

So Ordered.

Dated: March 9th, 2017



*Frederick P. Corbit*

Frederick P. Corbit  
Bankruptcy Judge

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF WASHINGTON**

IN RE:

TATOES, LLC  
WAHLUKE PRODUCE, INC.  
COLUMBIA MANUFACTURING,  
INC., d/b/a/ COLUMBIA ONION,

Debtors.

Case No. 16-00900-FPC11  
Case No. 16-00899-FPC11  
Case No. 16-00898-FPC11

**ORDER APPROVING USE OF  
CASH COLLATERAL  
THROUGH APRIL 30, 2017**



411 North 2nd St.  
Yakima, Washington, 98901

ORDER AUTHORIZING

1 This matter came before the Court on March 9, 2017 for an interim  
2 hearing on the *Motion for an Order (a) Authorizing Use of Cash Collateral*  
3 *through April 30, 2017* (the “**Cash Collateral Motion**”) filed separately by  
4 Tatoes, LLC (“**Tatoes**”), Wahluke Produce, Inc. (“**Wahluke**”), and Columbia  
5 Manufacturing, Inc., dba Columbia Onion (“**Columbia**” and, collectively with  
6 Tatoes and Wahluke, the “**Debtors**”) in each of the above-entitled Chapter 11  
7 cases (the “**Cases**”).  
8  
9  
10  
11  
12

13 The following appearances were made at the hearing: (a) Roger Bailey  
14 and Josh Busey for Debtor Wahluke; Paul Williams for Debtor Tatoes; James  
15 Hurley for Debtor Columbia; (b) Bruce Medeiros and Michael Johnson for  
16 Rabo AgriFinance LLC (“**RAF**”); (c) Jim Perkins for the United States  
17 Trustee; (d) Tom Bassett for Saddle Mountain Supply Company and Deere  
18 Credit, Inc.; and (e) Kevin O’Rourke for the Unsecured Creditors Committee  
19 in the Tatoes, LLC case.  
20  
21  
22  
23  
24  
25

26 In making its ruling on the Cash Collateral Motion, the Court reviewed  
27 the pleadings filed in the Cases, received proffered evidence and testimony,  
28 and heard the arguments and stipulations of counsel. Based upon the  
29  
30  
31  
32  
33  
34



411 North 2<sup>nd</sup> St.  
Yakima, Washington, 98901

1 foregoing, and good cause appearing therefore, IT IS HEREBY ORDERED as  
2 follows:  
3

4 1. Notice of the Cash Collateral Motion was proper pursuant to  
5  
6 FRBP 2002 and LBR 2002-1.  
7

8 2. Except as modified by the terms of this Order, the Debtors are  
9  
10 authorized to use the 2016 crops grown by Tatoes, as well as the proceeds of  
11 the 2016 crops and the packing and sale revenues of Wahluke and Columbia  
12 arising from the packing and sale of the 2016 crops (collectively, the “**2016**  
13 **Cash Collateral**”), for the period of March 1, 2017 through April 30, 2017  
14  
15 only, pursuant to the monthly budgets (“**Monthly Budgets**”) attached hereto  
16  
17 as Exhibit 1 (Tatoes), Exhibit 2 (Wahluke) and Exhibit 3 (Columbia Onion),  
18  
19 which Monthly Budgets are cash-basis budgets and not accrual budgets or  
20  
21 some combination thereof.  
22  
23

24 3. Without limiting the foregoing, the Debtors shall be entitled  
25  
26 during the Cash Collateral Period to expend an amount for any line item in  
27  
28 their particular Monthly Budgets not to exceed one hundred five percent  
29  
30 (105%) of the amount described in the Monthly Budgets *subject to the caveat*  
31  
32 that this paragraph shall not authorize the Debtors to use a cumulative amount  
33  
34



411 North 2<sup>nd</sup> St.

Yakima, Washington, 98901

ORDER AUTHORIZING

1 of 2016 Cash Collateral, on either a monthly basis or a cumulative basis,  
2 which exceeds the amounts described in the Monthly Budgets unless further  
3 authorized by the Court after notice and a hearing. Notwithstanding the  
4 foregoing authorization, the Debtors shall not pay any amount that is due and  
5 payable for goods or services first delivered or for amounts first due prior to  
6 the March 21, 2016 Petition Date, unless further authorized by the Court  
7 pursuant to a separate written order.  
8  
9  
10  
11  
12

13 4. The Debtors' authorization to use cash collateral under this  
14 Stipulated Cash Collateral Order shall continue until the earliest to occur of  
15 April 30, 2017, or the confirmation of a Chapter 11 plan in the Debtors' Cases,  
16 and/or the dismissal or conversion of any of the Debtors cases (unless  
17 terminated at an earlier date and time or extended to a later date and time by  
18 either the unanimous written agreement of all interested parties or a  
19 subsequent order of the Court) (the "**Cash Collateral Period**") provided,  
20 however, that the terms and conditions of this Order and the rights and  
21 adequate protection provided in this Order and in any prior orders of the Court  
22 concerning the Debtors' use of cash collateral (including but not limited to all  
23 rights and adequate protection identified and granted in the Court's *Final*  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34



411 North 2<sup>nd</sup> St.

Yakima, Washington, 98901

ORDER AUTHORIZING

1 *Order Approving Use of Cash Collateral*, dated May 25, 2016 and *Final*  
2  
3 *Order Approving Use of Cash Collateral* dated November 10, 2016) shall  
4 remain binding, valid and in full force and effect as to the 2016 Cash  
5  
6 Collateral used by the Debtors irrespective of whether:

