

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF IDAHO

In re:	)	
	)	Case No.: 17-00450-TLM
FARMERS GRAIN, LLC,	)	
	)	(Chapter 11)
Debtor.	)	
	)	
_____	)	

**CONTINUING ORDER AUTHORIZING USE OF CASH COLLATERAL AND  
GRANTING ADEQUATE PROTECTION AND ADEQUATE PROTECTION LIENS**

This matter having come before the Court on the “Revised Emergency and Continuing Motion for Authorization to Use Cash Collateral”, Docket No. 38 (the “Motion”) filed by Farmers Grain, LLC (“Debtor”); and

The Motion having come before the Court for a final hearing on June 12, 2017 at 1:30 p.m. MDT (the “Hearing”); and

Matt Christensen appeared at the Hearing on behalf of Debtor; Ron Kerl appeared at the hearing on behalf of Rabo AgriFinance, Inc.; Mary Kimmel appeared at the hearing on behalf of the Acting United States Trustee; D. Blair Clark and Jeffrey Kaufman appeared at the hearing on behalf of DC Land and Ken Jensen Farms; Lloyd Saunders appeared at the hearing on his own behalf and Mike Hartley appeared at the hearing on his own behalf; and

Good cause appearing therefor, it is

ORDERED, AND DECREED:

1. The Motion is granted to the extent set forth herein.
2. Debtor is authorized for the continuing use of Cash Collateral (as defined in 11 U.S.C. § 363(a)) on the terms and subject to the conditions set forth in this Order for the period

from June 12, 2017 through and including October 31, 2017. Specifically, the Debtor shall use cash collateral for the items listed herein and on the attached **Exhibit A**.

3. The Debtor shall allowed to pay pre-petition grain producer creditor claims for those grain producers holding valid secured liens on the grain, as those payments become due. Payments shall only be made to these producers if their claims remain secured at the time of payment. Specifically, the Debtor is authorized to pay the following payments in the following estimated amounts (for those payments that have actually been made, the “actual amount” column lists the actual allowed payment):

<b>Producer Name</b>	<b>Estimated Amount</b>	<b>Actual Amount (if Known)</b>	<b>Due Date</b>
Allen Schmid	\$2,840.03	\$2,631.36	None
Bruce Cruickshank	\$137,398.80		July 2017
Bruce Cruickshank	\$1,191.21		None
Chris Unruh (TC62 contract)	\$81,827.55		May 2017
Chris Unruh (TC78 contract)	\$99,801.96		May 2017
Chris Unruh (C95A contract)	\$42,764.76		July 2017
Chris Unruh (C95B contract)	\$43,617.82		July 2017
Chris Unruh (C95C contract)	\$44,800.00		July 2017
Chris Unruh (C106 contract)	\$88,408.04		April 2017
Chris Unruh (C107 contract)	\$42,583.84		April 2017

Daryl Eldred	\$58,420.33		None
DC Land	\$173,317.28	\$194,531.49	June 2017
Doug Stipe	\$57,204.24	\$57,204.24	May 2017
Harlen Garner	\$15,965.92	\$15,965.92	May 2017
Jensen Farms	\$611.59		None
JLJ Farms	\$190,841.00	\$190,841.00	June 2017
Roger Lang	\$36,456.96		None
Wagster Farms	\$585.43	\$585.43	June 2017

4. During this period, the Debtor shall not expend Cash Collateral: (a) for any purpose other than those specified in the Budget or this Order; or (b) in amounts in excess of the total amount of any line item in the Budget; provided, however, Debtor may exceed the monthly amount for a line item expense by not more than 10% so long as the total expenditures for all budgeted line items do not exceed the total budgeted expense set forth in the Budget.

5. In an effort to provide creditors with adequate protection for the Debtor's use of Cash Collateral and the use of those creditors' other collateral:

A. All grain producer creditors with valid pre-petition liens (as identified on Exhibit 1 at the hearing as "secured") are hereby granted a post-petition adequate protection lien in all grain and proceeds thereof. In addition, any grain producer creditors later determined by the court to be secured (but currently listed on hearing Exhibit 1 as "unsecured") are granted a post-petition adequate protection lien in all grain and proceeds thereof. This grant of a lien is only to the extent of Cash Collateral used by the Debtor.

