

MEMORANDUM

December 18, 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 Pleading

Motion to Compel Assumption or Rejection of Railroad Car Lease Agreements or, in the Alternative, to Compel Immediate Performance of Debtors’ Obligations Under Railroad Car Lease Agreements [Docket No. 306] (the “Motion”)

By the Motion, Trinity Industries Leasing Company (“Trinity”) requests entry of an order compelling (i) the Debtors to assume or reject the Leases (defined below) or, in the alternative, (ii) the immediate performance of all obligations under the Leases, including, but not limited to, the payment of all rent that has accrued since the date of the Debtors’ bankruptcy filing (the “Petition Date”).

According to the Motion, Trinity and the Debtors are parties to approximately 15 railcar lease agreements (collectively, the “Leases”), which represent a “major cog” in the Debtors’ operations. Trinity asserts that, pursuant to the Leases, Trinity supplies approximately 45% of the railcars used in the Debtors’ operations. According to the Motion, the Debtors have failed to make timely post-petition rent payments due and owing under the Leases in the aggregate amount of approximately \$2.54 million.