhibit list for this
10 part of the proceedings, and that will be filed. If
11 there is a question, obviously we'll go back to the
12 transcript or do whatever we need to reconcile that --
13 that discrepancy. You know, the record is being kept
14 open for the spring session so if someone thought they
15 had offered an exhibit, and it didn't get admitted or
16 it was overlooked, there will be plenty of
17 opportunities to get it into the record, either in the
18 spring or we can do it during the interim because
19 we're basically keeping the record open. So do you
20 have any problem with that procedure?

21 **MR. DEITCHMAN:** Sounds good.

22 **JUDGE MELLOY:** Okay. Then I also
23 understand that when we started the trial, what --
24 what -- the process that was going to be followed was
25 that each party would upload all their documents to

1 box.com and then as the exhibits are admitted, would
2 be transferred to a separate folder within the box.com
3 service for admitted exhibits. Up to this point, as I
4 understand it, no exhibits have been transferred over
5 so what -- what I would direct is that once we
6 reconcile the master list, get it filed, then each
7 party will be responsible for transferring over its
8 respective exhibits into the admitted exhibits folder.
9 Is there any problem or question about that?

10 Okay. I have a couple other things I
11 wanted to talk about, but did you have anything else,
12 Mr. Deitchman?

13 **MR. DEITCHMAN:** Thank you, Your Honor.
14 I just have one additional item. Back at the motions
15 in limine argument, there was a discussion about
16 making two or possibly three of Texas' experts
17 available for a supplemental deposition. It had to do
18 with some of New Mexico's motions in limine, and we
19 just wanted to state for the record that the offer is
20 open to schedule the supplemental depositions, and we
21 -- you know, for scheduling purposes, we'd rather get
22 it done sooner rather than later and not too close to
23 the March trial, but we just wanted to state that for
24 the record.

25 **MR. WECHSLER:** We appreciate that. I'll

1 just say, we're hoping to do them in Texas -- I'm
2 sorry -- in January, so we'll reach out to Texas to
3 try and work that out.

4 **MR. DEITCHMAN:** Sounds great.

5 **JUDGE MELLOY:** Very good.

6 I appreciate all of your hard work and
7 all of the efforts you've put into this trial. I
8 deeply appreciate Heather's work. She gets those
9 transcripts out very promptly, and they're very
10 accurate. At this point, are you going to rely upon
11 the unofficial transcript or is there a thought that
12 you'll be ordering an official transcript or are you
13 going to wait to see what happens or -- has anybody
14 thought about that?

15 **MR. WECHSLER:** I certainly anticipate
16 that we'd be ordering an official transcript.

17 **JUDGE MELLOY:** Are you going to wait
18 until after the mediation or are you going to do it
19 before then?

20 **MR. WECHSLER:** My expectation is
21 probably before, but I have not had a chance to talk
22 with my client yet about that issue.

23 **JUDGE MELLOY:** All right. Okay.

24 **MR. DEITCHMAN:** Texas will also want to
25 order an official transcript, as well, Your Honor.

1 **MR. LEININGER:** As will the United
2 States, Your Honor.

3 **JUDGE MELLOY:** Well, I assume you have a
4 cost-sharing agreement already so however -- I'll let
5 you work that out.

6 And then I wanted to talk briefly about
7 the mediation. I obviously hope it's successful. I'm
8 hesitant to say much about the case because I don't
9 want anything I say to be misconstrued so I'm not
10 going to say much about the case, other than to say
11 that -- that hopefully a resolution between the
12 parties could be wiser and able to accomplish things
13 that maybe I couldn't because, as I understand it, if
14 -- if we get to a remedies phase, any remedy that I
15 would recommend to the Supreme Court would have to be
16 within the context of the four corners basically of --
17 of the Compact, whereas obviously you're able to shape
18 something that is -- is maybe more appropriate for the
19 situation that's on the ground today. But in any
20 event, I wish you well. I did talk to Judge Boylan
21 yesterday. I didn't talk about the specific -- the
22 specifics of -- of the mediation. I did talk a little
23 bit about the -- couple logistical issues. I had --
24 had had no prior contact with the prior mediator from
25 the spring of 2020 or early summer of 2020 when he was

