

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLORADO

In re:)	
)	
SMITH FARM, LLC)	Case No. 16-21062 JGR
A Colorado Limited Liability Co.)	Chapter 11
EIN 45-5434023)	
)	
Debtor.)	

AMENDED DISCLOSURE STATEMENT

I. INTRODUCTION

Dated: April 26, 2017

On November 11, 2016, Smith Farm, LLC (“Debtor”), filed its Voluntary Petition for reorganization pursuant to Chapter 11 of the Bankruptcy Code. On April 26, 2017, the Debtor filed its Amended Plan of Reorganization (the “Plan”).

A. REORGANIZATION AND DISCLOSURE. Chapter 11 is the principal reorganizational Chapter of the Bankruptcy Code. Pursuant to Chapter 11, a Debtor may continue to operate its business to pay its creditors. Attempts to collect pre-petition claims from the Debtor and any attempts to foreclose upon the Debtor’s Assets are stayed during the pendency of the bankruptcy proceeding. This Amended Disclosure Statement (“Disclosure Statement”) is intended to provide the holders of claims adequate information about the Debtor and its proposed Plan so that creditors can make an informed judgment about the merits of approving the Plan. The Plan, if confirmed by the Bankruptcy Court, will bind the Debtor and the Debtor’s creditors with respect to the terms and conditions set forth therein even if creditors do not vote in favor of the Plan.

B. Adequate information. “Adequate information” means information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the Debtor and the condition of the Debtor’s books and records, including a discussion of the potential material Federal tax consequences of the Plan to the Debtor, any successor to the Debtor, and a hypothetical investor typical of the holders of claims or interests in the case, that would enable such a hypothetical investor of the relevant class to make an informed judgment about the Plan, but adequate information need not include such information about any other possible or proposed Plan. In determining whether the Disclosure Statement provides adequate information, the Court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest and the cost of providing additional information.

An “investor typical of holders of claims or interests of the relevant class” means investors having a claim or interest of the relevant class; such a relationship with the Debtor as the holders of other claims or interests of such class generally have; and, such ability to obtain such information from sources other than the disclosure required by §1125 of the Bankruptcy Code (11 U.S.C. §1125) as holders of claims or interests in such class generally have.

C. YOU ARE ENCOURAGED TO READ THE PLAN AND TO CONSULT WITH YOUR COUNSEL ABOUT IT. CERTAIN CAPITALIZED TERMS USED HEREIN ARE DEFINED IN THE PLAN OR IN THE BANKRUPTCY CODE. THE PLAN HAS NEITHER BEEN APPROVED NOR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION, AND THE COMMISSION HAS NOT RENDERED AN OPINION UPON THE ACCURACY OR ADEQUACY OF ANY STATEMENTS CONTAINED IN THE PLAN.

APPROVAL OF THE DISCLOSURE STATEMENT BY THE COURT AS CONTAINING ADEQUATE INFORMATION DOES NOT IMPLY COURT APPROVAL OF THE PLAN. IN THE EVENT THE DEBTOR MODIFIES ITS PLAN BEFORE CONFIRMATION, THE PLAN AS MODIFIED SHALL BECOME THE PLAN FOR PURPOSES OF CONFIRMATION. AS SUCH, PREVIOUS VERSIONS OF THE PLAN SHOULD BE DISREGARDED BY CREDITORS.

D. VOTING ON THE PLAN. The Debtor is proposing a Plan as a means of continuing its business in order to pay its creditors from its ongoing business operations. A vote on the Plan is important. The Debtor can implement the Plan only if it is confirmed by the Bankruptcy Court. The Plan can be confirmed only if, among other things, it is accepted by the holders of two-thirds in amount and more than one-half in number of the claims which actually vote on the Plan. At least one “impaired class” must vote to accept the Plan. In the event the requisite acceptances are not obtained from the impaired classes, the Court may nevertheless confirm the Plan if the Court finds that it is fair and equitable to the class or classes rejecting the Plan. Under the Debtor’s proposed Plan, Classes 1, 2, and 3 are impaired and therefore are entitled to vote on the Plan. There are no non-impaired classes in the Debtor’s Plan.

“Impaired” is defined by §1124 of the Bankruptcy Code. Impaired means that Debtor’s Plan alters the legal, equitable or contractual rights to which such classes or interest entitles the holder of such claims or interest. The holders of impaired claims which are also allowed claims (as defined in Article I, ¶ 1.3 of the Plan), or the holders in those classes of disputed claims which the Bankruptcy Court has temporarily allowed for voting purposes only are entitled to vote on the Debtor’s Plan.

You are not required to vote on the Plan, but only those votes actually received by Debtor's counsel on or before 5:00 p.m. MST/MDT on the date set forth in the Court's Order or Notice accompanying this Plan will be counted either for or against the Plan. You should either fax, mail or e-mail a completed ballot to the Debtor's counsel by 5:00 p.m. MST/MDT on the date established by the Court in its Order or Notice which accompanies this Plan. Please fill out your ballot completely to insure that your vote with respect to the Plan is properly counted. Ballots can be mailed, faxed or e-mailed to the Debtor's counsel at the following address, fax number, or e-mail address:

Weinman & Associates, P.C.
730 17th Street, Suite 240
Denver, CO 80202-3506
Facsimile: (303) 572-1011
jweinman@epitrustee.com

Ballots will be counted as long as they are received by the Debtor's counsel by 5:00 p.m. MST/MDT on the date established by the Court in its Order or Notice accompanying this Plan.