7  
8 A. A further order authorizing the continued use of 2016 Cash  
9  
10 Collateral Order is entered or, if entered, is on different terms than this Order  
11 *provided however*, that this restriction shall not prevent the Court from altering  
12  
13 the terms of the use of 2016 Cash Collateral as to amounts that have not yet  
14  
15 been used pursuant to this Order; or

16  
17 B. A Debtor's bankruptcy case is dismissed or converted to a  
18  
19 bankruptcy case under a different chapter or a Chapter 11 Trustee is appointed  
20  
21 *provided, however*, that such dismissal or conversion shall not terminate the  
22  
23 use of cash collateral with respect to any cases of any of the Debtors which are  
24  
25 not dismissed or converted. The terms and conditions of this Order and any  
26  
27 prior orders governing the use of cash collateral (including but not limited to  
28  
29 2016 Cash Collateral) and the rights and adequate protection provided in this  
30  
31 Order and any such prior orders shall remain binding, valid and in full force  
32  
33 and effect.  
34



411 North 2nd St.

Yakima, Washington, 98901

(209) 248-4882

ORDER AUTHORIZING

1           5.     Notwithstanding the foregoing, the Debtors shall not use any  
2  
3     2016 Cash Collateral for any purpose after the conclusion of the Cash  
4  
5     Collateral Period unless either (a) specifically authorized in writing by RAF  
6  
7     and any other party with an interest in the 2016 Cash Collateral, or (b)  
8  
9     specifically authorized by Order of the Court after notice and a hearing.

10           6.     During the Cash Collateral Period, and as partial adequate  
11  
12     protection to RAF, the Debtors are authorized and directed to (a) make an  
13  
14     interest only payment to RAF by no later than April 15, 2017 for the period of  
15  
16     March 1, 2017 through April 30, 2017. This interest only payments shall be  
17  
18     calculated using an interest rate of four and one-half percent (4.5%) calculated  
19  
20     based on a 360-day year, and the amount of the payments shall be calculated  
21  
22     based on the outstanding Petition Date claim amount asserted by RAF of  
23  
24     \$22,152,129.58, resulting in a per diem interest amount of \$2,769.01619 based  
25  
26     on a 360-day year as required by the RAF Loan and Security Documents.

27           7.     Subject to the terms of the Monthly Budgets, the Debtors are  
28  
29     authorized to perform their post-petition obligations pursuant to 11 U.S.C.  
30  
31     §365(d) on any existing, unexpired leases of non-residential real property and  
32  
33     on any existing, unexpired leases of personal property which were in existence  
34



411 North 2<sup>nd</sup> St.

Yakima, Washington, 98901

ORDER AUTHORIZING

1 on the date of filing pending assumption or rejection of such leases, pursuant  
2 to and as directed by 11 U.S.C. § 365(d). To the extent the Debtors assume, or  
3 are required to assume any such non-residential real property or personal  
4 property leases, the Monthly Budgets (to the extent they do not already  
5 provide for such payments) shall be amended to provide for the payment of  
6 any amounts required to be paid by the Debtors as a condition of the  
7 assumption of such leases (to the extent that the Monthly Budgets do not  
8 already contain a line item for any such possible payments), and such  
9 amended budgets shall be filed with the Court. The authorization to make  
10 lease payments granted herein shall apply only to payments on “true leases” as  
11 opposed to disguised financing or secured transactions.  
12  
13  
14  
15  
16  
17  
18  
19

20  
21 8. Subject to the terms of the Monthly Budgets, the Debtors are  
22 authorized to perform any post-petition obligations under any executory  
23 contracts to which the Debtors are parties pending assumption or rejection of  
24 such contracts. In addition, the Debtors shall be authorized to make adequate  
25 protection payments to any creditors who have obtained a Bankruptcy Court  
26 order authorizing the making of adequate protection payments. To the extent  
27 the Debtors are ordered to make such adequate protection payments, the  
28  
29  
30  
31  
32  
33  
34



411 North 2<sup>nd</sup> St.

Yakima, Washington, 98901





1 seek such Court approval on five (5) business days' notice to the parties  
2 entitled to object to the Debtors' proposed lease.  
3

4 11. Pursuant to a separate written order of the Court entered after  
5 notice and opportunity for a hearing, the Debtors are authorized to make  
6 adequate protection payments to creditors holding secured claims against the  
7 property of the Debtors in an amount that is less than or equal to the amount  
8 that would otherwise have been due to such creditors under their pre-petition  
9 loan documents. The Monthly Budgets (to the extent they do not already  
10 contain line items for such payments) shall be deemed automatically amended  
11 to provide for such payments and within five (5) business days of the Court  
12 ordering such additional payments, the Debtors shall file amended budgets  
13 with the Court setting forth such payments. Further, the Debtors shall, within  
14 three days of request by RAF, provide RAF with written proof that any  
15 adequate protection payments either consented to by RAF, or ordered by the  
16 Court, were, in fact, made by the Debtors.  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

27 12. The Debtors are authorized to make payments to estate  
28 professionals approved by the Court or pursuant to the Court's Order  
29 Approving Interim Payment of Professionals (Docket No. 118) in the Wahluke  
30  
31  
32  
33  
34



411 North 2<sup>nd</sup> St.

Yakima, Washington, 98901

ORDER AUTHORIZING

1 case, dated June 15, 2016, up to the amounts described in the Monthly  
2 Budgets.  
3

