

Escrow/Title No.:377028-011

RECORDING REQUESTED BY
FIRST AMERICAN TITLE INSURANCE
COMPANY AND WHEN RECORDED,
RETURN TO:

BP West Coast Products LLC
4 Centerpointe Drive, LPR 4-411
La Palma, California 90623-1066
Attn: Real Estate Attorney

(h) ARCO #: 05581
DOFO #: 83135
SCDB #: 29526
Location: 830 Moore Street
Sedro Woolley, WA 98284



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Skagit County Auditor

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GUARDIAN NORTHWEST TITLE CO.
FOR RECORDER'S USE

95964-6

INTERCREDITOR AGREEMENT]

Tax Account Number: 350424-1-001-0004

Abbreviated Legal Description: Lot 1 BLA Survey 9107120026A

PTN NE 1/4 OF NE 1/4, 24-35-4 E W.M.

THIS INTERCREDITOR AGREEMENT ("Agreement") is entered into by and between CASCADE BANK, a Washington corporation, located at 6920 Evergreen Way, Everett, Washington 98023 ("Lender"), and BP WEST COAST PRODUCTS LLC, a Delaware limited liability company ("BP"), having a mailing address of 4 Centerpointe Drive, LPR 4-411, La Palma, California 90623, Attn: Real Estate Attorney.

RECITALS

A. Pursuant to a real estate sale agreement (the "Real Estate Agreement") between BP and EWB PROPERTIES, LLC, a Washington limited liability company ("Buyer"), BP is selling and Buyer is purchasing certain real property located at 830 Moore Street in the City of Sedro Woolley, County of Skagit (the "County"), State of Washington, as legally described on the attached Exhibit "A" (the "Real Estate"). The business at the Real Estate will be operated by EB&W OIL, INC., a Washington corporation ("Operator"). The consummation of the transaction between Buyer and BP (the "Closing") is currently scheduled to occur on March 24, 2009.

B. In connection with the Closing, certain documents will be recorded in the official records of the County for the benefit of BP (the "BP Documents"). The BP Documents will be recorded prior to Lender's loan documents.

C. The BP Documents contain certain reserved rights in favor of BP, but do not impose a monetary lien against the Real Estate.

D. Lender is advancing funds to Buyer (the "Loan") to consummate the above-described purchase, which Loan will be evidenced by a mortgage, deed of trust or other security instrument and related documents of substantially even date herewith (the "Lien"), which will be recorded in the official records of the County following the recording of the BP Documents.

E. Lender has conditioned the Loan on BP agreeing to certain modifications to the BP Documents for Lender's protection.

F. BP is willing to accommodate Lender's requested modifications as set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the mutual promises contained herein, Lender and BP hereby agree as follows:

1. Recitals. The foregoing Recitals are hereby incorporated by reference.

2. No Monetary Lien. BP represents to Lender that in connection with the BP Documents and the enforcement of BP's rights thereunder, BP will not record, or enable any other party to record, any monetary lien against the Real Estate which would have priority over Lender's Lien.

3. Memorandum. At the Closing, BP will record a Memorandum of Gasoline Agreement (the "Memorandum"), evidencing the existence of an agreement between BP and Operator for the supply of motor fuel to the Real Estate (the "Gas Agreement"). The Memorandum also evidences a right of first refusal in favor of BP. BP and Lender hereby agree that notwithstanding any provision of the Memorandum to the contrary:

3.1 BP shall simultaneously provide Lender with a copy of any notice provided to Operator that BP has elected to exercise its right of first refusal as set forth in the Gas Agreement.

3.2 If BP exercises its right of first refusal and purchases the Real Estate, the full indebtedness secured by Lender's Lien shall be paid within ninety (90) days of the closing of the transaction relating to BP's exercise of the right of first refusal. Lender shall not be obligated to release its Lien or reconvey the Real Estate unless and until the obligations secured by such Lien have been paid in full.