The Court will hold a hearing on confirmation of the Plan and will, among other things, determine the result of the vote on the Plan. The Debtor will prepare a ballot report which it will present to the Court at the confirmation hearing. The date and time of the Court's hearing on confirmation and important deadlines are set forth in the Court's Order or Notice enclosed with this Disclosure Statement and the Plan.

E. Objecting to the adequacy of the information contained in the Disclosure Statement or to confirmation of the Plan. The Court will set a deadline for filing written objections to the adequacy of the information contained in the Disclosure Statement. If no objections are filed with the Court, the approval of the information contained in the Disclosure Statement

may become final. Any objection or request to modify the information contained in the Disclosure Statement will be considered by the Court at the hearing set by the Court on the adequacy of the Disclosure Statement.

In addition to voting on the Plan, creditors may also object to confirmation of the Plan by filing and serving written objections to confirmation of the Plan as required by the Bankruptcy Rules of Procedure and the Local Bankruptcy Rules of the Court. The Court has set a deadline for filing written objections in its Order or Notice which accompanies this Plan. If you wish to object to confirmation of the Debtor's Plan, you must file a written objection. Filing a ballot rejecting the Plan will not be considered an objection to confirmation of the Plan by the Court.

F. Bar Date. The Court set a deadline of February 13, 2017 ("Bar Date") by which creditors were to have filed Proofs of Claim in the Debtor's Chapter 11 bankruptcy proceeding. The Bar Date was mailed to you during the pendency of the Debtor's Chapter 11 bankruptcy proceeding. It may have been important that you file a Proof of Claim with the Clerk of the Bankruptcy Court on or before the Bar Date or your claim may not be allowed and you may not be able to participate as a creditor in the Debtor's Chapter 11 bankruptcy proceeding. However, if you agree with the way the Debtor has listed your claim on its bankruptcy Schedules, and the claim is not listed as "disputed", "contingent" or "unliquidated", it was not necessary for you to file a Proof of Claim in order to have your claim allowed for purposes of voting on the Plan and receiving payment or other treatment of your claim under a confirmed Plan of Reorganization.

G. Creditors' Committee. The United States Trustee did not appoint an Unsecured Creditors' Committee in this case.

II. PRE-BANKRUPTCY HISTORY OF THE DEBTOR

The Debtor, Smith Farm, LLC ("Debtor"), is the successor to Smith Dairy (a partnership). The Debtor's business was converted from a Partnership to an LLC and in conjunction with the entity transformation, there was a name change to better reflect the nature of the company's activities and the fact that one of the previous partners, Sherrilu Smith, had passed away.

The property owned by Debtor has been in the Smith family since the mid 1800's. It has been continuously farmed by the family since that time. In 2011, the operations were managed by Roy and Sherrilu Smith. The business consisted of leasing dairy cows and raising heifers. Milk prices had dropped dramatically in the 2010 time frame causing a significant cash flow problem for Smith Dairy and it had begun to reduce its dairy farming operations. Accordingly, it believed the best way to resolve this cash flow shortage was to file a Chapter 11 bankruptcy and to reorganize its debts, including its secured obligations to Colorado Community Bank ("CCB").

Smith Dairy had a successful reorganization and renegotiated its obligations to CCB. Marylu Smith became the sole owner of the LLC, her mother having passed away and her father's advancing age and deteriorating health making it difficult for him to manage the farm full time. The post-confirmation relationship between the newly formed Smith Farm and CCB went reasonably well. Having confronted its own financial problems, however, CCB was sold to Northstar Bank ("Northstar" or "the Bank") in approximately 2013. Once Northstar took over the loans, the attitude of the Bank and the relationship with Debtor deteriorated. It became apparent to Debtor, both through the words and actions of Northstar, that it had no interest in maintaining the loans with Debtor. Indeed, Debtor

believes that Northstar made every effort to force it to liquidate or fail. When Debtor determined that it no longer needed certain excess farm equipment, and the equipment was sold, Northstar insisted that the proceeds be used to pay down one of the two outstanding loans rather than use such funds to invest in additional equipment or cattle. The loans were current at the time, and investing the sale proceeds in income producing assets would improve the overall financial health of the Debtor including its cash flow. Indeed, as a consequence of the earlier reorganization and loan restructure, in connection with prudent financial planning, Debtor determined to further restructure its business to continue the lease of land and cows and the hauling of farm products for fees. In addition, due to a dramatic increase in the value of its land, Debtor sold a portion of its property holdings to voluntarily pay down the Bank and other debt early. Debtor had always intended the change in operations, which included the leasing of assets, to be temporary and to recommence dairy operations as it was able to grow its herd and generate working capital through the sale of land and superfluous equipment. Following confirmation of its Plan of Reorganization, Roy Smith, as a consequence of poor health and his age, spent less time managing the business operations. Marylu Smith-Dischner spent more time attending to the Debtor's business while retaining her position as a full time teacher. During this time, the Debtor sold a portion of its land and was able to pay down substantially its loan to the Bank. Further, as part of its business reorganization, the Debtor started hauling farm products such as silage and other commodities for third parties. In connection with this aspect of the Debtor's business, the person driving the Debtor's truck and trailer was involved in an accident, which was not his fault, but which resulted in the death of a third party. Law enforcement impounded the truck and trailer while the investigation was

ongoing. As a result, the Debtor was unable to generate income for 60 to 90 days until the truck and trailer were released and the Debtor could repair or replace the vehicle. This caused significant cash flow problems for the Debtor. The Bank exacerbated the Debtor's cash flow issues by insisting that the proceeds from the sale of cull cows be paid to it, instead of allowing the Debtor to use such proceeds to feed and raise replacement heifers. This not only limited the Debtor's ability to increase its cash flow by increasing the size of its herd, the opposite occurred resulting in diminishing cash flow.

