

**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 18, 1988

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Re: In re Zeman Farms, Inc.  
Chapter 12 Case No. 87-30132

Dear Counsel:

The above entitled matter was heard on a motion to determine value of a secured claim, pursuant to 11 USC Section 506(a) , filed by Traveler's Insurance Company. On March 3, 1988, hearing on this matter was held in Pierre, South Dakota. At that time testimony was presented, 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 value of the subject real property. Doug Mortenson of N.C. Associates, Inc. , appraiser for Debtor, Henry Zeman, market data approach or sales approach, resulted in an opinion of Mr. Mortenson of \$244,300.00 plus the contributing value of the irrigation for a total value of \$270,000.00. Mr. Dan Chase, one of the appraisers for Traveler's Insurance Company, market data or sales approach value was \$495,045.00. Mr. John Widdoss, appraiser for Traveler's Insurance Company, market data or sales approach value was \$477,000.00.

This Court is satisfied after reviewing Mr. Mortenson's testimony that his calculations of the contributing value of irrigation was not the result of any recognized method. The record reveals that the application of proper methods of determination would result in a \$100.00 per acre increase in value. In reviewing the cost approach followed by each of the appraisers, there

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seems to be a consensus. (See PLC. Professional Associates, Inc. appraisal page 18, Chase appraisal page 20, and Widdoss appraisal page 65.) The Court has undertaken to reconcile the differences among the appraisals to arrive at the value of the property in question.

This Court finds there is approximately 960 acres of irrigated crop ground and allocates \$270.00 per acre to 805 acres and \$160.00 per acre to 155 acres. There is approximately 205 acres of dry land which the Court values at \$170.00 per acre. (It is interesting to note that this is the one area that the appraisers seemed to be in agreement. There are 60 acres of pasture which this Court values at \$75.00 per acre. There are also 60 acres of trees and building lots which this Court values at \$65.00 per acre.

This Court recognized that it is necessary to adjust the above acreage allotments for waste land. This Court calculates there to be 55772 waste acres. The determined value then to be deducted for the same would be calculated by averaging the per acre value designated to each category of land set forth.

As to the value of the irrigation equipment, the Court felt that the value placed on it by Mr. t4ortenson of \$25,700.00 would be considered a low value. Likewise, the value of \$88,633.30 calculated by Mr. Widdoss would be considered a high value. This Court determines the value of the irrigation equipment to be \$55,000.00.

There was conflicting testimony as to the contributing value of goose hunting available on the Zeman property. Henry Zeman, the debtor, testified that by virtue of the waterfront area not being designated as a refuge, the public has access to the river area in front of his property. The geese that attempt to congregate in this area are disturbed, therefore, hunting tends to be very unpredictable. This tact together with the fact that there was no reliable data introduced as to the income that could be derived from goose hunting on this property makes the value pure speculation. Accordingly, this Court has disregarded goose hunting as contributing value to the Zeman farm.

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

Recapitulation:

805 acres Good Irrigated	x \$270.00/acre =	\$ 217,350.00
155 acres Marginal Irrigated	x \$160.00/acre =	\$ 24,800.00
205 acres Dry Land	x \$170.00/acre =	\$ 34,850.00
60 acres Pasture	x \$ 75.00/acre =	4 4,500.00
60 acres Trees/Building Lots	x \$ 65.00/acre =	4 3,900.00
		/
		\$ 285,400.00
55.72 acres Waste Land	x \$148.00/acre =	- <u>8.246.56</u>
		\$ 277,153.44
Irrigation Equipment		\$ 55,000.00
Improvements		<u>\$ 65,000.00</u>
Total		\$ 397,153.44

The Court determines the value of the Zeman property to be \$397,153.44. Counsel for Traveler's Insurance Company may submit an order accordingly.

Very truly yours,

Irvin N. Hoyt  
Bankruptcy Judge

INH/ sh

CC: Bankruptcy Clerk  
John Lovald, Trustee