

UNITED STATES BANKRUPTCY COURT
For the Southern District of Iowa

In the Matter of

Case No. 86-3328-W

JEROME W. NEILL
SHARON K. NEILL,

Chapter 12

Debtors.

**ORDER ON MOTION TO DISMISS
AND OBJECTION TO CONFIRMATION OF PLAN**

On February 3, 1988, the motion to dismiss Debtors' Chapter 12 petition and the objection to confirmation of Debtors' proposed plan of reorganization, filed February 3, 1988, by Federal Land Bank of Omaha, came on for a hearing in Council Bluffs, Iowa. Said hearing was held pursuant to the October 27, 1987, Order of United States District Court Judge Donald E. O'Brien remanding the case to this bankruptcy court so that the court could consider Debtors' Chapter 12 plan utilizing Debtors' 1985 income. Steven K. Krohn appeared on behalf of Federal Land Bank, Richard A. Rowland and Raymond Pogge appeared on behalf of Debtors, and Anita L. Shodeen appeared on behalf of the United States Trustee.

The court, having reviewed the file, heard the arguments of counsel and the evidence presented and being fully advised in the premises, finds:

1. That four-fifths (4/5) of Debtors' 1985 gross income was from their farm operation. Therefore, Debtors meet the definition of "family farmer" pursuant to 11

U.S.C. section 101(17)(A), as required to qualify for the relief provided under Chapter 12 of the Bankruptcy Code.

2. That the history of Debtors' farming operation indicates the projected crop yields, as stated in their proposed plan of reorganization, are speculative at best and are not supported by the evidence.

3. That the crop expenses of Debtors' farming operation, as stated in their proposed plan of reorganization, are unrealistic and not supported by the evidence.

4. That Debtors were previously unsuccessful in seeking relief under Chapter 11 of the Bankruptcy Code in that their three previous Chapter 11 petitions, filed in 1982, 1983, and 1985, were dismissed.

5. That considering the facts and evidence presented, the court is not convinced that Debtors' proposed plan of reorganization is feasible and that there is no reasonable likelihood that Debtors can be rehabilitated.

IT IS THEREFORE ORDERED that confirmation of Debtors' proposed plan of reorganization is hereby denied and Debtors' Chapter 12 petition dismissed.

Signed this 10th day of March, 1988.

RUSSELL J. HILL
U.S. BANKRUPTCY JUDGE