During the period following the confirmation of its first Plan of Reorganization, the Debtor made a strategic decision to let its first Chapter 11 filing be dismissed.

Northstar had a different plan. The relationship between Debtor and Northstar became contentious with the Bank taking every opportunity to assert defaults, refuse to modify loans, refuse to permit Debtor to replace collateral with the proceeds of the sale of collateral, and sweeping Debtor's bank account in order to pay obligations the bank believed should be paid, in some instances, before Debtor believed they needed to be paid. This resulted in cash flow shortages and in some instances the "bouncing" of outstanding checks.

Through a series of events precipitated by the Bank, the Debtor's cash flow was interrupted causing it to be late in its payments to Northstar and being unable to pay other obligations timely.

This situation could not be allowed to continue. Having pushed Debtor into a default, Northstar was threatening foreclosure and putting it out of business. Debtor filed Chapter 11 to prevent this from occurring. Ironically, the Debtor cash flows positively, although the seasonality of its revenue stream creates certain peaks and valleys which need to be

smoothed out. Moreover, given Northstar's compulsion to constrain Debtor's operations, inhibit its herd and cash flow growth, as well as its generally unfavorable attitude towards the Debtor, the current reorganization seeks to pay all unsecured creditors and Northstar in full. Indeed, the value of Debtor's assets is approximately three times what is owes the Bank and its prospects for continuing on in business for another 150 years are bright.

Notwithstanding the above, the Bank takes the position that it has not interfered in the Debtor's business and the Debtor's current problems are its own fault. The Bank's position can be summarized as follows:

1. The Debtor's Disclosure Statement makes unsupported conclusory statements that Northstar was the source of Smith Farm's default. The contrary is true.
2. Debtor has failed to communicate the sale of secured collateral in violation of the Loan Documents, and made the cognizant decision not to submit the payment due in October 2016.
3. The Debtor's financial condition has not changed from that disclosed in its previous Chapter 11 bankruptcy filed in July 2010. The Court dismissed the Debtor's prior Chapter 11 case based on its failure to timely file post-confirmation quarterly reports and pay the quarterly fees. The Court also dismissed the Debtor's prior Chapter 11 case for cause, on grounds that it failed to pay "Class 7" on the Effective Date as required by the Plan.
4. Further, Smith Farm had a pattern of not timely paying real property taxes, which resulted in 10% per annum penalties, and thus, the Northstar payment

of delinquent property taxes saved Debtor from accruing said penalties. All other offsets were applied toward past due loan payments.

5. Accordingly, the Disclosure Statement, among other things, wrongly characterizes the circumstances that gave rise to the filing of Debtor's most recent bankruptcy petition.
6. The Debtor's Disclosure Statement does not contain adequate information and the proposed Plan is not confirmable.

III. EXPECTED POST-CONFIRMATION OPERATION OF REORGANIZED DEBTOR

The Reorganized Debtor will operate its business following confirmation of its Plan and will pay its creditors with allowed claims pursuant to the provisions of the confirmed Plan from its ongoing business operations.

Upon confirmation of the Debtor's Plan, the Bankruptcy Estate's Assets will be transferred to the Reorganized Debtor. Marylu Smith-Dischner's 100% pre-petition membership interest in the Debtor will be retained by her following confirmation of the Plan. Marylu Smith-Dischner will be the managing member and will receive rental payments from the Debtor for its use of her shop equipment in lieu of taking a draw. The rental payments for the shop equipment are approximately \$1,029 per month. Roy E. Smith, a former owner of the Debtor, will continue as contract labor at the rate of approximately \$530 per month to assist in the operation of the Debtor's business.

IV. DESCRIPTION OF DEBTOR'S REAL AND PERSONAL PROPERTY ASSETS

As of the date of the filing of the bankruptcy petition, the Debtor's Assets consist of Real and Personal Property Assets.

The Debtor's Real Property is located in Yuma County, Colorado and is valued by the Debtor in the amount of \$4,278,000. The Debtor's estimate of value is based on a comparable sale of similar real property. Indeed, the Debtor bases its value for its Real Property on a 2012 sale of its own real property for \$7,000 an irrigated acre. The current \$4.278 million valuation is based on a price of \$6,000 an irrigated acre which understates the actual value of the property. The Debtor has not included in its current valuation the value of nearly 1,200 acres of dry farm land. Further, the valuation does not consider the value of buildings and other improvements located on the property. The Debtor is unaware of any condition which would affect its estimated value of the property particularly an allegation that the level of the water table is declining.

