

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

IN RE: ) Case No. 08-12606 (BLS)  
) (Jointly Administered)  
)  
VERASUN ENERGY CORP. ) Chapter 11  
Et al. )  
) Courtroom 1  
) 824 Market Street  
Debtors. ) Wilmington, Delaware  
)  
) February 10, 2009  
) 10:03 a.m.

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE BRENDAN L. SHANNON  
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

For Debtor: Skadden, Arps, Slate, Meagher &  
Flom LLP  
BY: DAVIS L. WRIGHT, ESQ.  
One Rodney Square  
P.O. Box 636  
Wilmington, DE 19899  
(302)651-3000

For the Creditors'  
Committee: Akin, Gump, Strauss, Hauer & Feld  
LLP  
BY: ALEXIS FREEMAN, ESQ.  
One Bryant Park  
New York, NY 10036  
(212)872-1000

Greenberg Traurig, LLP  
BY: DENNIS MELORO, ESQ.  
The Nemours Building  
1007 North Orange Street  
Suite 1200  
Wilmington, DE 19801  
(302)661-7000

ECRO: THERESA PULLAN

Transcription Service: DIAZ DATA SERVICES  
331 Schuylkill Street  
Harrisburg, Pennsylvania 17110  
(717) 233-6664

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transcript produced by transcription service

1 APPEARANCES:  
2 (Continued)

3 For AgStar:

Landis, Ruth, and Cobb LLP  
BY: JAMES GREEN, JR., ESQ.  
919 Market Street, Suite 1800  
P.O. Box 2087  
Wilmington, DE 19899  
(302)467-4426

6

Pepper Hamilton LLP  
BY: LEIGH-ANNE RAPORT, ESQ.  
Hercules Plaza, Suite 5100  
1313 Market Street  
P.O. Box 1709  
Wilmington, DE 19899-1709  
(302)777-6516

7

8

9

10

Latham & Watkins LLP  
BY: JOSEF ATHANAS, ESQ.  
Sears Tower, Suite 5800  
233 South Wacker Drive  
Chicago, IL 60606  
(312)876-7700

11

12

13

14 For Wells Fargo:

Reed Smith LLP  
BY: KATHLEEN MURPHY, ESQ.  
1201 Market Street  
Suite 1500  
Wilmington, DE 19801  
(302)778-7572

15

16

17 For UBS AG, Stanford Branch:

Duane Morris LLP  
BY: SOMMER ROSS, ESQ.  
30 South 17<sup>th</sup> Street  
Philadelphia, PA 19103-4196  
(215)979-1546

18

19

20 For DIP lenders:

Bayard P.A.  
BY: JUSTIN R. ALBERTO, ESQ.  
222 Delaware Avenue  
Suite 900  
Wilmington, DE 19801  
(302)429-4226

21

22

23

24

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1 WILMINGTON, DELAWARE, TUESDAY, FEBRUARY 10, 2009, 10:03 A.M.

2 THE CLERK: All rise.

3 THE COURT: Please be seated. All right. Mr.  
4 Wright, good morning.

5 MR. WRIGHT: Good morning, Your Honor. Davis  
6 Wright for the debtors, VeraSun Energy Corporation. Your  
7 Honor, we filed an amended agenda --

8 THE COURT: I have it.

9 MR. WRIGHT: -- last night. Okay. With your  
10 permission, we'd like to skip over matter number one, the  
11 creditors' committee's application to employ Garden City.

12 THE COURT: Okay. I think I've signed that  
13 order.

14 MR. WRIGHT: Yes, you have, Your Honor.

15 THE COURT: Okay.

16 MR. WRIGHT: Moving to matter number two, it's a  
17 final hearing on the AgStar financing --

18 THE COURT: Right.

19 MR. WRIGHT: -- for the U.S. BioEnergy debtors.  
20 Your Honor, also, last night, we filed a notice attaching  
21 copies of the seven proposed forms of final order.

