

MEMORANDUM

December 22, 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 Recently Filed Motion

Motion of Aux Sable Liquid Products LP to Compel Debtor to Assume or Reject Executory Contract with Aux Sable Liquid Products LP Under Section 365(d) (the "Motion")

By the Motion, Aux Sable Liquid Products LP ("Aux Sable") seeks an order compelling VeraSun Hankinson, LLC ("VeraSun") to assume or reject the Revised Extraction Agreement (defined below). In the alternative, if the Bankruptcy Court determines that there is no valid contract between Aux Sable and VeraSun, the Motion seeks an order directing the Debtors to pay the Diversion Fee (defined below) as an administrative priority claim under section 503(b) of the Bankruptcy Code.

According to the Motion, VeraSun signed an extraction rights agreement on May 30, 2008 (the "Original Extraction Agreement"), pursuant to which VeraSun is required, among other things, to (i) pay a fee (the "Diversion Fee") to Aux Sable for VeraSun's use of a natural gas pipeline (the "Pipeline") owned and operated by Aux Sable and (ii) post a letter of credit to secure VeraSun's obligations to Aux Sable under the Original Extraction Agreement. The Motion asserts that Aux Sable did not sign the Original Extraction Agreement. In August of 2008, Aux Sable sent VeraSun a revised version of the Original Extraction Agreement (the "Revised Extraction Agreement"). According to the Motion, the modifications made by Aux Sable in the Revised Extraction Agreement did not affect VeraSun's rights and obligations with respect to the Diversion Fee. VeraSun, however, did not sign the Revised Extraction Agreement.

The Motion asserts that, while there is no fully executed agreement between VeraSun and Aux Sable, the parties nonetheless conducted business with one another on substantially the same terms set forth in Revised Extraction Agreement. According to the Motion, Aux Sable has pre- and postpetition claims against VeraSun in the amount of \$68,649.46 for accrued, unpaid Diversion Fees in October and November 2008.