The Debtor's personal property includes: cash, bank account(s), accounts receivable, potential legal claim, farm animals, farm machinery and equipment, and leases including a Land Lease and Cattle Leases. Balance sheets showing the value of the Debtor's Assets prior to the time it filed its Chapter 11 case and following the filing of its case are attached hereto as Exhibits "A-1" and "A-2", respectively.

V. STATUS DURING CHAPTER 11 BANKRUPTCY PROCEEDING PENDING PRE-PETITION AND POST-PETITION LITIGATION AND PREFERENCE AND/OR FRAUDULENT CONVEYANCE CLAIMS

A. STATUS DURING CHAPTER 11. The Debtor has been managing its financial affairs and operating its business under Chapter 11 as a Debtor-in-Possession since it filed for bankruptcy relief.

A representative of the Debtor attended an Initial Debtor Interview (IDI) conducted by the Office of the U.S. Trustee, and attended a §341 Meeting of Creditors.

B. PRE-PETITION LITIGATION. Prior to Debtor filing its bankruptcy petition, the Debtor was involved in litigation relating to a trailer truck accident.

C. POST-PETITION. Since the filing of its bankruptcy petition, the Debtor has been involved in the following litigation, contested and non-contested matters and hearings before the Bankruptcy Court:

1. The Debtor, through its representative, attended a Section 341 Meeting of Creditors and participated in a telephonic status conference conducted by the Court.
2. The Debtor obtained authority to employ the law firms of Weinman & Associates, P.C. and Allen & Vellone, P.C. (now Allen, Vellone, Wolf, Helfrich & Factor, P.C.) to represent it as bankruptcy counsel in its Chapter 11 proceeding.
3. The Debtor requested that it be allowed to pay its professional persons, such as its attorneys, on an interim basis during the pendency of its case. Northstar Bank objected to such a request. The Debtor and the Bank reached a settlement with respect to this matter which has been approved by the Court.
4. The Debtor has filed Monthly Operating Reports with the U.S. Bankruptcy Court for the District of Colorado and with the Office of the U.S. Trustee during the pendency of the within Chapter 11 case.

D. PREFERENCE AND/OR FRAUDULENT CONVEYANCE CLAIMS. The Debtor shall investigate preference and fraudulent conveyance claims and, if appropriate, shall commence appropriate legal proceedings to pursue such claims. In the event the Debtor

commences any such legal proceedings and receives an award of damages arising as a result of such legal proceedings, the Debtor will utilize such net proceeds to pay allowed Chapter 11 administrative expenses or allowed unsecured claims as may be appropriate under the Debtor's Plan. The Debtor knows of no such claims at the present time.

VI. EFFECTIVE DATE

The "Effective Date" is defined in the Plan to mean that date which is thirty (30) days following confirmation of the Plan. The Debtor estimates that the Effective Date of its Plan will be August 1, 2017. The Effective Date of the Debtor's Plan may occur either sooner or later than the estimated date which will effect the date of certain payments and the occurrence of other events under the Debtor's Plan.

VII. CLASSIFICATION OF CREDITORS' CLAIMS AND EQUITABLE INTERESTS AND IMPAIRMENT OF CREDITORS' CLAIMS AND EQUITABLE INTERESTS

A. CLASSIFICATION OF CREDITORS' CLAIMS AND EQUITABLE INTERESTS AND IMPAIRMENT OF CREDITORS' CLAIMS AND EQUITABLE INTERESTS.

(1) Classification. Pursuant to the requirements of 11 U.S.C. §1123 of the Bankruptcy Code, the Debtor has classified the claims of its creditors under its Plan. The Debtor has made this classification pursuant to the requirements of the Bankruptcy Code. Each class of claims which has been established under the Plan consists of claims which are substantially similar and with respect to each claim contained in each class, the Plan provides for the same treatment for each class or

interest of each particular class unless the holder of a particular claim or interest agrees to a less favorable treatment of its particular claim or interest.

(2) Impairment. As required pursuant to 11 U.S.C. §1123 of the Bankruptcy Code, the Debtor has identified in its Plan those classes of claimants which are impaired under the Plan.

B. CREDITOR CLAIMS AND EQUITABLE INTERESTS IN THE DEBTOR ARE CLASSIFIED AND IMPAIRED IN THE PLAN AS FOLLOWS:

(1) Class 1 consists of the allowed secured claim of Northstar Bank of Colorado. Class 1 is impaired under the Plan.

(2) Class 2 consists of the holders of allowed unsecured claims. Class 2 is impaired under the Plan.

(3) Class 3 consists of the holder of the pre-petition equity interest in the Debtor. Class 3 is impaired under the Plan.

VIII. TREATMENT OF CLASSES OF CREDITOR CLAIMS AND EQUITABLE INTERESTS UNDER THE DEBTOR'S PLAN

Provision for payment or treatment of creditor classes and equitable interests under the Plan is set forth below.