B. Rabo is hereby granted adequate protection liens (the “Adequate Protection Liens”), in all farm products, inventory, accounts, equipment, general intangibles, hedging agreements, the motor vehicles described in Part 8 of the Debtor’s Schedule A/B and real estate described in Part 9 of the Debtor’s Schedule A/B, and the products and proceeds thereof which may be acquired by the Debtor after the Petition Date. The grant of a lien is only to the extent of Cash Collateral used by the Debtor. Further, the post-petition adequate protection lien on the vehicles and real estate (described in Part 8 and Part 9 of Debtor’s Schedule A/B) is granted only to the extent Rabo’s Petition Date security position in the remaining assets (in which Rabo held a pre-petition lien) is otherwise decreased or impaired by the Debtor’s use of Cash Collateral, taking into account the value of the remaining collateral, the pre-petition producer liens held by applicable grain producers, and all Adequate Protection Payments made to Rabo.

C. The Adequate Protection Liens shall be for the purpose of providing creditors with adequate protection for their interest in Cash Collateral and for the purpose of securing the repayment of the Cash Collateral used by the Debtor from and after the Petition Date. Except for the adequate protection liens in Debtor’s motor vehicles and real estate granted to Rabo, the extent, validity and priority of the creditors’ Adequate Protection Liens shall be the same as the extent, validity and priority of their pre-petition security interests in Debtor’s property.

D. The Adequate Protection Liens shall be, and they hereby are, declared to be valid and perfected without the need for the execution, recording or filing of any further document or instrument or the taking of any further act otherwise required under non-bankruptcy law. Notwithstanding the foregoing, any creditor shall be entitled to take, if it chooses, any and all steps advisable or necessary to perfect its security interests in accordance with non-

bankruptcy law. Debtor shall execute such agreements and instruments in that regard as are reasonably requested by said creditor.

E. The Debtor shall pay Rabo the sum of \$100,000.00 monthly as an Adequate Protection Payment, beginning on June 1, 2017 and continuing on the first day of each succeeding month thereafter until the Cash Collateral used by the Debtor is paid in full to Rabo, until the Adequate Protection Payment is modified by order of the U.S. Bankruptcy Court, until a Final Order Authorizing the Use of Cash Collateral is entered by the Court, or until a Chapter 11 Plan is confirmed by the Court.

F. To the extent the following is not already included in a Monthly Operating Report filed by the Debtor, the Debtor shall provide Rabo's counsel, by fax, ECF Notice or e-mail, the following financial information and reports:

- i. A report specifying for each line item of the Budgets the actual receipts and payments made during the Applicable Period;
- ii. All income or other receipts during the Applicable Period separately setting forth the source of the income and the amount attributable to such source;
- iii. Copies of all bank statements for the Applicable Period (including copies of checks, if provided by the Debtor's bank with the bank statements);
- iv. A monthly position report which outlines the Debtor's current hedging position of the grain that is in inventory.

G. The Debtor shall also include, as part of its monthly report filed with the court each month, a report showing the previous-month's grain purchases, and indicating whether the previous-month's grain purchases were paid-for during the previous month, or whether the grain producer elected to receive payment later. In the case of an election to receive payment later, the

Debtor shall indicate whether, and to what extent, that grain producer waived any lien claim it may have in the unpaid-for grain. In the event the grain producer did not waive any lien claim, the Debtor shall indicate the type and quantity of the grain purchased, the estimated value of the grain, and where and how it is segregated from the Debtor's paid-for grain.

H. The Debtor shall not propose granting a security interest in the Cash Collateral to any person, firm or entity except for statutory liens and liens approved by the Court and granted to Rabo. Nothing herein, however, shall restrict statutory lienholders from perfecting their liens.

