UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MISSOURI

In Re:	)	**In Proceedings Under Chapter 11**
	)	
FARMLAND INDUSTRIES, INC., et al.,	)	**Case No. 02-50557**
	)	**Joint Administration**
Debtors.	)	

MOTION FOR ENTRY OF AN ORDER, PURSUANT TO 11 U.S.C. § 365, AUTHORIZING DEBTORS TO ASSUME CONTRACT WITH BADGERLAND MEAT & PROVISIONS, LLC

COME NOW Farmland Industries, Inc., et al., debtors and debtors in possession ("Debtors"), and submit their Motion for Entry of an Order, Pursuant to 11 U.S.C. § 365, Authorizing Debtors to Assume Contract with Badgerland Meat & Provisions, L.L.C. (the "Motion"). In support of this Motion, the Debtors respectfully represent as follows:

JURISDICTION AND VENUE

1. On May 31, 2002 (the "Petition Date"), the Debtors filed voluntary petitions in this Court for reorganization relief under Chapter 11 of the United States Bankruptcy Code. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to Bankruptcy Code §§ 1107(a) and 1108.

2. No trustee or examiner has been appointed. Two official committees of creditors have been established.

3. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 1334 and 157. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

4. Farmland Foods, Inc. ("Foods") and Badgerland Meat & Provisions, L.L.C. ("Badgerland") are parties to an Agreement (the "Agreement"), dated June 21, 2001, with respect to processing and packaging services ("Services"). The Agreement is referenced on the

attached summary of exhibits as Exhibit A and a true and correct copy of the Agreement is available upon request.

5. Under the Agreement, Badgerland is to provide all services necessary to process primal cuts into retail packages ("Products"), in accordance with the Meat Buyer's Guide and Specifications, including furnishing all necessary labor to package the Product.

6. Foods and Badgerland have maintained a relationship for more than seven years, including uninterrupted postpetition transactions.

7. Badgerland is the only supplier of such services for Foods' largest client, Wal-Mart. Continuing to serve Wal-Mart is critical to Foods' success.

8. Badgerland is also the co-pack facility Foods uses to service Copps and Woodmans stores.

9. All the products Foods makes at the Badgerland facility are finished pork cuts made for the retail meat case. The current average tonnage weekly is 150,000 - 200,000 lbs. Foods does not have any other servicer or facility which can service this business.

10. As of the Petition Date, Badgerland is owed the sum of $213,277.43 for pre-petition services rendered to Foods under the Agreement (the "Pre-Petition Debt").

11. Since the Petition Date, the Debtors have engaged in discussions and negotiations with Badgerland regarding the amounts owed to Badgerland under the Agreement and Foods' need for Badgerland's services going forward.

12. Based on its negotiations with Badgerland, Foods has determined, in the exercise of its business judgment, that it would be in the best interest of its creditors and bankruptcy estate to immediately assume the Agreement.

13. Badgerland will be compensated for future services to be provided to Foods in accordance with the terms of the Agreement.

14. The Agreement provides that Badgerland will provide Services to Foods until terminated upon written notice by either party pursuant to section 3 of the Agreement.

RELIEF REQUESTED

15. Pursuant to this Motion, Foods requests that the Court authorize Foods to assume the Agreement in accordance with Bankruptcy Code § 365 and Bankruptcy Rule 6006 .

16. Section 365(a) of the Bankruptcy Code, which has been interpreted as incorporating the business judgment standard, authorizes Foods' assumption of the Agreement. See Group of Institutional Investors v. Chicago, Milwaukee, St. Paul & Pacific RR Co., 318 U.S. 523, 550 (1943) ("the question whether a lease should be assumed is one of business judgment"). The business judgment rule shields a debtor's management from judicial over scrutiny. See In re Johns-Manville Corp., 60 B.R, 612, 615-16 (Bankr. S.D.N.Y. 1986) ("[T]he Code favors the continued operation of a business by a debtor and a presumption of reasonableness attaches to a debtor's management decisions."). Once a debtor articulates a valid business justification, "[t]he business judgment rule 'is a presumption that in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action was in the best interests of the company.'" In re Integrated Resources, Inc., 147 B.R, 650, 656 (S.D.N.Y. 1992) (quoting Smith v. Van Gorkom, 488 A.2d 858, 872 (Del. 1985)).

17. Indeed, when applying the "business judgment" standard, courts show great deference to a debtor's decision to assume an executory contract. See e.g., In re Summit Land Co., 13 B.R. 310, 315 (Bankr. D. Utah 1981) (absent extraordinary circumstances, court approval of a debtor's decision to assume an executory contract "should be granted as a matter of course").

18. This Court should, therefore, approve the assumption of the Agreement if the Debtors demonstrate a sound business justification for such an assumption. See In re Lionel Corp., 722 F.2d 1063, 1071 (2d Cir. 1983); In re Delaware Hudson Ry. Co., 124 B.R. 169, 179 (Bankr. D. Del. 1991).

19. Foods requires Badgerland's services and Badgerland's facility to deliver its Products to Wal-Mart, among others.

20. Foods submits that there exists a sound business justification for the proposed assumption of the Agreement.

21. Section 365(b)(1) of the Bankruptcy Code codifies the requirements for assuming an unexpired lease or executory contract of a debtor, providing that:

> (b) (1) If there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee:
>
> > (A) cures, or provides adequate assurance that the trustee will promptly cure, such default;
> >
> > (B) compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and
> >
> > (C) provides adequate assurance of future performance under such contract or lease.

11 U.S.C. § 365(b)(1).

22. Foods believes that it has satisfied the requirements of Bankruptcy Code § 365(b)(1) in connection with the assumption of the Agreement. Foods is not aware of any defaults in connection with the Agreement except for its' obligation with respect to the Cure Amount.

23. Debtors respectfully request that the hearing of this Motion be set on the next docket, which is scheduled for December 10, 2002.

WHEREFORE, Foods respectfully requests that the Court enter an Order authorizing Foods to assume the Agreement in accordance with Bankruptcy Code §365 and Bankruptcy Rule 6006, and for such other and further relief just and proper.

Respectfully submitted,

FARMLAND INDUSTRIES, INC., ET AL.

By: /s/ Cynthia Dillard Parres

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SUMMARY OF EXHIBIT

The following exhibit in reference to the Motion for Entry of an Order, Pursuant to 11 U.S.C. § 365, Authorizing Debtors to Assume Service Agreement with Badgerland Meat & Provisions, L.L.C. is available upon request:

Exhibit A: Services Agreement between Debtors and Badgerland Meat & Provisions, L.L.C.

Respectfully submitted,

FARMLAND INDUSTRIES, INC., ET AL.

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