(1) Class 1. Northstar Bank of Colorado. Class 1 is impaired under the Plan and can vote on the Plan. Class 1 consists of the Allowed Secured Claim of Northstar Bank of Colorado evidenced by two (2) promissory notes. The Debtor owes approximately \$2,404,600 plus any accrued interest, fees or costs alleged to be owed to the Class 1 creditor on the note(s) which are secured by a lien on the Debtor's Real Property valued at \$4,278,000. The approximate amount of \$126,646 plus any accrued interest, fees or

costs alleged to be owed to the Class 1 creditor is owed on the second note which is secured by Personal Property. The Debtor reserves the right to object to the allowability of the Class 1 creditor's claim(s). The Allowed Secured Claim of the Class 1 creditor shall be paid by combining the amounts owed on the two (2) promissory notes, approximately \$2,531,246, and the Class 1 creditor retaining its liens recorded against the Debtor's Real Property and Personal Property which fully secures its claim to the same extent and in the same priority as its pre-petition lien(s) and receiving a combined monthly payment of principal and interest at the Market Rate of Interest amortized over a period of 25 years commencing on the Effective Date unless payments shall have commenced earlier. The "Market Rate of Interest" is defined in the Plan as "that annual rate of interest determined by the Court which will allow the holder of an allowed secured claim to receive deferred cash payments totaling at least the allowed amount of such claim of a value as of the Effective Date of the Plan of at least the value of such holder's in the Estate's interest in its Assets. With respect to any secured creditor which receives a Market Rate of Interest and whose claim is secured by property of the Estate, such secured creditor shall retain its lien(s) securing its claim recorded against the Debtor's Assets to the same extent and in the same priority as its pre-petition lien(s), unless the Plan, the Court, or an agreement with the secured creditor provides otherwise." The Debtor proposes 4.5% per annum as the Market Rate of Interest in its Plan. The Debtor estimates each monthly payment to be approximately \$14,069.49. The first monthly payment of principal and interest will be due on the Effective Date and shall continue monthly thereafter until the Allowed Secured Claim of the Class 1 creditor is paid in full. The Debtor shall be entitled to sell and substitute Personal Property collateral of equal value in the ordinary course of business such as the

sale of cull cows, bull heifers, or equipment. Any proceeds realized from a sale of the Debtor's Real Property shall be paid to the Class 1 creditor. The Debtor does not acknowledge the validity of the Class 1 creditor's claim of a security interest in cow rental proceeds and reserves the right to litigate this issue. Upon payment in full, the lien(s) of the Class 1 creditor recorded against the Debtor's Assets shall be released and the Debtor shall own its Assets free and clear of the liens of the Class 1 creditor.

(2) Class 2. Allowed Unsecured Claims. Class 2 is impaired under the Plan and can vote on the Plan. Class 2 consists of the holders of Allowed Unsecured Claims. The Debtor estimates total unsecured claims in Class 2 to be equal to approximately \$64,633. The holders of Allowed Unsecured Claims in Class 2 shall be paid in full with interest at 1% per annum calculated from the Effective Date by receiving five (5) equal annual payments of approximately \$13,317 each with interest distributed on a Pro Rata basis with the first annual payment of \$13,317 with interest due on the first anniversary of the Effective Date and continuing annually thereafter for four (4) additional annual payments of \$13,317 with interest. Each annual payment shall be equal to one-fifth (1/5) of the total amount of allowed unsecured claims in Class 2. Payments to the members of Class 2 shall be in full and final satisfaction of the Allowed Unsecured Claims of the Class 2 creditors.

Allowed unsecured claims include: unsecured claims listed by the Debtor on its bankruptcy schedules that are not listed as "disputed, contingent or unliquidated" and proofs of claim filed by the Debtor's creditors to which the Debtor does not object.

A detailed breakdown of Class 2 unsecured creditor claims is attached hereto as Exhibit "B".

(3) Class 3. Equity Interest. Class 3 is impaired under the Plan and can vote on the Plan. Class 3 consists of the pre-petition equitable interest of Marylu Smith-Dischner in the Debtor. Ms. Smith-Dischner owns a 100% equitable interest in the Debtor. The pre-petition equitable interest in the Debtor shall be retained by the holder thereof following entry of the Confirmation Order and shall be subject to the terms and conditions of the Plan.

IX. PAYMENT OF UNCLASSIFIED ALLOWED CHAPTER 11 ADMINISTRATIVE EXPENSES AND ALLOWED UNSECURED PRIORITY CLAIMS

Payment of allowed Chapter 11 Administrative Expenses and allowed Unsecured Priority Claims not classified under the Plan will be paid as follows under the Debtor's proposed Plan:

Administrative Expenses. Chapter 11 Administrative Expenses are identified as follows:

- (a) Counsel (Weinman & Associates, P.C.) employed to represent the Debtor in the within bankruptcy proceeding;
- (b) Special Counsel (Allen, Vellone, Wolf, Helfrich & Factor, P.C.) employed to represent the Debtor in the within bankruptcy proceeding;
- (c) Fees required to be paid to the U.S. Trustee pursuant to 28 U.S.C. §1930; and
- (d) Post-petition fees and expenses, including taxes, incurred by the Debtor's bankruptcy estate in the ordinary operation and management of the Debtor's business and/or financial affairs.

The holders of allowed expenses in Paragraphs (a) and (b) shall submit their requests for payment to the Court and the Debtor shall pay such Allowed Chapter 11 Administrative Expenses only upon approval by and in the amount allowed by the Court. The Debtor believes that it may owe Weinman & Associates, P.C. \$10,000; and Allen, Vellone, Wolf, Helfrich & Factor, P.C. \$10,000 for services performed through the conclusion of the Chapter 11 case.