4 13. As partial adequate protection, RAF and any other party (if any)  
5 holding a valid, perfected, and unavoidable security interest or lien in the 2016  
6 Cash Collateral that has not been avoided by a final order, is hereby granted a  
7 valid, automatically perfected replacement lien against any 2017 crops grown  
8 by the Debtors, and in any products, proceeds or insurance recoveries related  
9 thereto, including but not limited to all 2017 farm products, feed, fertilizer,  
10 supplies, inventory, accounts, proceeds from crop insurance, general  
11 intangibles, and all products and proceeds thereof, for the full amount of the  
12 2016 Cash Collateral which is utilized pursuant to this Order. The replacement  
13 liens granted hereunder shall have the same validity, avoidability and priority  
14 as the security interests and liens existing against the 2016 Cash Collateral as  
15 of the date of this Order. The replacement liens granted hereunder shall be,  
16 and they hereby are, declared to be valid and perfected without the need for  
17 the execution, recording or filing of any further document or instrument or the  
18 taking of any further act otherwise required under non-bankruptcy law. Any  
19 statements or filings required to be filed to preserve or extend any lien held by  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34



411 North 2nd St.

Yakima, Washington, 98901

ORDER AUTHORIZING

1 RAF or any other party with an interest in Cash Collateral may be filed or  
2 recorded at any time during the pendency of this case without a stay relief  
3 order or otherwise seeking or obtaining the permission of the Court.  
4

5  
6 14. Nothing contained herein is intended to adjudicate the validity,  
7  
8 avoidability or priority of the security interests and liens (including the  
9  
10 replacement liens granted hereunder) in the Debtors' 2016 crops or 2017 crops  
11  
12 or the proceeds or products thereof.

13  
14 15. As additional adequate protection, during the Cash Collateral  
15  
16 Period, the Debtors shall continue to provide to RAF the following reports or  
17  
18 information on a monthly basis (collectively, the "Monthly Reports"):

19 15.1 A monthly report detailing: (a) the expenses paid by each  
20  
21 of the Debtors during the preceding month on a cash basis; (b) a comparison  
22  
23 of the actual expenses paid to the expenses estimated in the Monthly Budgets  
24  
25 for such period; (c) the quantity of 2015, 2016 and 2017 Crops (to the extent  
26  
27 in existence) held by each of the Debtors as of the end of the monthly  
28  
29 reporting period; and (d) the amount of the Debtors' outstanding accounts  
30  
31 receivables as of the end of the monthly reporting period;  
32  
33  
34



411 North 2<sup>nd</sup> St.

Yakima, Washington, 98901

ORDER AUTHORIZING

1           15.2 A monthly report detailing the beginning and ending cash  
2 balance for each of the Debtors for each reporting period.  
3

4           15.3 A monthly report listing accounts receivable for each  
5 Debtor and aging of such receivables by vendor (the report should list aging as  
6 current, 0-30 days, 31-60 days, 61-90 days and more than 90 days).  
7  
8

9           15.4 A monthly report listing separately prepetition and post-  
10 petition accounts payable for each Debtor and aging the post-petition payables  
11 by vendor (the report should list aging as current, 0-30 days, 31-60 days, 61-  
12 90 days and more than 90 days).  
13  
14  
15

16           15.5 Monthly financial statements for each Debtor, prepared by  
17 either the Debtor or CFO Selections, to include an income statement, a balance  
18 sheet, a statement of cash flows and notes to financial statements, as  
19 necessary, prepared in accordance with GAAP, subject to such deviations  
20 from GAAP as are: (a) agreed upon by the Debtors and RAF; or (b) approved  
21 by the Court, on both a cash basis and an accrual basis.  
22  
23  
24  
25  
26

27           15.6 A monthly 12-month rolling cash flow forecast, with actual  
28 results compared to the previous month's forecast.  
29  
30  
31  
32  
33  
34



411 North 2nd St.

Yakima, Washington, 98901

ORDER AUTHORIZING

1           15.7 A monthly Asset Position Report (“APR”), in a form to be  
2 submitted by RAF, which provides information concerning the Debtors’  
3 assets, and the values thereof, in a unified document as to each Debtor  
4 separately. The APR shall conform to the following reporting requirements:  
5  
6

7  
8           A. Inventory of all crops grown, harvested, stored and shipped to a  
9 Commission Agent processor shall be valued at the lower of cost or market.  
10

11           B. Crops shall be reported as inventory until a sale is completed and  
12 an invoice is generated and entered into the accounting system as an account  
13 receivable, at which time it shall be reported as an account receivable.  
14  
15

16           C. Measurement of inventory in storage will be at gross tonnage less  
17 shrinkage based on historical amounts or adjusted to reflect a greater amount  
18 based on current conditions. Amount of shrink used must be acceptable to  
19 RAF.  
20  
21

22           D. Cash invested in growing crops (“CIGC”) shall be valued based  
23 on direct crop inputs only. Overhead, debt service on leases and loans shall  
24 not be included in CIGC.  
25  
26

27           E. Accounts receivable greater than 90 days past invoice date or  
28 shipping date, whichever is earlier, shall not be eligible collateral for the APR.  
29  
30  
31  
32  
33  
34



411 North 2<sup>nd</sup> St.

Yakima, Washington, 98901

ORDER AUTHORIZING

1 F. Costs for processing by a Commission Agent shall be reported as  
2 an account payable by Tatoes and, if the Commission Agent is either Wahluke  
3 or Columbia Union, as an account receivable by the Commission Agent.  
4

5  
6 G. The APR for each Debtor shall separately identify related-party  
7 accounts receivable and accounts payable on each APR.  
8

9  
10 15.8 At the same time that the Debtors submit their Monthly  
11 Reports to RAF, the Debtors also shall submit a cumulative report, for the  
12 period from the Petition Date through the time period corresponding to the  
13 applicable Monthly Reports (i.e., from the Petition Date through October 31,  
14 2016), which sets forth: (a) the expenses paid by each of the Debtors, broken  
15 down by month, on a cash basis; (b) a comparison of the actual expenses paid  
16 to the expenses estimated in the cash collateral budgets for such time periods;  
17 (c) for each month, the quantity of 2015, 2016 and 2017 Crops (to the extent  
18 in existence) held by each of the Debtors as of the end of the monthly  
19 reporting period; (d) the amount of the Debtors' outstanding accounts  
20 receivables as of the end of the monthly reporting period (AR report should  
21 separately list AR aging as current, 0-30 days, 31-60 days, 61-90 days and  
22 over 90 days, and should identify account debtors/vendors by name); (e) the  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34



411 North 2nd St.  
Yakima, Washington, 98901

ORDER AUTHORIZING

1 amount of the Debtors' outstanding accounts payable as of the end of the  
2 monthly reporting period (AP report should separately list AP aging as  
3 current, 0-30 days, 31-60 days, 61-90 days and over 90 days, and should  
4 identify vendors owed by name); and (f) the amount of each Debtor's ending  
5 cash balance as of the last day of each month for all periods from the Petition  
6 Date forward.  
7  
8  
9  
10

11           16. The Monthly Reports shall be provided to correspond with the  
12 time periods described in the Monthly Budgets (i.e., for monthly calendar  
13 periods such as, for example, February 1 – February 28, 2017, etc.). The first  
14 Monthly Reports shall be due by the 20th day of the month following the  
15 month described in the Monthly Budgets, with subsequent reports due by the  
16 20<sup>th</sup> day of each subsequent month during the Cash Collateral Period. The  
17 Monthly Reports shall be provided to RAF and its counsel by electronic  
18 transmittal to: (a) [Justin.linderman@raboag.com](mailto:Justin.linderman@raboag.com); (b) [mjohnson@rqn.com](mailto:mjohnson@rqn.com); (c)  
19 [dmonson@rqn.com](mailto:dmonson@rqn.com); and (d) [bmedeiros@dbm-law.net](mailto:bmedeiros@dbm-law.net).  
20  
21  
22  
23  
24  
25  
26

27           The Monthly Reports shall also be transmitted, upon request, to the U.S.  
28 Trustee, counsel for any unsecured creditor's committee; and to counsel for  
29  
30  
31  
32  
33  
34



411 North 2<sup>nd</sup> St.

Yakima, Washington, 98901

ORDER AUTHORIZING

1 any other party claiming a lien or security interest in the 2016 Cash Collateral  
2 or the Debtor's 2016 or 2017 crops.  
3

4 17. As additional adequate protection, by no later than April 30,  
5 2017, the Debtors shall provide RAF with CPA-reviewed consolidated  
6 financial statements for Tatoes, Wahluke, Columbia, and non-debtor related  
7 parties U12B253, LLC, Terra Management, LLC and EZ Fixing Foods, LLC  
8 for the fiscal year ending December 31, 2016, along with a Compliant  
9 Certificate as of the end of that period. The Debtors shall be entitled to use the  
10 2016 Cash Collateral to pay the costs of preparing and providing the financial  
11 statements called for herein and the costs of preparing and providing such  
12 financial statements shall be added to the Monthly Budgets.  
13  
14  
15  
16  
17  
18  
19

20 18. As additional adequate protection, during the Cash Collateral  
21 Period, the Debtors shall provide RAF with any financial reports or tax returns  
22 prepared by either CFO Selections or the Debtors' tax accountants or any  
23 other financial professional employed by the Debtors, with such reports and  
24 returns to be delivered to RAF within three (3) business days of their delivery  
25 to the Debtors.  
26  
27  
28  
29  
30  
31  
32  
33  
34



411 North 2<sup>nd</sup> St.  
Yakima, Washington, 98901

ORDER AUTHORIZING



1 19. As additional adequate protection for the use of 2016 Cash  
2 Collateral authorized hereunder, the Debtors shall provide bi-monthly written  
3 reports (the “**Input Reports**”) to RAF, Saddle Mountain Supply and any other  
4 party making a written request for such reports which details the amount of all  
5 inputs, including, but not limited to seed, drip lines, fumigants, chemicals,  
6 fertilizers and any other supplies which the Debtors will purchase, have  
7 purchased or contracted to purchase pursuant to the Budgets attached to this  
8 Order. The Input Reports shall further detail by owner name, parcel number  
9 and other relevant identifying information which properties any all inputs,  
10 including, but not limited to seed, drip lines, fumigants, chemicals, fertilizers  
11 and any other supplies have been applied upon or used upon, and (a) if  
12 payment has already been made, when and how payment was made and to  
13 whom payment was made for the all inputs, including, but not limited to seed,  
14 drip lines, fumigants, chemicals, fertilizers and any other supplies used, or (b)  
15 if payment has not yet been made, when payment is due, to whom payment is  
16 due, and the amount of such payment. The Input Reports shall be provided for  
17 the following periods and by the following dates:  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34