3.3 If BP does not exercise its right of first refusal within the time permitted under the Gas Agreement, and Lender completes a foreclosure of the Real Estate, BP's right of first refusal as set forth in the Memorandum shall terminate and be of no further force or effect. Notwithstanding the foregoing, if Lender permits Operator to continue operations as a tenant at the Real Estate following a foreclosure, BP's right of first refusal shall continue as to Operator's leasehold interest only.

4. Modification of Right of First Refusal and Option Agreement. At the Closing, BP will record a Right of First Refusal and Option Agreement ("ROFR/Option"), granting BP certain rights against the owner of the Real Estate ("Owner") and the Operator, including among other things: (a) a right of first refusal to match a third party offer to buy or lease the Real Estate (the "Right"); (b) the



option to purchase the Real Estate (the "Purchase Option"); and (c) the right to assume the Operator's interest as tenant under the lease of the Real Estate (the "Lease") between Owner and Operator (the "Lease Option"), at a price and upon terms and conditions stated more fully therein. BP and Lender hereby agree that notwithstanding any provisions of the ROFR/Option to the contrary:

4.1 If BP exercises its Right, its Purchase Option or its Lease Option, BP shall simultaneously provide Lender with a copy of any Exercise Notice (as defined in the ROFR/Option) provided to Owner and/or Operator.

4.2 If BP exercises its Right, the full indebtedness secured by Lender's Lien shall be paid within ninety (90) days of the closing of the transaction relating to BP's exercise of the Right. Lender shall not be obligated to release its Lien or reconvey the Real Estate unless and until the obligations secured by such Lien have been paid in full.

4.3 If BP does not exercise its Right, and Lender completes a foreclosure of the Real Estate, BP's Right shall terminate and be of no further force or effect.

4.4 If BP exercises its Purchase Option, the full indebtedness secured by Lender's Lien shall be paid within ninety (90) days of the closing of the transaction relating to BP's exercise of the Purchase Option. Lender shall not be obligated to release its Lien or reconvey the Real Estate unless and until the obligations secured by such Lien have been paid in full.

4.5 If BP does not exercise its Purchase Option, and Lender completes a foreclosure of the Real Estate, BP's Purchase Option shall terminate and be of no further force or effect.

4.6 If BP exercises its Lease Option, BP hereby agrees that the Lease shall be subordinate to the Lender's Lien; provided that the Lease shall survive any foreclosure of the Real Estate. Further, upon completion of any such foreclosure of the Real Estate, BP agrees to attorn to Lender or any subsequent purchaser of the Real Estate; provided, that Lender or such subsequent purchaser shall not disturb BP's leasehold interest in the Real Estate so long as BP is not in default, beyond any applicable cure periods, under the terms of the Lease.

4.7 If BP does not exercise its Lease Option, and Lender completes a foreclosure of the Real Estate, BP's Lease Option shall terminate and be of no further force or effect.

5. Termination of Rights. In any case where BP foregoes its rights as set forth in the BP Documents, BP shall execute and deliver to Lender within thirty (30) days after receipt of Lender's written request therefor, a written release and termination of such rights (as applicable), in recordable form and otherwise in form and substance reasonably satisfactory to Lender, which Lender may record in the real estate records of the County to give record notice thereof.

6. Corrective Action Obligation. Pursuant to Section 12.1 of the Real Estate Agreement, BP is obligated to Buyer for any action required by the oversight agency to assess, monitor and perform corrective action on "Pre-Closing Contamination" (as defined in the Real Estate Agreement) and to use commercially reasonable efforts to obtain from the oversight agency



a letter stating that, based on certain assumptions and conditions, the oversight agency will not require BP to perform any further corrective action (collectively, the "Corrective Action Obligations").

6.1 BP hereby agrees that if Lender completes a foreclosure of the Real Estate, the Corrective Action Obligations of BP shall apply with equal force and effect to Lender or the purchaser of the Real Estate, whether that purchaser buys the Real Estate at the foreclosure sale or subsequently buys it from Lender.