1 appointed until I sent an e-mail last week just
2 thanking him for his service. That would be my intent
3 with Judge Boylan, as well, that unless for some
4 reason an issue came up that he needed some guidance
5 or assistance, I do not plan to have any contact with
6 him and will not be involved or be consulted at all
7 about any of the merits of the mediation. What I did
8 talk to him about yesterday is he had indicated that
9 -- that he was looking for some space to -- to do the
10 mediation with a number of possible breakout rooms, a
11 larger space where he could hold conferences and so
12 on, and he had contacted the district court, but what
13 I advised him is that the court of appeals has space
14 in St. Paul. That's not a primary court location, but
15 we have a visiting facility there that's in the St.
16 Paul courthouse that we can make available to him, so
17 I think he's going to use that. I assume it doesn't
18 make a big difference to anybody whether it's
19 Minneapolis or St. Paul. So we do have a conference
20 room. We have three courtrooms. We have a library.
21 We have a staff clerk's office there. They're quite
22 anxious to be of any assistance that they can be so I
23 -- I think he'll probably be doing the mediation in
24 St. Paul, but, of course, that's ultimately up to
25 Judge Boylan and you folks.

1 **MR. DUBIOS:** Your Honor, this is Jim
2 Dubois. We have heard from Judge Boylan, and we will
3 be doing it in St. Paul.

4 **JUDGE MELLOY:** Okay. All right. Just
5 to remind the folks from New Mexico and Texas,
6 December in St. Paul is real winter. You can -- it
7 can be very beautiful up there that time of the year.
8 It'll be very festive, but -- but come prepared with
9 your -- with your -- with your -- with some coats and
10 gloves and hats because it'll be -- it could be cold.

11 **MR. DUBIOS:** There is a St. Paul winter
12 carnival, and I believe the courthouse is near the
13 river so yes indeed, it probably has the potential to
14 be nippy.

15 **JUDGE MELLOY:** Yes, yes. So be
16 prepared. Other than that, I can't -- that's right,
17 Mr. Dubois. You're from Minnesota, aren't you, so
18 you're used to this?

19 **MR. DUBIOS:** Yes, sir. That's why I
20 left.

21 **JUDGE MELLOY:** So we've had beautiful
22 weather the last couple three weeks. It's really been
23 a gorgeous fall, but for both northern Iowa and
24 Minnesota, snow is predicted this weekend so -- so
25 it's about ready to turn.

1 So basically that's -- that is about all
2 I have. I -- I assume we're not probably going to do
3 much other than -- than make sure we're all on the
4 same page on the exhibit list, as I described earlier,
5 between now and then once the mediation is concluded,
6 whether it's hopefully successful, and if not, if it's
7 not successful, I'll try to schedule a status
8 conference probably in early January just to see where
9 we are and what needs to be done before the trial
10 resumes in March. Any questions about that? I'm just
11 curious, Mr. Wechsler, if you know, how many pages are
12 included in all those binders you sent to us? Do you
13 have any idea?

14 **MR. WECHSLER:** Let me ask. Well, we
15 don't know at the moment, but I will have that answer
16 during the status conference. I think the answer is
17 many.

18 **JUDGE MELLOY:** Well, we've -- I did a
19 quick estimate. I think it's at least 150,000 pages,
20 but I --

21 **MR. WECHSLER:** Yeah.

22 **JUDGE MELLOY:** Which would be 75,000
23 separate sheets of paper since there's printing on
24 both sides.

25 **MR. WECHSLER:** That's right. The

1 estimate that I was given by our -- our consultant is
2 approximately 500,000, but I don't know an exact
3 number.

4 **JUDGE MELLODY:** Okay. All right.
5 Anything else we need to talk about? Well, again,
6 thank you everyone for your hard work. I know this
7 isn't easy. There are maybe a couple times I was a
8 little impatient. If so, I apologize. But -- but
9 anyway, good luck, and at this point, I'll just wait
10 to hear back after the mediation is concluded. Thank
11 you, everyone.

12 **MR. DEITCHMAN:** Thank you.

13 **MR. WECHSLER:** Thank you.

14 **MR. WALLACE:** Thank you, Your Honor.

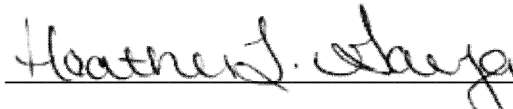
15 (The proceedings adjourned at 1:28 p.m.)
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I, HEATHER L. GARZA, a Certified Shorthand Reporter in and for the State of Texas, do hereby certify that the facts as stated by me in the caption hereto are true; that the foregoing pages comprise a true, complete and correct transcript of the proceedings had at the time of the hearing.

I further certify that I am not, in any capacity, a regular employee of any of the parties in whose behalf this status hearing is taken, nor in the regular employ of any of the attorneys; and I certify that I am not interested in the cause, nor of kin or counsel to any of the parties.

GIVEN UNDER MY HAND AND SEAL OF OFFICE,
on this, the 16th day of December, 2021.



HEATHER L. GARZA, CSR, RPR, CRR

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