

UNITED STATES BANKRUPTCY COURT

DISTRICT OF SOUTH DAKOTA

ROOM 211

FEDERAL BUILDING AND U.S. POST OFFICE

225 SOUTH PIERRE STREET

PIERRE, SOUTH DAKOTA 57501-2463

IRVIN N. HOYT
BANKRUPTCY JUDGE

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March 21, 1988

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Re: In re Broken EAow Ranch. Inc.
Chapter 12 87-30137

Dear Counsel:

The above entitled matter was heard on a motion to determine the value of a secured claim pursuant to 11 USC, Section 506(a) filed by Federal Land Bank of Omaha. On March 4, 1988 a hearing on this matter was held in Pierre, South Dakota. At that time testimony was presented and three appraisals of the subject property were submitted into evidence, and the Court took the matter under advisement. There was no unanimity among the appraisals, therefore, it is necessary to make certain adjustments to determine the market value of the subject property. A market data or sales approach method was used by each appraiser. Les Miller of Wheatstem Realty and Auction, appraiser for Federal Land Bank of Omaha, determined the subject property to be valued at \$299,505.00. Mr. Dan Chase, appraiser for Federal Land Bank of Omaha determined the value to be \$301,030.00. Doug Mortenson of M.C. Associates, Inc., appraiser for Debtor, Broken Bow Ranch, Inc., determined the value to be \$156,350.00. Mr. Mortenson prepared a supplemental appraisal which was not admissible by virtue of this Court having granted Federal Land Bank of Omaha's motion in limine based upon failure to timely file the same pursuant to this Court's pre-trial order. It is further noted that Mr. Miller did not use a cost or income approach which both of the other appraisers testified they did as a check or aid in arriving at their respective market values for the subject property. This Court has discounted the Miller appraisal after several fallacies were revealed during his testimony and cross-examination.

To adjust the disparities which exist between the Chase and Mortenson appraisals, this Court has compared the cost approach of each appraisal and made adjustments which the testimony indicated would be warranted. It is disconcerting to note that the appraisers cannot arrive at a consensus as to the proper allocation of acreage for the various classifications contained within the subject property.

This Court is satisfied after reviewing Mr. Mortenson's testimony that his calculations of the contributing value of irrigation are not the result of any recognized method. This Court in determining the value of adjoining property, i.e. the Zeman case, found the application of proper methods of determination would result in a \$100.00 per acre increase in value. This Court has applied this factor in the present case.

This Court finds there are approximately 608 acres of irrigated cropland and allocates \$270.00 per acre to 394 acres and \$160.00 per acre to 155 acres. There are approximately 88 acres of non-irrigated cropland which the Court values at \$170.00 per acre. There are 36 acres of pasture which this Court values at \$75.00 per acre. There are 24 acres of trees and building lots which this Court values at \$65.00 per acre. This Court has allowed approximately 47 acres for roads and waste at zero value.

As to the value of the irrigation equipment, this Court believes that Miller's value of \$65,000.00 and Chase's value of \$45,600.00 are excessive according to the testimony. Therefore, this Court determines the value of the irrigation equipment to be \$35,000.00.

The Court finds the value of the improvements to be \$40,000.00.

The following is a recapitulation of the items set out above:

394 Acres Irrigated	x \$270.00/acre =	\$106,380.00
214 Acres Irrigated	x \$160.00/acre =	\$ 34,240.00
88 Acres Dry Land	x \$170.00/acre =	\$ 14,960.00
36 Acres Pasture	x \$ 75.00/acre =	\$ 2,700.00
24 Acres Trees/Bid. tots	x \$ 65.00/acre =	\$ 1,560.00
47 Acres Waste Land & Roads	No Value	<u>0</u>
		\$159,840.00
Irrigation Equipment		\$ 35,000.00
Improvements		<u>\$ 40,000.00</u>

This Court determines the value of the Broken Bow Ranch, Inc. to be \$234,840.00. Counsel for Federal Land Bank of Omaha may submit findings of fact, conclusions of law and a judgment accordingly.

By way of postscript, the Court finds the task of reconciling the disparities among the different methods applied by the appraisers evolving from their varying expertise almost an effort in futility. Many times what appears to be a 'guesstimate' of the Court is actually its best efforts in attempting to reconcile what on the surface appears to be irreconcilable differences in the appraisals. Greater uniformity by the appraisers would make this task easier for the Court.

Very truly yours,

Irvin N. Hoyt
Bankruptcy Judge

INH/sh
CC: Bankruptcy Clerk
John Lovald, Trustee