6.2 As a condition precedent to BP's extension of the Corrective Action Obligations to Lender or the subsequent purchaser (as set forth in Section 6.1 above), Lender or such subsequent purchaser must agree to grant BP reasonable access to the Real Estate at no charge to complete BP's Corrective Action Obligations.

7. Lender's Obligations and Acknowledgements. Lender agrees that notwithstanding any provision of the Loan documents or applicable law to the contrary:

7.1 Lender shall have no security interest in the following property: (a) computer software and hardware, counter merchandising systems and point of sale systems, (b) PayQuick® island terminals (together with any proprietary point of sale equipment furnished by BP), (c) the service mark and service name "ampm" (or any variation thereof) and any other service marks, trademarks and service names used in connection with ampm mini markets, (d) ampm store copyrighted materials, (e) the exterior ampm sign (excluding the sign structure) and interior signage, (f) all written manuals, specifications, data and instructions provided by BP to its franchisee, and (g) all tradenames, trademarks and trade dress of BP and its respective affiliates.

7.2 Lender acknowledges that pursuant to the Gas Agreement and a Mini Market Agreement between BP and Buyer (collectively, the "Franchise Agreements"), Buyer is obligated to pay BP (a) certain royalties, license or franchise fees, and other similar fees; and (b) for goods, materials, services, inventory and other similar items (collectively, the "Franchise Payment Obligations"). The Franchise Payment Obligations shall be governed exclusively by the Franchise Agreements, shall not be included in any collateral pledged to Lender under the Loan documents, and BP's rights to receive the Franchise Payment Obligations are and shall not be not affected by any provisions of the Loan documents.

7.3 Lender will provide BP with a copy of any notice of default by Buyer under the Loan documents simultaneously with the giving such notice to Buyer.

7.4 Lender will provide BP with a copy of any notice of enforcement action against the Real Estate simultaneously with the giving such notice to Buyer.

7.5 Lender will permit BP to cure any monetary and/or non-monetary default of Buyer; provided that the decision to tender any such cure shall be at BP's sole option.

7.6 If BP has exercised its right to repurchase the Real Estate (as set forth in the BP Documents) but the repurchase has not yet been consummated, Lender will not complete a foreclosure of the Real Estate until BP has received the amount of time reserved in the BP Documents to complete the repurchase transaction; provided, however, that BP shall keep the Loan current during such time period; and provided further that any event of default under the Loan



documents which is not reasonably capable of being cured by BP (other than a default based upon the failure of Buyer to repay the Loan at its scheduled maturity) shall be deemed waived by Lender as to BP, but not as to any other party.

7.7 Lender agrees that BP shall have the right to enforce its rights hereunder by an action in law or equity in the event Lender does not comply with its obligations to BP hereunder.

8. Foreclosure; Trustee's Sale; Deed in Lieu of Foreclosure. As used in this Agreement, the term "foreclosure" shall include any foreclosure sale, whether by judicial proceedings or by a trustee's sale, or Lender's acceptance of a deed in lieu of foreclosure or consents to a so-called "short sale".

9. Continuing Effect; Conflicts. Except as modified hereby, all other terms and conditions of the Real Estate Agreement and the closing documents shall remain the same. In the event of a conflict between this Agreement and the Real Estate Agreement, the provisions of this Agreement shall govern.

10. Execution and Delivery; Recordation. BP and Lender shall deliver duplicate executed copies of this Agreement to First American Title Insurance Company, 777 South Figueroa Street, Suite 400, Los Angeles, CA 90017, Attn: Barbara Laffer, Escrow Officer ("Escrow Holder") prior to the Closing.

This Agreement shall be recorded in the real estate records of the County immediately following recordation of Lender's Lien, to give record notice of the provisions hereof.

11. Effective Date; Termination. This Agreement shall become effective upon the consummation of the transaction between Buyer and BP at Closing. It shall terminate automatically without the need for further documentation from BP or Lender on the date that Lender's Lien is extinguished by foreclosure or is released; provided that such termination shall not affect any right of BP or Lender hereunder which arose prior to the date of termination.

Notwithstanding the foregoing, BP and Lender, upon receipt of written request, shall execute such document in recordable form as is reasonably necessary to evidence that a termination of this Agreement has occurred.

12. Binding on Successors. The provisions of this Agreement shall be binding upon, and shall inure to the benefit of, Lender, BP and their respective successors in interest.

13. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which combined shall constitute one and the same instrument.

(SIGNATURES ON FOLLOWING PAGE)



IN WITNESS WHEREOF, authorized representatives of the parties have executed this Agreement as of the dates written below.

LENDER:

CASCADE BANK,
a Washington corporation

By: *Robert Disotell*
Printed Name: ROBERT DISOTELL
Printed Title: EVP
Date: 3-16-09

BP:

BP WEST COAST PRODUCTS LLC,
a Delaware limited liability company

By: _____
Printed Name: _____
Printed Title: _____
Date: _____

Attest: _____
Printed Name: _____
Printed Title: _____
Date: _____

NOTARY ACKNOWLEDGEMENTS BEGIN ON FOLLOWING PAGE

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Skagit County Auditor

IN WITNESS WHEREOF, authorized representatives of the parties have executed this Agreement as of the dates written below.

LENDER:

CASCADE BANK,
a Washington corporation

By: _____

Printed Name: _____

Printed Title: _____

Date: _____

BP:

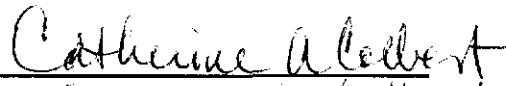
BP WEST COAST PRODUCTS LLC,
a Delaware limited liability company

By: 

Printed Name: AUSTIN J. MCGREAL

Printed Title: VICE PRESIDENT

Date: 3/20/2009

Attest: 

Printed Name: Catherine A. Colbert

Printed Title: Assistant Secretary

Date: 3/20/09

NOTARY ACKNOWLEDGEMENTS BEGIN ON FOLLOWING PAGE



STATE OF WASHINGTON

County of Snohomish

I certify that I know or have satisfactory evidence that Robert Disotell is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she is authorized to execute the instrument and acknowledged it as the Exec Vice Pres. of CASCADE BANK, a Washington corporation, to be his/her free and voluntary act for the uses and purposes mentioned in this instrument.

Dated: 3-16-09

Signature: J. L. Bodewig



Notary Public in and for State of Washington

Residing at: Arlington, WA

My appointment expires: 3-19-11

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Orange

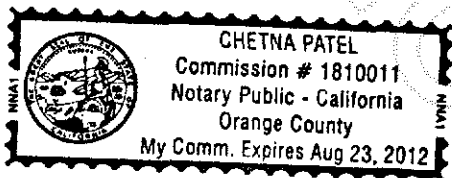
On March 20, 2009 before me, Chetna Patel, Notary Public

DATE

Name, Title Of Officer - E.G., "Jane Doe, Notary Public"

personally appeared Austin J. McGreal.

Who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instruments.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Chetna Patel

Signature of Notary

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

- INDIVIDUAL
- CORPORATE OFFICER

VICE PRESIDENT

- PARTNER(S) LIMITED
- GENERAL

- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER:

TITLE OR TYPE OF DOCUMENTS

NUMBER OF PAGES

DATE OF DOCUMENTS

SIGNER IS REPRESENTING:

NAME OF PERSON(S) OR ENTITY(IES)
BP West Coast Products, LLC



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Skagit County Auditor

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Orange

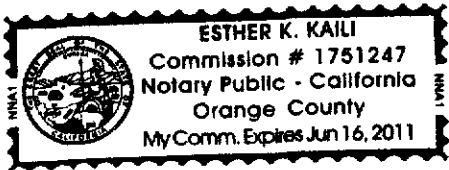
On March 20, 2009 before me, Esther K Kaili, Notary Public
Date Name Title Of Officer - E.G., "Jane Doe, Notary Public"

personally appeared Catherine A Colbert
Name(s) of Signer(s)

Who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instruments.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Esther K. