

MEMORANDUM

November 30, 2008

To: Official Committee of Unsecured Creditors (the “Committee”) of VeraSun Energy Corporation, et al. (the “Debtors”)
From: Akin Gump Strauss Hauer & Feld LLP (“Akin Gump”)
Re: VeraSun Energy Corporation, et al. – Summary of WestLB DIP Motion

Motion Pursuant to Bankruptcy Code Sections 105, 361, 362, And 364 and Bankruptcy Rules 2002, 4001, and 9014 for Interim and Final Orders (I) Authorizing Debtors to Obtain Post-Petition Financing to Fund the ASA Facilities (II) Granting Adequate Protection to Pre-Petition Secured Lenders and (III) Scheduling Interim and Final Hearings [Docket No. 79] (the “WestLB DIP Motion”)

On November 5, 2008, the Debtors filed the WestLB DIP Motion for entry of interim and final orders authorizing the Debtors to, among other things, enter into a debtor in possession financing facility (the “WestLB DIP Facility”) arranged by WestLB, AG (“WestLB”) to fund the operations and working capital requirements of the ASA Debtors (as defined below). On November 26, 2008 the Debtors filed a notice of intent to schedule a hearing to consider approval of the WestLB DIP Facility on an interim basis.

(i) Prepetition Secured Financing at ASA

As of the Petition Date,¹ four of the Debtors (collectively, the “ASA Debtors”)² owned and operated three ethanol production facilities. The ASA Debtors are co-borrowers and guarantors under a prepetition senior credit facility with a syndicate of lenders (the “WestLB Lenders”),³ which provides for aggregate borrowings of up to \$275 million in two tranches: (i) Tranche A

¹ All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Term Sheet.

² The ASA Debtors consist of the following entities: ASA Albion, LLC; ASA Bloomingburg, LLC; ASA Linden, LLC and ASA OpCo Holdings, LLC.

³ The WestLB Lenders are WestLB AG; National Bank of Omaha; Standard Chartered Bank; CIT Capital USA Inc; ING Capital LLC; Siemens Financial Services, Inc.; Bank of Nova Scotia; Mizuho Corporate Bank, Ltd; Banco Santander Central Hispano, S.A.; Greenstone Farm Credit Services ACA/FLCA; Metropolitan Life Insurance Company; Bank Midwest, N.A.; Banco Bilbao Vizcaya Argentaria, S.A.; 1st Farm Credit Services; Natexis Banques Populaires; Investec Bank (UK) Limited; and Amarillo National Bank.

(\$175 million) and (ii) Tranche B (\$100 million) (the “ASA Senior Credit Facility”). VeraSun Energy Corporation (“VeraSun”) is a guarantor under the ASA Senior Credit Facility. The obligations under the ASA Senior Credit Facility are secured by the assets of ASA Holdings and the other ASA Debtors, as well as by a pledge made by VeraSun of all of its equity interest in ASA Holdings. As of the Petition Date, approximately \$266.7 million was outstanding under the ASA Senior Credit Facility.

(ii) Key Terms of the Proposed WestLB DIP Facility

Administrative Agent, Lead Arranger and Sole Lead Bookrunner: WestLB (or, as it relates to the DIP Facility, the “Postpetition Agent”).

Postpetition Lenders: WestLB and certain other Prepetition Lenders.

Borrowers: Each of ASA Albion, LLC, ASA Bloomingburg, LLC, ASA Linden, LLC (each, a “Project OpCo” and together, the “Project OpCos”) and ASA OpCo Holdings, LLC (“ASA Holdings”) and together with the Project OpCos, the “Borrowers”) on a joint and several basis.

DIP Revolving Facility: The Postpetition Lenders shall provide the Borrowers with a revolving credit facility (the “DIP Revolving Facility”) providing for extensions of credit in an aggregate amount not to exceed \$20 million (the “DIP Revolving Commitment Amount”) in the form of revolving credit loans or letters of credit. Upon the entry of an order (the “Interim Order”) by the Court, availability under the DIP Revolving Facility shall not exceed \$10 million (the “Interim Amount”) unless a debtor-in-possession revolving credit agreement acceptable to the Postpetition Lenders in their sole discretion containing all of the terms and conditions in the Term Sheet (the “Final DIP Agreement”) is (a) executed by the Borrowers and (b) approved by the Court pursuant to the Final Order.

Purpose and Use of Proceeds: The DIP Revolving Facility is intended to enable the Borrowers to fund their working capital needs, including corporate overhead allocations consistent with the Budget. All loans under the DIP Revolving Facility will be used in accordance with a rolling 13 week cash flow forecast provided monthly to and approved by the Postpetition Lenders holding more than 50% of the DIP Revolving Facility commitments (the “Required Postpetition Lenders”) (such approved forecast, the “Budget”).

Maturity Date: Unless accelerated as a result of an Event of Default (as defined below), the DIP Revolving Facility will expire and the borrowings thereunder will be immediately due and payable upon the earlier of (i) 6 months (which may be extended, with the prior written approval of the Required Postpetition Lenders, to 9 months and/or 12 months) from the date of the Interim Order, (ii) 45 days after the date of entry of the Interim Order if the Final Order has not been entered by such date; (iii) the closing date of any sale of any Borrower or all or substantially all of the assets of such Borrower pursuant to section 363 of the Bankruptcy Code in the Cases that has been approved by an order of the Court, and (iv) the effective date of a plan of reorganization

in the Cases that has been confirmed by an order of the Court (such date being the “Maturity Date”).

Interest Rate: LIBOR (subject to a floor of 4%) plus the Applicable Spread (defined below). If any Event of Default occurs and is continuing under the DIP Revolving Facility, then the Borrowers will pay interest on the unpaid balance of loans outstanding at a per annum rate two percent (2%) greater than the rates of interest specified above.

Applicable Spread: 1000 basis points, provided that the Applicable Spread shall, assuming the Maturity Date is extended, increase by 200 basis points on and after 6 months after the date of the Interim Order and by another 200 basis points on and after 9 months after the date of the Interim Order.

Borrowing Base: To be agreed to in connection with the negotiation of the Final DIP Agreement.

Mandatory Prepayment: (a) To the extent the outstanding principal amount of revolving loans plus available amounts under letters of credit issued under the DIP Revolving Facility exceeds the then effective DIP Revolving Commitment Amount or the Available Amount, then the Borrower shall immediately prepay such excess amount; and (b) to the extent monthly financial results of the Borrowers over any two consecutive month period show an aggregate operating loss (to be defined in the loan documentation) (such an event, an “Operating Loss Trigger Event”), then all outstanding loans under the DIP Revolving Facility shall be prepaid and letters of credit issued under the DIP Revolving Facility shall be cash collateralized upon receipt of receivables and/or payments for the sale of inventory.

Fees: The fees consist of (a) 0.5% of the aggregate principal amount of the DIP Revolving Facility, payable to WestLB for its own account on the closing date of the DIP Revolving Facility (the “Structuring Fee”); (b) 0.5% of the aggregate principal amount of the DIP Revolving Facility, payable on the closing date of the DIP Revolving Facility only to those Postpetition Lenders that underwrite the DIP Revolving Facility commitments on or prior to the date of the Interim Order approving this DIP Revolving Facility (the “Underwriting Fee”); (c) 2.0% of the aggregate principal amount of the DIP Revolving Facility, payable to the Postpetition Lenders (the “Facility Fee”); (d) 2.0% per annum, payable monthly in arrears on the daily average undrawn portion of the DIP Revolving Facility (the “Commitment Fee”); (e) 1.0% per annum, payable monthly in arrears on the daily average undrawn portion of the letters of credit issued under the DIP Revolving Facility to the issuing bank (the “Letter of Credit Fronting Fee”); and (f) a rate per annum equal to (i) 50% of the Interest Rate specified above for the DIP Revolving Facility loans minus (ii) the Letter of Credit Fronting Fee, payable monthly in arrears on the daily average undrawn portion of the letters of credit issued under the DIP Revolving Facility to the Postpetition Lenders that participate in such letters of credit (the “Letter of Credit Availability Fee”).

Security: The Postpetition Lenders shall be entitled to the following security: (a) subject to the Carve-Out (as defined below), pursuant to section 364(d)(1) of the Bankruptcy Code, fully perfected first priority, valid, binding, enforceable, non-avoidable and automatically perfected, priming security interests in and liens upon (the “Priming Liens”) all existing and after acquired real and personal, tangible and intangible property of the Borrowers, and a pledge of the equity interest in or of the Borrowers, in each case that constitutes Collateral under the Prepetition Credit Agreement (the “Priming Lien Collateral”), which shall be senior in all respects to the interests in and liens upon such property of, without limitation, the Prepetition Lenders; and (b) subject to the Carve-Out (as defined below), pursuant to section 364(c)(2) of the Bankruptcy Code, fully perfected first priority, valid, binding, enforceable, non-avoidable and automatically perfected, security interests in and liens upon (the “First Liens” and collectively, with the Priming Liens, the “Financing Liens”) all existing and after acquired real and personal, tangible and intangible property of the Borrowers, and a pledge of the equity interest in or of the Borrowers, in each case that does not constitute Collateral under the Prepetition Credit Agreement, whether created, existing, or acquired prior or subsequent to the commencement of the Cases, excluding all causes of action arising under Chapter 5 of the Bankruptcy Code, and any and all proceeds thereof (the “First Lien Collateral” and together with the Priming Lien Collateral, the “Collateral”).