The holders of allowed expenses in Paragraphs (a) and (b) above shall be paid the allowed amounts of their unpaid Chapter 11 Administrative Expenses on the Effective Date of the Plan provided the Court has entered final, non-appealable orders allowing such Administrative Expenses or as may be otherwise agreed to by these Administrative Claimants and the Debtor.

U.S. Trustee fees required to be paid pursuant to 28 U.S.C. §1930 identified in Paragraph (c) above shall be timely paid until such time as the within Chapter 11 case is dismissed, converted or closed by order of the Bankruptcy Court. The Debtor estimates that it may owe the U.S. Trustee \$0.00 for unpaid quarterly fees calculated based upon its previous disbursements to its secured and unsecured creditors with allowed claims.

Fees and other expenses identified in Paragraph (d) above (ordinary course expenses) shall be paid pursuant to the terms of any agreement and/or in the ordinary course of the Debtor's business and/or financial affairs according to ordinary business terms. Any unpaid post-petition taxes owing by the Debtor's bankruptcy estate will be paid in full on or before the Effective Date of the Plan.

Allowed Unsecured Priority Claims of Taxing Authorities

Any Allowed Unsecured Priority Claim of any taxing authority will be paid in full to such taxing authority with appropriate interest on the Effective Date. The IRS has filed a Proof of Claim asserting that it is owed \$200 as an unsecured priority claim. If owed, the IRS claim will be paid in full with appropriate interest.

X. MEANS FOR IMPLEMENTATION OF THE PLAN

Upon confirmation of the Plan, the Reorganized Debtor will implement its Plan as follows:

- (a) Upon entry of the Confirmation Order, the Estate's Assets shall be transferred to the Reorganized Debtor.
- (b) The Reorganized Debtor will continue to operate its business following entry of the Confirmation Order.
- (c) The Reorganized Debtor will pay creditor classes established under the Plan. The Reorganized Debtor will appoint Marylu Smith-Dischner to implement the provisions of the Confirmed Plan. Marylu Smith-Dischner will not be compensated for her services in implementing the provisions of the Confirmed Plan. Ms. Smith-Dischner will be compensated for operating and managing the Debtor's business.
- (d) The Reorganized Debtor will pay the holders of allowed Chapter 11 Administrative Expenses, except for the U.S. Trustee, on the Effective Date of the Plan unless otherwise agreed to between these parties and the Reorganized Debtor, or as otherwise provided for in the Plan.

(e) Objections to Claims:

- (1) The Reorganized Debtor shall object, when appropriate to any administrative expense, secured or unsecured claim.
- (2) The Reorganized Debtor shall bring any preference or fraudulent conveyance claims as appropriate.
- (3) The Reorganized Debtor will review all Proofs of Claim filed in its case and may or may not object to the allowability of such claims.

(f) Payment of Allowed Claims and Administrative Expenses Under the Plan.

The Reorganized Debtor shall make payments to creditors and administrative expense claimants as provided for under the terms of the Plan. Payments under the Plan shall be made by check and shall be mailed to each creditor and/or administrative expense claimant with an allowed claim at the address set forth in the Reorganized Debtor's Statements and Schedules filed with the Court or as set forth in any Proof of Claim, other pleading or change of address notification, etc. filed with the Court.

- (g) Unclaimed Distributions. For a period of one year following the date a payment is due under the Plan, the Reorganized Debtor shall retain in a reserve account for issuance any unclaimed distributions for the benefit of the holders of allowed claims and/or administrative expenses which have failed to claim such distributions. Following the one year period after such distributions are due, the holders of allowed claims or allowed administrative expenses theretofore entitled to such distributions held in such reserve

account shall be distributed to the holders of allowed claims as provided for under the terms of the Plan.

XI. UNEXPIRED EXECUTORY CONTRACTS AND LEASES

The following leases shall be deemed assumed upon Confirmation of the Plan unless assumed prior thereto:

- (a) Leases wherein the Debtor is the Lessor:
 - (1) Written Cow Rent Agreement dated April 26, 2011, for a term of three (3) years , with automatic 1-year extensions unless terminated in writing. Lessee is Seiber Dairy. Sliding rental payments from \$10 per head per month to \$50 per head per month.
 - (2) Written Cow Lease Agreement dated March 19, 2014, for a term of four (4) years with automatic 1-year extensions unless terminated in writing. Lessee is Pickert Dairy. Rental payments are \$25 per head per month for all dairy cows and springers.
 - (3) Written Land Lease for irrigated and dryland farm land. Term is for three (3) years. Lessee is AB Farms.
 - (4) Verbal land lease commencing in 2015 for a term of three (3) years to be renewed in the spring of 2018. Payment in the amount of \$10,500 per year is due annually. Lessee is Cunningham, LLC.

- (5) Verbal grass lease on a year to year basis with Clayton Roundtree as lessee. Annual payment is \$5,000.00.
 - (6) Verbal grass lease on a year to year basis with Jim and Linda Kinnison as lessee. Annual payment is \$10,000.00.
- (b) Lease wherein the Debtor is the Lessee:
 - (1) Verbal shop equipment lease with Marylu Smith-Dischner. Ms. Smith-Dischner owns certain shop equipment which the Debtor uses in its day-to-day operations. The Debtor pays rental payments of approximately \$1,029 per month in lieu of paying Ms. Smith-Dischner a monthly draw.
- (c) All unexpired executory contracts and/or leases of the Debtor neither assumed pursuant to the Plan nor pursuant to an order of the Court prior to confirmation of the Plan shall be deemed to have been rejected upon confirmation of the Plan. These unexpired executory contracts and/or leases are at this time identified as follows: None.

XII. MISCELLANEOUS PROVISIONS OF THE REORGANIZED DEBTOR'S PLAN

Procedures for Resolving Contested Matters:

- (a) The Reorganized Debtor's objections to claims shall be filed with the Court and shall be served on the holder of each of the claims to which objections are filed by no later than 180 days after the Effective Date. The Reorganized Debtor shall litigate to judgment, settle or withdraw objections to all such Disputed Claims; and

- (b) No payments or distributions shall be made under the Confirmed Plan with respect to all or any portion of a Disputed Claim or Administrative Expense unless and until all objections to such Disputed Claim or Administrative Expense have been determined by Final Order of the Court. Payments and distributions to holders of Disputed Claims or Administrative Expenses under the Confirmed Plan, to the extent such become Allowed Claims or Administrative Expenses, shall be made in accordance with the provisions of this Plan.

Compromise and Settlement of Claims and/or Disputes: The Reorganized Debtor shall be authorized to compromise and settle any claim and/or dispute which it may have against any entity or which may have been brought by any entity against the Reorganized Debtor. Any such compromise or settlement shall be subject to approval by the Bankruptcy Court after notice and opportunity for hearing as provided for pursuant to Rule 9013 of the Local Rules of Bankruptcy Procedure for the United States Bankruptcy Court for the District of Colorado, unless otherwise ordered by the Court.

Provisions for Execution and Supervision of the Plan: Retention of Jurisdiction:

The Court shall retain and have exclusive jurisdiction over the Chapter 11 case for the following purposes to the extent authorized by the Bankruptcy Code ("Code"):

- (1) To determine any and all objections to the allowance of claims;
- (2) To determine any and all applications for allowances of compensation and reimbursement of expenses and any other fees and expenses authorized to be paid or reimbursed under the Code or the Plan;

- (3) To determine any applications pending on the Effective Date of the Plan for the rejection or assumption of executory contracts or unexpired leases for the assumption and assignment, as the case may be, of those executory contracts or unexpired leases to which the Reorganized Debtor is a party or with respect to which the Reorganized Debtor may be liable, and to hear and determine, and if need be, to liquidate any and all claims arising therefrom;
- (4) To determine any and all applications, adversary proceedings and contested or litigated matters that may be pending on the Effective Date of the Plan;
- (5) To consider any modifications of the Plan, remedy any defect or omission or reconcile any inconsistency in any Order of the Bankruptcy Court, including the Confirmation Order;
- (6) To determine all controversies, suits and disputes that may arise in connection with or interpretation, enforcement or consummation of the Plan;
- (7) To consider and act on the compromise and settlement of any claim or cause of action by or against the Reorganized Debtor's Estate;
- (8) To resolve any pending disputes regarding the Reorganized Debtor's interest in its Assets;
- (9) To issue orders in aid of execution of the Plan to the extent authorized by 11 U.S.C. §1142 of the Code; and

- (10) To determine such other matters as may be set forth in the Confirmation Order or as may arise in connection with the Plan or the Confirmation Order.

The Plan may be amended by the Reorganized Debtor before or after the Confirmation Date as provided in 11 U.S.C. §1127 of the Code.

Payment of Fees Pursuant to 11 U.S.C. §1129(12): All fees required to be paid by 28 U.S.C. §1930 will be paid as required therein until such time as the within Chapter 11 case is dismissed, converted or closed by order of the Bankruptcy Court. The Reorganized Debtor shall file quarterly post-confirmation reports until the case is closed, dismissed or converted to a case under Chapter 7 of the Bankruptcy Code.

Modification of Payment Terms: The treatment of any Allowed Claim may be modified or reduced at any time after the Confirmation Date upon the consent of the creditor whose Allowed Claim treatment is being modified.

Retention of Liens: Except as may be otherwise provided for in this Plan, creditors whose allowed claims are secured by lien(s) against the Reorganized Debtor's Assets or otherwise claim an interest in such Assets shall retain such liens to the extent of its allowed secured claims and in the same priority as its pre-petition liens or, shall retain its interest in such Assets to the same extent and in the same priority as its pre-petition interests in such Assets.

Debtor's Assets: Except as provided for in the Plan or in the Confirmation Order, upon Confirmation of the Plan, the Reorganized Debtor shall be vested with full ownership of and dominion over its Assets free and clear of all claims, liens, charges and other

interests of creditors arising prior to the filing of the bankruptcy petition and except as otherwise provided in the Plan.

Final Report: The Reorganized Debtor will file a Final Report and seek to obtain a Final Decree administratively closing its Chapter 11 proceeding within 180 days of the Effective Date.

Default: In the event of a default by the Reorganized Debtor with respect to payments to creditors under its Plan, such creditors shall be entitled to take action to collect the amount owed under the Plan with whatever collection remedies they normally would have available when payments to such creditors are not made as scheduled were this case not in bankruptcy. The creditors shall give the Reorganized Debtor written notice of any default and the Reorganized Debtor shall have ten (10) calendar days to cure such default. Any failure to act on any default or acceptance of late payments will not act as a waiver by the creditor to act on further defaults.

XIII. RISK FACTORS

Several factors could adversely affect the Reorganized Debtor following confirmation which in turn could impact the Reorganized Debtor's performance under its Plan. These factors may include the following:

- (1) The Bankruptcy Court may deny confirmation of the proposed Plan.
- (2) The Bankruptcy Court may not confirm the Reorganized Debtor's Plan as projected and the Effective Date of the Plan may not occur on or before August 1, 2017, which could delay the distributions to the various creditor classes under the Plan.
- (3) The Debtor may not generate sufficient income to pay its creditors as provided for under its Plan. The Debtor believes this to be highly unlikely. The Debtor has

prepared financial projections which are attached hereto as Exhibit "C", which the Debtor believes establishes the Debtor's ability to fund its confirmed Plan.

XIV. EFFECT OF CONFIRMATION OF THE PLAN ON DEBTOR AND CREDITORS

The terms of the confirmed Plan will bind the Reorganized Debtor and all of its creditors with respect to the re-payment of claims provided for in the Plan whether or not the holders of such claims vote to accept the Plan.

XV. COMPARISON OF PLAN TO LIQUIDATION UNDER CHAPTER 7 OF THE BANKRUPTCY CODE

The Debtor projects that under its Plan, the Debtor's general unsecured creditors (with allowed unsecured claims) in Class 2 will realize a return of 100% of their allowed unsecured claims with interest (See Exhibit "B"). The Debtor estimates that liquidation under Chapter 7 of the Bankruptcy Code would result in a payment of 100% to general unsecured creditors with allowed unsecured claims (See Exhibit "D").

Under Chapter 7 of the Bankruptcy Code, a trustee would be appointed to liquidate Debtor's Assets. The Debtor's Assets are encumbered by valid liens. The value of the Debtor's Assets would be discounted in a forced liquidation and there would be costs associated with the sale of such Assets. Although the Debtor believes that there would be Assets available to pay Chapter 7 administrative expenses, allowed Chapter 11 administrative expenses, allowed unsecured priority claims and general unsecured claims, the Debtor's business would cease operations which would most likely have a negative impact on the local economy. A liquidation analysis is attached hereto as Exhibit "D".

XVI. BEST INTEREST OF CREDITORS

The Bankruptcy Code provides that in order to confirm its Plan of Reorganization, Debtor must satisfy the “best interest of creditors test”. Simply stated, this test requires that each holder of an impaired claim or interest must either vote to accept Debtor’s Plan or receive what such holder would receive in a hypothetical Chapter 7 liquidation under the Bankruptcy Code.

Debtor’s proposed Plan meets this requirement of the Bankruptcy Code since each creditor of the Debtor will receive at least as much, if not more (allowed secured claimant projected to receive 100% amount of allowed secured claim with interest, unsecured creditors projected to receive 100% of claims) than they would receive in a Chapter 7 liquidation case (where unsecured creditors are projected to receive 100% on allowed unsecured claims). A liquidation analysis is attached hereto as Exhibit “D”.

XVII. CRAMDOWN UNDER THE PLAN

If an impaired class does not accept the Plan, the Plan can be “crammed down” or forced on such class upon a showing that the Plan is “fair and equitable”. The concept of cramdown of Debtor’s Plan is best summarized as follows: If a holder of a secured claim objects to confirmation of the Plan, the Plan may be confirmed over such objection if: (1) the creditor retains the lien on the collateral to the extent of the value of the collateral and (2) the creditor is paid with interest over the life of the Plan the amount of the allowed secured claim. If an unsecured creditor objects to the Plan, the Plan may be confirmed over that objection if: (1) the unsecured creditor is receiving under the Plan at least what it would receive in a Chapter 7 liquidation, and (2) the holders of any claims or interest junior to the unsecured creditor (i.e., equitable interests in the Debtor), will receive nothing

until unsecured creditors are paid in full. This rule is known as the “absolute priority rule” in bankruptcy. It is the opinion of the Debtor that with respect to its secured creditor with allowed claims, its proposed Plan is fair and equitable since such creditor will retain its security interests securing the allowed amount of its claims and will be paid the allowed amount of its secured claim with interest. With respect to Debtor’s unsecured creditors, Debtor believes that it will also meet the fair and equitable test. It is estimated by the Debtor that unsecured creditors will receive 100% repayment on their allowed unsecured claims plus interest. The holder of the equitable interest in the Debtor, the Debtor’s principal, will retain her equitable pre-petition interest in the Debtor after the Effective Date of the Plan. As such, the Plan does not violate the absolute priority rule.

XVIII. FEDERAL TAX CONSEQUENCES OF THE CONFIRMED PLAN

The Debtor knows of no adverse federal tax consequences which will occur upon confirmation of the Debtor’s Plan. However, creditors should consult with their own tax advisor concerning the effect of confirmation of the Plan on its individual circumstances.

XIX. RECOMMENDATION

The Debtor urges you to complete and sign the enclosed ballot, and vote in favor of its Plan before the deadline established by the Court in its Order or Notice which is enclosed with this Plan.

SMITH FARM, LLC,
DEBTOR-IN-POSSESSION

/s/ Marylu Smith-Dischner
Manager

Respectfully submitted,

WEINMAN & ASSOCIATES, P.C.

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