411 North 2nd St.  
Yakima, Washington, 98901

ORDER AUTHORIZING

1 A. For the period December 1, 2016 through February 28, 2017 an  
2 omnibus Input Report shall be provided no later than March 15, 2017 at 5:00  
3 p.m.  
4

5  
6 B. For the period of March 1, 2017 through March 15, 2017, the  
7 Input Report shall be provided by no later than March 21, 2017, at 5:00 p.m.;

8  
9  
10 C. For the period of March 16, 2017 through March 31, 2017, the  
11 Input Report shall be provided by no later than April 4, 2017, at 5:00 p.m.;

12  
13 D. For the period of April 1, 2017 through April 15, 2017, the Input  
14 Report shall be provided by no later than April 21, 2017, at 5:00 p.m.;

15  
16  
17 E. For the period of April 16, 2017 through April 30, 2017, the Input  
18 Report shall be provided by no later than May 4, 2016, at 5:00 p.m.; and

19  
20 F. For the period of May 1, 2017 through May 15, 2017, and  
21 notwithstanding the fact that the Cash Collateral Period shall have already  
22 expired, the Inputs Report shall be provided by no later than May 22, 2017, at  
23 5:00 p.m.  
24  
25

26  
27  
28 20. As additional adequate protection, during the Cash Collateral  
29 Period, RAF shall continue to have the adequate protection granted to it under  
30 the previous cash collateral orders entered by the Court in the Debtors' cases.  
31  
32  
33  
34



411 North 2<sup>nd</sup> St.

Yakima, Washington, 98901

1           21. With respect to any fumigants, chemicals, fertilizers, supplies,  
2  
3 seed, inputs or labor (collectively “**Advances**”) provided to the Debtors by  
4  
5 Saddle Mountain Supply Company, Windflow or any other supplier (the  
6  
7 “**Supplier[s]**”) pursuant to this Order or for which the Debtors will use 2016  
8  
9 Cash Collateral, the Debtors shall pay the Suppliers for such Advances no  
10  
11 later than thirty (30) days after the Advances are invoiced to the Debtors. If  
12  
13 any Supplier agrees in writing in a form acceptable to RAF that said Supplier  
14  
15 has no lien, will not assert a lien, or will subordinate its lien to RAF, statutory,  
16  
17 contractual or based on any other theory of law (“**Lien**”), on the 2017 crops as  
18  
19 a result of providing the Debtors with Advances, the Debtors may enter into an  
20  
21 agreement with such Suppliers to pay for such Advances later than thirty (30)  
22  
23 days after the Advances are applied or used or a debt to such Suppliers is  
24  
25 otherwise incurred by the Debtors, provided that Debtors shall provide RAF  
26  
27 with a copy of any agreements with such Suppliers more than five (5) business  
28  
29 days prior to entering into such agreements and will not enter into such  
30  
31 agreements with any Supplier without prior written consent of RAF and prior  
32  
33 written approval of RAF of the form of the written agreement to subordinate  
34  
the Supplier’s Lien to RAF. Proof of payment to Suppliers under such



411 North 2nd St.

Yakima, Washington, 98901

ORDER AUTHORIZING

1 agreements shall also be provided to RAF within five (5) days of such  
2 payments being made.  
3

4 22. Upon request of RAF, the Debtors shall provide RAF with proof  
5 of adequate insurance coverage for RAF's collateral and the Debtors'  
6 operations.  
7

8 23. The Debtors shall not make any payments to any creditors by  
9 transferring in-kind any portion of their crops or any other assets.  
10

11 24. The Debtors shall at all times during the Cash Collateral Period  
12 remain compliant with the Perishable Agriculture Commodities Act and the  
13 regulations issued pursuant thereto ("PACA") concerning the procedures for  
14 creating and preserving the benefits of the statutory trust on commodities and  
15 sales proceeds thereof under 7 U.S.C. § 499a et seq. and the regulations issued  
16 pursuant thereto.  
17

18 25. The Debtors shall cooperate with RAF in such inspections and  
19 appraisals of RAF's personal property collateral as RAF deems necessary and  
20 appropriate, with RAF to pay its own costs related to such inspections or  
21 appraisals. RAF shall provide the Debtors with at least three (3) business  
22 days' advanced notice of any such inspections or appraisals. Further, the  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34



411 North 2<sup>nd</sup> St.

Yakima, Washington, 98901

ORDER AUTHORIZING

1 Debtors shall allow RAF access to inspect its collateral, including taking  
2 photographs, at any reasonable time of RAF's choosing. The Debtors also  
3 shall allow a person designated by RAF reasonable and regular access to their  
4 books and records for the purpose of reviewing and copying the same and  
5 reasonable and regular access to the Debtors' managers, principals, officers,  
6 employees, management and accountants for the purpose of answering  
7 questions concerning the Debtors' operations, financial standing and/or  
8 records.  
9

10  
11  
12  
13  
14  
15 26. Whether the Debtors are in default under the terms of this Order  
16 shall be determined based upon the terms of this Order (and to the extent  
17 applicable the Emergency Order, the Interim Order, the Court's Final Cash  
18 Collateral entered May 25, 2016 and the Court's Final Cash Collateral Order  
19 entered on November 10, 2016) and not the terms of any creditors' loan  
20 documents. Nothing set forth in this Order shall prevent or prejudice the US  
21 Trustee or any secured creditor from requesting the Court, on an emergency  
22 basis, to terminate the use of 2016 Cash Collateral, or from seeking any other  
23 relief including, without limitation, stay relief or dismissal or conversion of  
24 this case or appointment of an Examiner or Chapter 11 Trustee.  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34