The Financing Liens are subject only to (i) non-avoidable, valid, enforceable and perfected Permitted Liens (as defined in the Prepetition Credit Agreement) in existence on the date the Cases were commenced (the “Petition Date”), (ii) non-avoidable, valid, enforceable and perfected liens that are capitalized leases, purchase money security interests or mechanics’ liens in existence on the Petition Date, and (iii) non-avoidable, valid, enforceable liens that are capitalized leases, purchase money security interests or mechanics’ liens in existence on the Petition Date that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code; provided, however, that notwithstanding the Finance Liens, the Borrowers’ professionals may use and apply any retainer held by such professionals to allowed fees.

Priority: Pursuant to section 364(c)(1) of the Bankruptcy Code, all amounts owing by the Borrowers under the DIP Revolving Facility in respect thereof at all times will constitute allowed superpriority administrative expense claims in the Borrowers’ respective Cases, having priority over all administrative expenses or other claims (“Superpriority”), subject to the Carve-out (as defined below).

Carve-out: The Financing Liens, superpriority claim and any adequate protection liens and claims granted under the Interim Order and the Final Order shall be junior and subordinate to (i) all fees required to be paid to the Clerk of the Bankruptcy Court and to the Office of the United States Trustee pursuant to 28 § U.S.C. 1930, (ii) all accrued but unpaid fees and expenses of the attorneys, accountants or other professionals retained by the Borrowers and any statutory committee(s) appointed in the Borrowers’ Chapter 11 Cases under section 327 or 1103(a) of the

Bankruptcy Code (collectively, the “Professionals”), allocable to the Borrowers under and to the extent set forth in the Budget and incurred prior to the delivery of a notice of an Event of Default, (iii) an amount not exceeding \$1 million⁴ in the aggregate, which amount may be used after the occurrence and during the continuation of an Event of Default, to pay the allowed fees and expenses of professionals retained by the Borrowers and any statutory committee appointed in the Cases, but in each case only for work relating to the Borrowers and their Cases, and approved by the Court.

Conditions of Initial Extension of Credit: The obligation to provide an initial extension of credit under the DIP Revolving Facility shall be subject to the satisfaction of the following conditions:

(a) There shall have been no material adverse change in the business, assets, operations, condition (financial or otherwise), properties, contingent and other liabilities, material agreements, profits or financial position of the Borrowers as determined by the Postpetition Lenders in their sole discretion, other than certain limited exceptions; (b) the Interim Order shall have been entered by the Court no later than December 2, 2008;⁵ (c) all “first day” orders, including, without limitation, any order authorizing the use of cash collateral, and any other orders affecting or concerning the Collateral shall be in form and substance reasonably satisfactory to the Postpetition Lenders; (d) all outstanding Expenses (described below) shall be paid in full; and (e) due, sufficient and proper notice of the DIP Motion and of the proposed Interim Order or Final Order, as the case may be, has been or will be given to all parties in interest entitled to receive such notice.

Covenants: The covenants shall include: (i) delivery each week of an updated rolling 13 week cash flow forecast in the same form, and with the same level of detail, as the Budget; (ii) the delivery within two business days after the end of each week of a report setting forth, in a form and in sufficient detail satisfactory to the Postpetition Agent, a comparison of the actual results to the Budget; (iii) the delivery within one week after the end of each month a report setting forth, in a form and in sufficient detail satisfactory to the Postpetition Agent, the operational and financial results of the Borrowers for such month; (iv) delivery of a monthly profit and loss statement, monthly balance sheet and monthly cash flow statement; and (v) a weekly maximum cash budget variance covenant acceptable to Required Postpetition Lenders.

Events of Default: The DIP Revolving Facility will terminate and all amounts owing thereunder will immediately be due and payable without action or notice if any of the following (each an “Event of Default”) shall occur: (i) a chapter 11 trustee is appointed with respect to any of the Borrowers’ Cases; (ii) a responsible officer is appointed with respect to any of the Borrowers’ Cases; (iii) an examiner with expanded powers is appointed with respect to any of the Borrowers’ Cases; (iv) conversion of any of the Borrowers’ Cases to a case under Chapter 7 of

⁴ This figure appears in brackets in the Term Sheet.

⁵ This date appears in brackets in the Term Sheet.

the Bankruptcy Code; (v) any of the Borrowers' Cases is dismissed; (vi) the granting of relief from the automatic stay to any creditor as to any material asset or that could reasonably be expected to have an adverse impact on any of the Borrowers' businesses; (vii) a motion is approved granting a party a superpriority claim which is senior or pari passu with the Postpetition Lenders' claims under the DIP Revolving Facility; (viii) entry of an order without the prior consent of the Postpetition Lenders amending, supplementing or otherwise modifying the Interim Order; (ix) reversal, vacatur or stay of the effectiveness of the Interim Order; (x) payment of or granting adequate protection with respect to any prepetition debt or claim (other than as approved by the Postpetition Lenders and the Court); (xi) impairment of the Financing Liens or superpriority claims granted with respect to the DIP Revolving Facility in any respect; (xii) a Covenant is violated which, in the case of an affirmative Covenant, is not cured within 30 days, provided, however, that the 30 day cure period shall not apply to any reporting covenant or covenant to comply with EBITDA performance under the Business Plan and cash flow performance under the Budget; (xiii) an event occurs that has a materially adverse effect on the business, assets, liabilities, operations, conditions (financial or otherwise) or properties of any of the Borrowers; (xiv) any of the Borrowers terminate or reject a material contract in any of the Cases without the prior written consent of the Postpetition Lenders; (xv) the venue of any of the Cases is transferred outside the bankruptcy court in the District of Delaware; (xvi) a Final DIP Agreement consistent with the terms contained herein is not agreed to and finalized, or any other documentation related thereto is not finalized by the date that is fifteen (15) days (or such longer period as agreed to by the Postpetition Lenders and the Borrowers) after the date on which the Interim Order is entered; (xvii) an order, reasonably acceptable to the Postpetition Lenders, in its sole discretion, approving the Final DIP Agreement (the "Final Order"), has not been entered by the Court by the date that is forty-five (45) days (or such longer period as agreed to by the Postpetition Lenders and the Borrowers) after the date on which the Interim Order is entered; (xviii) any bankruptcy, insolvency, administration, liquidation or similar proceeding is commenced with respect to any of the Borrowers anywhere in the world, other than the Cases; (xix) any proceeds of the DIP Revolving Facility are utilized other than for the specific purposes and budget line contained in the applicable Budget; (xx) the Borrowers fail to pay any Interest, Fees, Expenses or other amounts to the Postpetition Lenders within three (3) business days when due; (xxi) the Borrowers fail to comply with certain financial covenants to be agreed to by the Postpetition Lenders and Borrowers related to the Budget and Business Plan; (xxii) any of the Borrowers breaches any other provision of this Term Sheet; (xxiii) the Borrowers' exclusivity is terminated; (xxiv) the Court approves/directs marshaling of the assets/Collateral; or (xxv) exceeding the maximum weekly cash budget variance covenant.

Proceeds of Subsequent Financing or Sale: If at any time prior to the repayment in full of all obligations arising under the DIP Revolving Facility, including subsequent to the confirmation of any plan in the Cases, any of the Borrowers, any trustee, any examiner with enlarged powers or any responsible officer subsequently appointed, shall obtain credit or incur debt pursuant to section 364(b), 364(c) or 364(d) of the Bankruptcy Code in violation of the terms of the Interim Order or the Final Order or shall receive proceeds from a sale of Collateral pursuant to section

363(b) of the Bankruptcy Code, or from a sale of any other Collateral after the satisfaction of liens that are senior to those of the Postpetition Lenders, then all of the cash proceeds derived from such credit, debt, or sale shall immediately be turned over to the Postpetition Lenders for the reduction of the DIP Revolving Facility. Upon the full satisfaction of the obligations under the DIP Revolving Facility, excess proceeds, if any, shall be immediately turned over to the Borrowers for the pro rata reduction of obligations under the Prepetition Credit Agreement in accordance with its terms and conditions.

Modification of the Automatic Stay: For purposes of the Interim Order and the Postpetition Lenders' exercise of any and all of their remedial rights upon the occurrence and during the continuance of an Event of Default, the automatic stay imposed by section 362(a) of the Bankruptcy Code shall be automatically vacated and modified after three (3) business days' prior notice to the Borrowers.

Expenses: The Borrowers shall reimburse the Postpetition Lenders for all reasonable out-of-pocket costs and expenses incurred in connection with the transaction, including, without limitation, related due diligence and preparation, negotiation, execution, delivery administration and enforcement of the definitive documentation and ongoing expenses related to the DIP Revolving Facility and the Cases, including, but not limited to, the reasonable fees, charges and disbursements of counsel and any financial advisors for the Postpetition Lenders.

As part of the adequate protection provided to the Prepetition Lenders in connection with their interests in the Priming Lien Collateral, the ASA Debtors shall pay the fees and expenses of the Prepetition Agent and the Prepetition Lenders under the Prepetition Credit Agreement, including, but not limited to, the reasonable fees (including retainers), charges and disbursements of the Prepetition Agent and the Prepetition Lenders, counsel and financial consultants for the Prepetition Agent and the Prepetition Lenders, taken as a whole, whether incurred prior to or subsequent to the Petition Date.