I. The Debtor shall allow a creditor the right to inspect its collateral at any reasonable time of the creditor's choosing, and will cooperate with the creditor in the appraisal of the creditor's collateral, including the motor vehicles disclosed in Debtor's Schedules (Part 8) having a fair market value of \$1,184,093.38 and real estate disclosed in Debtor's Schedules (Part 9) having a fair market value of \$4,131,899.56. In the event any creditor acquires an appraisal of that creditor's collateral (including the vehicles and real estate), the creditor shall provide a copy of the appraisal(s) to the Debtor within five (5) days of the creditor's receipt of the appraisal.

J. Upon request, the Debtor shall provide a creditor with proof of adequate insurance coverage for its collateral, the Cash Collateral, Debtor's motor vehicles and real estate, and the Debtor's business operations.

K. With regard to those grain producer creditors listed on hearing Exhibit 1 as "unsecured", the Debtor has filed an adversary proceeding to determine the secured vs. unsecured status of those creditors (Adversary Case No. 17-06018-TLM). While said adversary proceeding is pending, the Debtor shall deposit in a separate Debtor-in-Possession checking account \$500,000.00 in June 2017, and \$300,000.00 each month thereafter until a sufficient

amount has been deposited to pay all potential claims of the grain producer defendants in the adversary proceeding. Those funds shall not be used for any purpose, but shall remain in the segregated bank account pending further order of this Court.

6. Nothing in this Order shall prevent or prejudice a creditor from requesting the Court, on an emergency basis or otherwise, to terminate the use of Cash Collateral prior to October 31, 2017, or from seeking any other relief including, without limitation, stay relief or dismissal or conversion of this case.

7. Debtor's authorization to use Cash Collateral under this Order shall terminate on October 31, 2017, unless extended by an order of the Court. Provided, however, the terms and conditions of this Order and the rights and adequate protection provided in this Order shall remain binding, valid and in full force and effect as to the Cash Collateral and other collateral used by the Debtor during the term of this Order irrespective of whether:

A. A further order authorizing the continued use of Cash Collateral is entered; or

B. This bankruptcy case is dismissed or converted to a bankruptcy case under a different chapter. The terms and conditions of this Order and the rights and adequate protection provided in this Order shall remain binding, valid and in full force and effect as to any successor bankruptcy trustee.

8. Debtor's authorization to use Cash Collateral shall terminate immediately upon:

A. The conversion of this case to a proceeding under Chapter 7; or

B. Dismissal of this bankruptcy case.

9. This Order is effective on June 12, 2017, and the Debtor is authorized to use Cash Collateral effective immediately in accordance with the terms of this Order notwithstanding a delay in the entry of the Order.

//end of text//

DATED: June 26, 2017



A handwritten signature in black ink, reading "Terry L. Myers".

TERRY L. MYERS  
CHIEF U. S. BANKRUPTCY JUDGE

Order submitted by:

Matthew T. Christensen, attorney for the Debtor

Approved as to form and content by:

/s/Ron Kerl (email approval 6/20/17)  
Ron Kerl, attorney for Rabo AgriFinance, Inc.

Approved as to form and content by:

/s/ D. Blair Clark (email approval 6/22/17)  
D. Blair Clark, attorney for DC Land and Ken Jensen Farms

Approved as to form by:

/s/ Mary Kimmel (email approval 6/21/17)  
Mary Kimmel, attorney for the Acting US Trustee



**Exhibit A**  
**Cash Collateral Budget**

	<b>Jun-17</b>	<b>Jul-17</b>	<b>Aug-17</b>	<b>Sep-17</b>	<b>Oct-17</b>
<b>INCOME</b>					
Hedging income (basis) only	\$0.00	\$0.00	\$0.00	\$0.00	\$235,600.00
Barley				\$2,200.00	
Grain drying	\$587.00	\$73.00	\$105.00	\$126.00	\$642.00
Custom work	\$495.00	\$233.00	\$220.00	\$948.00	\$83.00
Ground corn	\$1,732,500.00	\$1,757,000.00	\$1,771,000.00	\$1,606,400.00	\$1,947,500.00
Grinding and hauling for Lansing	\$8,640.00	\$8,640.00	\$8,640.00	\$34,560.00	\$34,560.00
Trucking	\$6,511.00	\$6,511.00	\$6,511.00	\$6,511.00	\$6,511.00
Wheat	\$99,066.66	\$96,650.00	\$1,100,970.00	\$3,880,018.00	\$1,632,862.00
Storage	\$4,363.00		\$0.00	\$300.00	\$2,467.00
Other	\$582.00	\$582.00	\$582.00	\$582.00	\$582.00
<b>TOTAL INCOME</b>	<b>\$1,852,744.66</b>	<b>\$1,869,689.00</b>	<b>\$2,888,028.00</b>	<b>\$5,531,645.00</b>	<b>\$3,860,807.00</b>
<b>EXPENSES</b>					
Corn purchases	\$544,700.00	\$987,800.00	\$1,481,700.00	\$1,808,055.65	\$0.00
Wheat purchases		\$0.00	\$871,588.00	\$3,498,700.00	\$1,867,212.00
Hedging cost	\$3,500.00	\$3,500.00	\$3,500.00	\$3,500.00	\$3,500.00
Rabo payments	\$100,000.00	\$100,000.00	\$100,000.00	\$100,000.00	\$100,000.00
Set-aside for secured 2016 growers	\$500,000.00	\$300,000.00	\$300,000.00	\$300,000.00	\$300,000.00
Bank Service charge	\$350.00	\$350.00	\$350.00	\$350.00	\$350.00
Vehicle expenses	\$270.00	\$450.00	\$450.00	\$450.00	\$450.00
Dues & Subscriptions	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00
Equip rent	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Frt & Trucking	\$2,100.00	\$125,158.00	\$670,450.00	\$255,642.00	\$22,750.00
Gas & Oil	\$15,000.00	\$25,000.00	\$25,000.00	\$25,000.00	\$25,000.00
HVUT		\$5,000.00			
Workers Comp	\$720.00	\$1,200.00	\$1,200.00	\$1,200.00	\$1,200.00
Other insurance	\$2,640.00	\$20,000.00	\$4,400.00	\$4,400.00	\$4,400.00
License and permits	\$6,500.00	\$6,500.00	\$1,000.00	\$1,000.00	\$4,000.00
Meals & Ent	\$200.00	\$200.00	\$200.00	\$200.00	\$200.00
Office Supplies	\$1,200.00	\$2,000.00	\$2,000.00	\$2,000.00	\$2,000.00
Payroll expenses	\$0.00	\$80,000.00	\$80,000.00	\$80,000.00	\$80,000.00

Payroll Taxes	\$0.00	\$8,000.00	\$8,000.00	\$8,000.00	\$8,000.00
Postage	\$156.00	\$260.00	\$260.00	\$260.00	\$260.00
Professional fees	\$4,500.00	\$3,300.00	\$3,300.00	\$3,200.00	\$3,200.00
Property tax	\$8,000.00	\$8,000.00	\$8,000.00	\$8,000.00	\$8,000.00
Railroad rent	\$4,100.00				
Other rent		\$30,000.00	\$30,000.00		\$170.00
Repairs	\$9,000.00	\$30,000.00	\$9,000.00	\$15,000.00	\$20,000.00
Small tools	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00
Ground storage			\$25,000.00		
Supplies	\$2,400.00	\$1,700.00	\$2,700.00	\$1,300.00	\$1,600.00
Telephone	\$480.00	\$800.00	\$800.00	\$800.00	\$800.00
Travel	\$916.00	\$916.00	\$916.00	\$916.00	\$916.00
Truck tire	\$3,600.00	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00
Utilities	\$6,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$20,000.00
Wheat Assessment	\$0.00	\$0.00	\$500.00	\$1,000.00	\$21,000.00
UST fees	\$4,333.34	\$4,333.34	\$4,333.34	\$4,333.34	\$4,333.34
TOTAL EXPENSES	\$1,223,165.34	\$1,762,967.34	\$3,653,147.34	\$6,141,806.99	\$2,507,841.34
NET INCOME	\$629,579.32	\$106,721.66	-\$765,119.34	-\$610,161.99	\$1,352,965.66
				Overall Net Income	\$713,985.31