411 North 2<sup>nd</sup> St.

Yakima, Washington, 98901

ORDER AUTHORIZING

1 27. Nothing set forth herein shall be construed or interpreted as a  
2 waiver or modification of any rights or arguments of the Debtors, RAF or any  
3 other creditors or parties-in-interest concerning any matters or issues regarding  
4 the allowance or treatment of any claims or interests in the Debtors'  
5 bankruptcy cases or the treatment and payment of any such claims or interests  
6 in the Debtors' bankruptcy cases, whether under a confirmed Chapter 11 plan  
7 or otherwise, including the allowed amounts of such claims or interests or the  
8 appropriate pre- or post-confirmation interest rates allowed thereon. Further,  
9 nothing set forth herein shall be construed or interpreted as a waiver or  
10 modification of any rights that RAF or any other creditors have or may assert  
11 against any non-debtor co-borrowers or guarantors.  
12  
13  
14  
15  
16  
17  
18  
19

20 28. The Monthly Reports provided by the Debtors hereunder shall be  
21 prepared in accordance with GAAP subject to such departures from GAAP as  
22 are either: (a) agreed to by RAF & the Debtors; or (b) approved by the Court.  
23 Further, any and all Monthly Reports provided by Debtors hereunder shall also  
24 be signed by the Manager for the particular Debtor issuing the Monthly  
25 Reports.  
26  
27  
28  
29  
30  
31  
32  
33  
34



411 North 2<sup>nd</sup> St.  
Yakima, Washington, 98901

1           29. If the Debtors, or any of them, default in their financial and/or  
2 reporting obligations under the terms of this Order, then the US Trustee, RAF  
3 or any other person or entity having an interest in 2016 Cash Collateral may,  
4 but shall not be required to, deliver a written Notice of Default to the Debtors  
5  
6 by e-mail delivery of such Notice of Default to each of the Debtors' counsels  
7  
8 of record, those being Roger Bailey ([roger.bailey.attorney@gmail.com](mailto:roger.bailey.attorney@gmail.com)),  
9  
10 Joshua Busey ([joshua.busey.attorney@gmail.com](mailto:joshua.busey.attorney@gmail.com)), Paul Williams  
11  
12 ([phwatlaw@yahoo.com](mailto:phwatlaw@yahoo.com)) and James P. Hurley ([jamesphurley@hotmail.com](mailto:jamesphurley@hotmail.com)),  
13  
14 with copies of the Notice of Default also being emailed to James D. Perkins of  
15  
16 the Office of the United States Trustee ([james.perkins@usdoj.gov](mailto:james.perkins@usdoj.gov)), Kevin  
17  
18 O'Rourke, counsel for the Official Committee of Unsecured Creditors in the  
19  
20 Tatoes case ([kevin@southwellorourke.com](mailto:kevin@southwellorourke.com)) and RAF and its counsel to the  
21  
22 email addresses noted in paragraph 17 of this Order (if RAF is not the party  
23  
24 that delivers such Notice of Default). The Debtors and the party asserting the  
25  
26 default shall attempt in good faith to informally resolve or rectify the default.  
27  
28 If the Debtors and the objecting party are unable to informally resolve the  
29  
30 default within three (3) business days of the delivery of the Notice of Default  
31  
32 (“**Resolution Period**”) then the Debtors' authority to use Cash Collateral as  
33  
34



411 North 2<sup>nd</sup> St.

Yakima, Washington, 98901

ORDER AUTHORIZING

USE OF CASH COLLATERAL

1 authorized by this Order shall cease two (2) business days after the expiration  
2 of the Resolution Period, unless, prior to that date, the Debtors either (a) cure  
3 the Notice of Default to the satisfaction of the party sending the Notice of  
4 Default, or (b) file a motion with the Court requesting that their authority to  
5 use Cash Collateral continue, and obtain and notice out a hearing on the  
6 motion for a date that is no more than 24 days from the date of filing of the  
7 motion. If such a motion is filed with the Court and noticed out for hearing as  
8 required herein, then the Debtors' authority to use and spend Cash Collateral  
9 pursuant to the terms of this Order shall continue pending the Court's decision  
10 on the motion.  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

24 **[Intentionally Left Blank]**  
25  
26

27  
28 30. Any and all objections or responses to the Motion not specifically  
29 addressed herein are nonetheless deemed withdrawn and/or resolved by the  
30  
31  
32  
33  
34



411 North 2nd St.

Yakima, Washington, 98901

ORDER AUTHORIZING



1 terms of this Order, except as to objections to the use of cash collateral beyond  
2  
3 April 30, 2017 or the other dates referenced in paragraph 4 above.