22 THE COURT: Right.

23 MR. WRIGHT: We did have one minor modification  
24 after we filed them last night, and it appears -- I have  
25 black lines for Your Honor, but it appears in paragraph 19,  
the carve-out paragraph, where we changed the section

1 references to include those professionals retained under  
2 Sections 327, 330, 331, and 363. The order in front of Your  
3 Honor only indicates Sections 330 and 331.

4 THE COURT: Okay. I saw the committee objection.  
5 Where are we with that issue?

6 MR. WRIGHT: Your Honor, I believe that the  
7 objection filed by the committee has been resolved.

8 THE COURT: Okay.

9 MS. FREEMAN: Yes, Your Honor. That's correct.

10 THE COURT: Okay. Well, I noted -- I just want  
11 to make sure that we're all singing from the same hymnal  
12 here. I read the committee's objection. It seemed from the  
13 preliminary statement that the committee, at the time it was  
14 filing its objection, was still carefully evaluating the  
15 forms of the order and moving forward with it, and I assume  
16 that you've completed that process to your satisfaction.

17 MS. FREEMAN: Yes, Your Honor. Alexis Freeman  
18 from Akin, Gump, Strauss, Hauer & Feld on behalf of the  
19 creditors' committee. That's correct about the status of  
20 our objection, and we did work with Latham & Watkins'  
21 connection with the final order. There was only one  
22 outstanding issue since our interim hearing, and that  
23 amendment has been made our final order. So our objections  
24 have been resolved.

25 THE COURT: Okay. And so the issues that you had

1 with respect to the rollup and the timeline, both of them  
2 resolved --

3 MS. FREEMAN: Well --

4 THE COURT: -- as best they can.

5 MS. FREEMAN: -- as best they can, correct.

6 THE COURT: Okay. I understand.

7 MS. FREEMAN: Thank you.

8 THE COURT: I get it.

9 MS. FREEMAN: And again, some of the changes  
10 actually were made in the credit agreement as opposed to the  
11 order, but those have been resolved.

12 THE COURT: Very good. Okay. Well, Mr. Wright,  
13 I've had an opportunity to review each of the final orders.  
14 I'm happy to hear from anyone else that wishes to be heard.  
15 Okay. All right. I am prepared to enter the various final  
16 orders that have been submitted, particularly in light of  
17 the resolution of the committee objection. As always in  
18 these matters, I rely heavily upon the input from the  
19 official committee, and so I'm confident that the matter has  
20 been strenuously negotiated and that the concerns that were  
21 initially identified by the official committee have been  
22 satisfactorily resolved. I -- as I said, I have reviewed  
23 each of the final orders, and I will adopt and incorporate  
24 my ruling from the interim orders for purposes of approval  
25 of the final order submitted by the debtor, and I will note

1 for purposes of the record that the debtor has carried its  
2 burden under Bankruptcy Code Section 361, 363, 364, and  
3 Bankruptcy Rule 4001 for purposes of approval of these  
4 orders. Do you have clean orders or --

5 MR. WRIGHT: Yes, I do, Your Honor.

6 THE COURT: Okay.

7 MR. WRIGHT: May I approach?

8 THE COURT: Sure. It's a stack of seven?

9 MR. WRIGHT: Yes, Your Honor.

10 THE COURT: I'm happy to sign these in chambers,  
11 and we'll get them on the docket this morning. You got all  
12 seven?

13 MR. WRIGHT: Yes.

14 THE COURT: All right. Okay. I have each of  
15 these. As I said, I'll sign them in chambers, and we'll get  
16 them on the docket this morning. Mr. Wright, is there  
17 anything further?

18 MR. WRIGHT: Nothing further from the debtors,  
19 Your Honor.

20 THE COURT: Very well. We'll stand in recess.  
21 Thank you very much, Counsel. Have a good --

22 MR. WRIGHT: Thank you.

23 THE COURT: Have a good day.

24 [Whereupon at 10:07 a.m., the hearing was adjourned.]  
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CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

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Alicia Jarrett  
Transcriber

26 February 2009  
Date

# VERASUN 2.10.09.DOC

Word	Page:Line	Word	Page:Line	Word	Page:Line	Word	Page:Line
a.m(3) 1:14 3:1 6:24		court(21) 1:1 3:3 3:8 3:12 3:15 3:18 3:22		issues(1) 4:25		prepared(1) 5:15	
about(1) 4:19		4:4 4:8 4:10 4:25 5:4 5:6 5:8 5:12 6:6		it's(2) 3:16 6:8		proceedings(3) 1:16 1:53 7:4	
aboveentitled (1) 7:4		6:8 6:10 6:14 6:20 6:23		i'll(1) 6:15		process(1) 4:16	
actually(1) 5:10				i've(2) 3:12 5:13		produced(1) 1:54	
adjourned(1) 6:24		courtroom(1) 1:9		james(1) 2:5		professionals(1) 4:1	
administered(1) 1:5		credit(1) 5:10		jarrett(1) 7:8		proposed(1) 3:21	
adopt(1) 5:23		creditors'(3) 1:30 3:11 4:19		jointly(1) 1:5		pullan(1) 1:46	
after(1) 3:24		data(1) 1:48		josef(1) 2:20		purposes(3) 5:24 6:1 6:3	
again(1) 5:9		date(1) 7:8		judge(1) 1:18		raport(1) 2:12	
agenda(1) 3:7		davis(2) 1:24 3:5		just(1) 4:10		read(1) 4:12	
agreement(1) 5:10		day(1) 6:23		justin(1) 2:40		recess(1) 6:20	
agstar(2) 2:4 3:17		debtor(3) 1:22 5:25 6:1		kathleen(1) 2:27		record(1) 6:1	
akin(2) 1:31 4:18		debtors(4) 1:11 3:6 3:19 6:18		landis(1) 2:4		recorded(1) 1:53	
alberto(1) 2:40		delaware(4) 1:2 1:11 2:41 3:1		last(3) 3:9 3:20 3:24		recording(2) 1:53 7:3	
alexis(2) 1:33 4:17		dennis(1) 1:39		latham(2) 2:19 4:20		reed(1) 2:26	
alicia(1) 7:8		diaz(1) 1:48		leigh-anne(1) 2:12		references(1) 4:1	
all(6) 3:2 3:3 4:11 5:15 6:11 6:14		dip(1) 2:39		lenders(1) 2:39		rely(1) 5:18	
also(1) 3:20		district(1) 1:2		light(1) 5:16		resolution(1) 5:17	
always(1) 5:17		docket(2) 6:11 6:16		like(1) 3:10		resolved(5) 4:7 4:24 5:2 5:11 5:22	
amended(1) 3:7		drive(1) 2:22		lines(1) 3:25		respect(1) 5:1	
amendment(1) 4:23		duane(1) 2:33		llp(8) 1:23 1:32 1:38 2:4 2:11 2:19 2:26		retained(1) 4:1	
anyone(1) 5:14		each(3) 5:13 5:23 6:14		2:33		review(1) 5:13	
anything(1) 6:17		ecro(1) 1:46		made(2) 4:23 5:10		reviewed(1) 5:22	
appears(2) 3:24 3:25		electronic(2) 1:53 7:3		make(1) 4:11		right(5) 3:3 3:18 3:22 5:15 6:14	
application(1) 3:11		else(1) 5:14		market(4) 1:10 2:6 2:14 2:28		rise(1) 3:2	
approach(1) 6:7		employ(1) 3:11		matter(4) 3:10 3:16 5:19 7:4		rodney(1) 1:25	
approval(2) 5:24 6:3		energy(2) 1:7 3:6		matters(1) 5:18		rollup(1) 5:1	
arps(1) 1:22		enter(1) 5:15		meagher(1) 1:22		ross(1) 2:34	
assume(1) 4:15		esq(9) 1:24 1:33 1:39 2:5 2:12 2:20 2:27		meloro(1) 1:39		rule(1) 6:3	
athanas(1) 2:20		2:34 2:40		minor(1) 3:23		ruling(1) 5:24	
attaching(1) 3:20				modification(1) 3:23		ruth(1) 2:4	
avenue(1) 2:41		evaluating(1) 4:14		morning(4) 3:4 3:5 6:11 6:16		said(2) 5:22 6:15	
bankruptcy(4) 1:1 1:18 6:2 6:3		fargo(1) 2:26		morris(1) 2:33		same(1) 4:11	
bayard(1) 2:39		february(3) 1:13 3:1 7:7		moving(2) 3:16 4:15		satisfaction(1) 4:16	
before(1) 1:17		feld(2) 1:31 4:18		much(1) 6:21		satisfactorily(1) 5:22	
behalf(1) 4:18		filed(4) 3:7 3:20 3:24 4:7		murphy(1) 2:27		schuylkill(1) 1:49	
believe(1) 4:6		filing(1) 4:14		negotiated(1) 5:20		sears(1) 2:21	
best(2) 5:4 5:5		final(8) 3:17 3:21 4:21 4:23 5:13 5:15		nemours(1) 1:40		seated(1) 3:3	
bioenergy(1) 3:19		5:23 5:25		new(1) 1:35		section(2) 3:26 6:2	
black(1) 3:25				night(3) 3:9 3:20 3:24		sections(2) 4:2 4:3	
bls(1) 1:4		financing(1) 3:17		north(1) 1:41		seemed(1) 4:12	
both(1) 5:1		flo(1) 1:23		note(1) 5:25		service(2) 1:48 1:54	
box(3) 1:26 2:7 2:15		foregoing(1) 7:2		noted(1) 4:10		services(1) 1:48	
branch(1) 2:33		forms(2) 3:21 4:15		nothing(1) 6:18		seven(3) 3:21 6:8 6:12	
brendan(1) 1:17		forward(1) 4:15		notice(1) 3:20		shannon(1) 1:17	
bryant(1) 1:34		freeman(8) 1:33 4:9 4:17 4:17 5:3 5:5 5:7		number(2) 3:10 3:16		sign(2) 6:10 6:15	
building(1) 1:40		5:9		objection(6) 4:4 4:7 4:12 4:14 4:20 5:17		signed(1) 3:12	
burden(1) 6:2		front(1) 4:2		objections(1) 4:23		since(1) 4:22	
carefully(1) 4:14		further(2) 6:17 6:18		official(2) 5:19 5:21		singing(1) 4:11	
carried(1) 6:1		garden(1) 3:11		okay(12) 3:9 3:12 3:15 4:4 4:8 4:10 4:25		skadden(1) 1:22	
carve-out(1) 3:26		get(3) 5:8 6:11 6:15		5:6 5:12 5:15 6:6 6:14		skip(1) 3:10	
case(1) 1:4		good(5) 3:4 3:5 5:12 6:21 6:23				slate(1) 1:22	
certification(1) 7:1		got(1) 6:11		one(5) 1:25 1:34 3:10 3:23 4:21		smith(1) 2:26	
certify(1) 7:2		green(1) 2:5		only(2) 4:3 4:21		some(1) 5:9	
chambers(2) 6:10 6:15		greenberg(1) 1:38		opportunity(1) 5:13		sommer(1) 2:34	
changed(1) 3:26		gump(2) 1:31 4:18		opposed(1) 5:10		sound(2) 1:53 7:3	
changes(1) 5:9		hamilton(1) 2:11		orange(1) 1:41		south(2) 2:22 2:35	
chapter(1) 1:7		happy(2) 5:14 6:10		order(8) 3:13 3:21 4:2 4:15 4:21 4:23		square(1) 1:25	
chicago(1) 2:23		harrisburg(1) 1:50		5:11 5:25		stack(1) 6:8	
city(1) 3:11		hauer(2) 1:31 4:18				stand(1) 6:20	
clean(1) 6:4		hear(1) 5:14		orders(6) 5:13 5:16 5:23 5:24 6:4 6:4		stanford(1) 2:33	
clerk(1) 3:2		heard(1) 5:14		our(4) 4:20 4:22 4:23 4:23		statement(1) 4:13	
cobb(1) 2:4		hearing(3) 3:17 4:22 6:24		outstanding(1) 4:22		states(2) 1:1 1:18	
code(1) 6:2		heavily(1) 5:18		over(1) 3:10		status(1) 4:19	
committee(8) 1:31 4:4 4:7 4:13 4:19 5:17		hercules(1) 2:13		p.a(1) 2:39		still(1) 4:14	
5:19 5:21		honor(12) 3:5 3:7 3:14 3:20 3:25 4:3 4:6		p.o(3) 1:26 2:7 2:15		strauss(2) 1:31 4:18	
		4:9 4:17 6:5 6:9 6:19		paragraph(2) 3:25 3:26		street(7) 1:10 1:41 1:49 2:6 2:14 2:28	
committee's(2) 3:11 4:12				park(1) 1:34		strenuously(1) 5:20	
completed(1) 4:16		honorable(1) 1:17		particularly(1) 5:16		submitted(2) 5:16 5:25	
concerns(1) 5:20		hymnal(1) 4:11		pennsylvania(1) 1:50		suite(6) 1:42 2:6 2:13 2:21 2:29 2:42	
confident(1) 5:19		identified(1) 5:21		pepper(1) 2:11		sure(2) 4:11 6:8	
connection(1) 4:21		include(1) 4:1		permission(1) 3:10		thank(3) 5:7 6:21 6:22	
continued(1) 2:2		incorporate(1) 5:23		philadelphia(1) 2:36		that's(2) 4:9 4:19	
copies(1) 3:21		indicates(1) 4:3		plaza(1) 2:13		theresa(1) 1:46	
corp(1) 1:7		initially(1) 5:21		please(1) 3:3		think(1) 3:12	
corporation(1) 3:6		input(1) 5:18		ppearances(2) 1:20 2:1		time(1) 4:13	
correct(4) 4:9 4:19 5:5 7:2		interim(2) 4:22 5:24		preliminary(1) 4:13		timeline(1) 5:1	
counsel(1) 6:21		issue(2) 4:5 4:22				tower(1) 2:21	

# VERASUN 2.10.09.DOC

**Word** **Page:Line**

**transcriber**(1) 7:9  
**transcript**(3) 1:16 1:54 7:3  
**transcription**(2) 1:48 1:54  
**traurig**(1) 1:38  
**tuesday**(1) 3:1  
**two**(1) 3:16  
**u.s**(1) 3:19  
**ubs**(1) 2:33  
**under**(2) 4:1 6:2  
**understand**(1) 5:6  
**united**(2) 1:1 1:18  
**upon**(1) 5:18  
**various**(1) 5:15  
**verasun**(2) 1:7 3:6  
**wacker**(1) 2:22  
**want**(1) 4:10  
**watkins**(1) 2:19  
**watkins'**(1) 4:20  
**well**(4) 4:10 5:3 5:12 6:20  
**wells**(1) 2:26  
**were**(2) 5:10 5:20  
**we'd**(1) 3:10  
**we'll**(3) 6:11 6:15 6:20  
**we're**(1) 4:11  
**whereupon**(1) 6:24  
**will**(2) 5:23 5:25  
**wilmington**(8) 1:11 1:27 1:43 2:8 2:16  
2:30 2:43 3:1  
  
**wishes**(1) 5:14  
**work**(1) 4:20  
**wright**(18) 1:24 3:4 3:5 3:6 3:9 3:14 3:16  
3:19 3:23 4:6 5:12 6:5 6:7 6:9 6:13 6:16  
6:18 6:22  
  
**york**(1) 1:35  
**you've**(1) 4:16