

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH DAKOTA

IN RE: )  
 )  
EDWARD L. SWENSON and )  
PHYLLIS SWENSON, )  
 )  
 )  
 )  
Debtors. )

CASE NO. 87-30136  
CHAPTER 12  
MEMORANDUM OPINION

The above entitled valuation hearing came on for hearing before this Court on February 29, 1988. Debtor Phyllis Swenson appeared together with her attorney Ron Volesky. Edward Swenson was not present by virtue of being under doctor's care. The Federal Land Bank was represented by their attorney, Mr. John Quaintance, accompanied by Don Kettering, of Federal Land Bank of Omaha. Both parties presented testimony in support of their respective positions in reference to determination of secured status and valuation of assets. In addition, both sides presented testimony of appraisers in both oral and written form. The Debtors called Maynard B. Sweet and Federal Land Bank of Omaha called appraisers Alan Hatzenbeller and Duane DeBoer. At the conclusion of the testimony both sides were invited to prepare written arguments, which the Court has received. In reviewing the testimony submitted at the hearing of the respective appraisers, as well as the written argument of counsel, the Court has determined the value of the property to be \$227,333.00. The Court arrived at this value after comparison of each of the appraisals submitted as well as the oral testimony. The Court would note that there was one apparent area of unanimity amongst the appraisers, that being the value of the

residence and out building which was established to be at \$21,000.00 by the FLBO appraisers and \$21,500.00 by Mr. Sweet. Accordingly, the Court adopted the value of \$21,000.00 for the residence and out buildings.

All three of the appraisers seemed to place a great deal of emphasis on soil classifications and the accompanying soil ratings. It was interesting to note in reviewing all of the appraisals, again there was no unanimity in reference to the number of acres of the various soil classifications in the respective tracts involved. Accordingly, the Court felt some adjustment was necessary to arrive at the above value.

In reference to the land contained in section 16, comprising of approximately 321.52 acres, the Court found that the average soil rating was 71.52, and it is noted that the Sunborn County average overall is 73. It was noted by Mr. Hatzenbeller that his comparable sales selling price per acre ranged from \$156.00 to \$194.00, with soil ratings from 72.8 to 89.7. Accordingly, the Court adjusted the per acre price to \$150.00 per acre, for a total for the 321.25 acres located in section 16 of \$48,228.00.

In reference to the 474 acres located in section 17, the Court found that the average soil rating was 72.17, and again adjusted the per acre price to \$150.00, for a total of \$71,100.00.

In reference to the 312 acres contained in section 20, the Court found that this had an overall soil rating of 64.15, and accordingly adjusted per acre value to \$130.00 per acre, for a value of \$41,730.00.

In reference to section 22, excluding the residence and

buildings which have previously been valued, the Court found that there was a total of 88.95 acres which was classified as the best land with an overall soil rating of 82, which the Court valued at \$180.00 per acre, for a total value of \$15, 275. 00.

In reference to the 400 acres contained in section 36, both appraisers Sweet and Hatzenbeller agreed that this was very poor producing land with numerous problems related to crop production. The Court felt that probably appraiser Sweet's recommendation that the Debtors take advantage of the possibility of becoming involved with the Game and Fish Department with a value of \$75.00 per acre. Ironically, Mr. Sweet then valued it at \$65.00 per acre. However, the Court feels that \$75.00 per acre would be appropriate under the circumstances, and accordingly establishes the value of \$30,000.00.

A recapitulation of the above figures is as follows:

W ½ of SW 1/4 Except Railroad Right-of-Way, SE 1/4 of SW 1/4 West of Railroad, SW 1/4 of NW 1/4 Except Railroad Right-of-Way, SE 1/4 and NE 1/4 of SW 1/4 of Section 16	\$ 48,228.00
SW 1/4 , SE 1/4, and NE 1/4 Lying West and South of Railroad Right-of-Way Section 17	\$ 71,100.00
NE 1/4 Except Railroad Right-of-Way and Except H-1, and NW 1/4 Except Railroad Right-of-Way and Except H-1 of Section 20	\$ 41,730.00
Outlots 1, 2, and 3 in the SW 1/4 of Section 22	\$ 15,275.00
SE 1/4, W 1/2 of NE 1/4, and E 1/2 of W 1/2 of Section 36	\$ 30,000.00
Lots 1 through 12 inclusive of Block 68, All of Blocks 1 and 2 of Swanson's Addition Except the	

West-Half of Lots 9 and 10 of Block 2,  
all of Block 75 of the Original Plat of  
Woonsocket, and Outlot B in the SW 1/4  
of Section 22 -Residence and Buildings  
thereon

\$21,000.00

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All in Township 107, Range 62 in the  
Town of Woonsocket, County of  
Sanborn, South Dakota

Totals

\$227,333.00

Counsel for Federal Land Bank is directed to prepare findings  
of fact, conclusions of law and an appropriate  
order.

Dated this 20th day of June, 1988.

BY THE COURT:

Irvin N. Hoyt  
Bankruptcy Judge

ATTEST:

PATRICIA MERRITT, CLERK

By:

Deputy

(SEAL)