4 / / / END OF ORDER / / /  
5  
6  
7

8 Presented By:  
9

10  
11 /s/ Roger W. Bailey

12 ROGER W. BAILEY (WSBA 26121)  
13 JOSHUA J. BUSEY (WSBA 34312)  
14 Bailey & Busey PLLC  
15 Counsel for Wahluke Produce, Inc.  
16

17 /s/ Paul H. Williams

18 Paul H. Williams (WSBA 31684)  
19 Law Offices of Paul H. Williams  
20 Counsel for Tatoes, LLC  
21

22 /s/ James P. Hurley

23 James P. Hurley (WSBA 6615)  
24 Hurley & Lara  
25 Counsel for Columbia Onion  
26  
27  
28  
29  
30  
31  
32  
33  
34



411 North 2nd St.  
Yakima, Washington, 98901

ORDER AUTHORIZING

1  
2 Approved as to Form:  
3  
4

5 /s/ Bruce K. Medeiros  
6 BRUCE K. MEDEIROS (WSBA 16380)  
7 Davidson Backman Medeiros  
8 Counsel for RAF  
9

10 /s/ Michael R. Johnson  
11 MICHAEL R. JOHNSON (*Pro Hac Vice*)  
12 DOUGLAS M. MONSON (*Pro Hac Vice*)  
13 Ray Quinney & Nebeker, P.C.  
14 Counsel for RAF  
15

16 \\Diane-pc1\USB 3.0 PC Card Adapter\WAHLUKE PRODUCE-355\Bankruptcy\Pleadings\Cash  
17 Collateral\2017 Cash Collateral\Motion to Extend Use of Cash Collateral - 030717- v.3 - clean.doc  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34



411 North 2nd St.  
Yakima, Washington, 98901

ORDER AUTHORIZING

**EXHIBIT 1  
TATOES BUDGET**

Taxes

	Jan-17	Feb-17	Mar-17	Apr-17
Crop Expenses				
Wages	74,600.00	87,373.26	144,387.12	218,533.43
Employee Benefits	4,030.00	4,000.00	4,000.00	4,000.00
Depreciation	-	-	-	-
Dues & Fees	281.58	77.50	579.04	1,564.27
Business Tax	-	16,675.14	-	48,244.00
Seed	-	200,000.00	150,000.00	517,000.00
Chemicals	-	126,000.00	20,000.00	273,387.00
Fertilizer	-	8,763.42	72,661.04	387,893.79
Irrigation	-	-	110,000.00	110,000.00
Charitable Contribution	-	-	-	-
Application	2,821.50	-	-	-
Fuel & Oil	20,000.00	20,000.00	20,000.00	30,000.00
Soil Testing	-	43.00	41.00	-
Insurance	4,937.00	4,937.00	4,937.00	4,937.00
RAF payment	56,149.33	25,844.19	-	56,149.33
Account Chgs/Fees	500.00	500.00	500.00	500.00
Custom Hire	-	-	-	-
Bank Charges	779.74	-	440.46	-
License Fees	300.00	2,000.00	5,000.00	4,600.00
Sales Tax	-	-	-	-
Miscellaneous	3,050.00	3,000.00	3,000.00	3,000.00
Legal	-	-	-	-
Office Supplies/Exp	200.00	200.00	200.00	200.00
Payroll Taxes	8,976.00	10,484.79	17,386.45	26,344.61
Professional Fees	15,000.00	15,000.00	15,000.00	15,000.00
Legal - Unsecured creditors	10,000.00	10,000.00	10,000.00	10,000.00
Rent Property	12,675.00	12,675.00	12,675.00	912,876.00
Rent Equipment	-	-	300,000.00	200,000.00

Repairs/Maintenance	70,000.00	40,000.00	40,000.00	13,000.00
Deere - Excess use		29,227.43	29,227.43	29,227.43
Deere - Adequate protection		27,200.93	27,200.93	27,200.93
Deere - Personal Property (est)		15,000.00		
Tools	300.00	300.00	300.00	300.00
Supplies	13,000.00	2,000.00	6,000.00	2,600.00
Utilities	20,330.66	20,000.00	17,000.00	23,000.00
Drip Irrigation/Mapping			110,000.00	138,848.95
Utilities - Communication	421.00	450.00	409.00	579.37
Transportation				
Suspense				
<b>Total Expenses</b>	<b>\$318,471.81</b>	<b>\$881,751.67</b>	<b>\$1,121,444.67</b>	<b>\$3,070,298.72</b>

**EXHIBIT 2**  
**WAHLUKE BUDGET**

Wahluke Produce

Jan-17      Feb-17      Mar-17      Apr-17

Budget      Budget      Budget      Budget

	Jan-17	Feb-17	Mar-17	Apr-17
Potatoes	3,500.00	3,500.00	3,500.00	4,000.00
Gross Tons Shrink (packed this month)				

2016 Crop

Fresh Price	\$ 180.00	\$ 180.00	\$ 200.00	\$ 225.00
-------------	-----------	-----------	-----------	-----------

Grower sales 2015	\$ -	\$ -	\$ -	\$ -
Grower sales	\$ 812,535.43	\$ 630,000.00	\$ 630,000.00	\$ 700,000.00
Purchased Produce	-	-	-	-
Scale	-	-	-	-
Supplies	-	-	-	-
Recorder	1,750.00	1,750.00	1,750.00	1,750.00
Pallet	12,000.00	12,000.00	12,000.00	12,000.00
Inspections	2,000.00	2,000.00	2,000.00	2,000.00
Misc				
	\$ 828,285.43	\$ 645,750.00	\$ 645,750.00	\$ 715,750.00

Packing Charges	376,421.60	328,860.00	328,860.00	328,860.00
Packing Charges Retained by Wahluke	(376,421.60)	(328,860.00)	(328,860.00)	(328,860.00)

Gross Revenue	\$ 828,285.43	\$ 645,750.00	\$ 645,750.00	\$ 715,750.00
---------------	---------------	---------------	---------------	---------------

Wahluke Produce

Labor	\$ 100,100.00	\$ 100,650.00	\$ 149,600.00	\$ 127,600.00
Payroll Taxes	12,012.00	12,078.00	17,952.00	15,312.00
Employee Benefits	700.00	700.00	700.00	700.00
Medical Insurance	7,200.00	7,200.00	7,200.00	7,200.00

Contract Labor					
Packing Supplies	90,895.00	90,895.00	90,895.00	109,890.00	
Freight	2,000.00	2,000.00	2,000.00	2,000.00	
Pallets	12,000.00	12,000.00	12,000.00	12,000.00	
Fumigation	200.00	200.00	200.00	200.00	
Business Insurance	4,937.90	4,937.90	4,937.90	4,937.90	
Business Taxes				14,000.00	
Chemicals	1,500.00	1,500.00	1,500.00	1,500.00	
Fuel	250.00	250.00	250.00	250.00	
Officer Life Insurance	24,913.00			24,913.00	
Office Expense	3,000.00	3,000.00	3,000.00	3,000.00	
Inspection Fees	6,000.00	6,000.00	6,000.00	6,000.00	
Licenses, Fees, Permits	173.78	58.75	58.75	257.00	
Professional Fees	27,000.00	27,000.00	27,000.00	27,000.00	
Accrued Professional Fees					
Purchased Produce Costs					
Recorders	1,000.00	1,000.00	1,000.00	1,000.00	
Rents					
Rep/Maint. - Bldg & Grounds	925.00	925.00	925.00	925.00	
Repairs & Maintenance	7,000.00	7,000.00	7,000.00	7,000.00	
RAF payments	56,149.33	25,844.19		56,149.33	
Service Chgs & Fees	500.00	500.00	500.00	500.00	
Supplies	4,000.00	4,000.00	4,000.00	4,000.00	
Misc					
Tools	175.00	175.00	175.00	175.00	
Dues & Subscriptions	800.00	800.00	800.00	800.00	
Travel					
Utilities					
	8,300.00	8,300.00	8,300.00	8,300.00	
<b>Total Expenses</b>	<b>371,731.01</b>	<b>345,993.65</b>	<b>345,006.09</b>	<b>429,599.23</b>	



**EXHIBIT 3**  
**COLUMBIA BUDGET**

Columbia Onion Jan-17 Feb-17 Mar-17 Apr-17

Yellow Tons Run less shrink	1,801.63	976.36	847.63	676.37
	185.27	185.27	185.27	185.27
Red Tons less shrink	1,059.97	1,687.45	3,345.05	1,480.03
	200.00	200.00	200.00	200.00
White Tons less shrink	718.29	421.85	599.13	509.75
	412.64	412.64	412.64	412.64

Grower Sales	\$ -	\$ -	\$ -	\$ -
Grower Sales 2015				
Grower Sales 2016	\$ 696,133.81	\$ 842,176.64	\$ 692,452.21	\$ 1,073,273.99
Packing Revenue				
Purchased Produce				
Pallet Income	12,000.00	12,000.00	12,000.00	12,000.00
Recorder Income	560.00	560.00	560.00	560.00
Inspections	1,600.00	1,600.00	1,600.00	1,600.00
<b>Gross Revenue</b>	<b>\$ 710,293.81</b>	<b>\$ 856,336.64</b>	<b>\$ 706,612.21</b>	<b>\$ 1,087,433.99</b>

<u>Columbia Onion</u>				
Packing Charges	273,448.74	325,447.86	280,516.98	435,623.15
Charges Retained by Wahluke	(273,448.74)	(325,447.86)	(280,516.98)	(435,623.15)

Labor	\$ 130,928.60	\$ 111,449.68	\$ 152,404.29	\$ 117,975.78
Payroll Taxes	15,711.43	13,373.96	18,288.51	14,157.09
Employee Benefits	325.00	325.00	325.00	325.00
Medical Insurance	1,216.00	1,216.00	1,216.00	1,216.00
Packing Supplies	23,565.31	12,770.75	11,087.04	8,846.92
Pallets	8,107.33	4,393.61	3,814.35	3,043.67
Freight	-	-	-	-
Business Insurance	4,937.90	4,937.90	4,937.90	4,937.90
Business Taxes	420.00	420.00	420.00	11,000.00
Chemicals	750.00	750.00	750.00	750.00
Commission Cost	-	-	-	-
Fuel	2,000.00	2,000.00	2,000.00	2,000.00
Office Expense	2,269.51	2,269.51	2,269.51	2,269.51
Inspection Fee	1,657.50	898.25	779.82	622.26
Licenses, Fees, Permits	4,397.00	-	-	-
Professional Fees	6,000.00	6,000.00	6,000.00	6,000.00
Accrued Professional Fees	-	-	-	-
Purchased Produce Costs	-	-	-	-
Recorders	300.00	300.00	300.00	300.00
Rents	-	198.74	0.00	-
Rep/Maint. - Bldg & Grounds	1,650.00	1,650.00	1,650.00	1,650.00
Repairs & Maintenance	4,000.00	4,000.00	4,000.00	4,000.00
RAF Payment	56,149.33	25,844.19	-	56,149.33
Service Chgs & Fees	500.00	500.00	500.00	500.00
Supplies	2,000.00	3,000.00	2,800.00	1,600.00
Misc	2,000.00	2,000.00	2,000.00	2,000.00
Tools	100.00	100.00	100.00	100.00
Travel	-	-	-	-
Utilities	9,700.00	8,000.00	7,000.00	7,000.00
<b>Total Expenses</b>	<b>278,684.91</b>	<b>206,397.58</b>	<b>222,642.41</b>	<b>246,443.47</b>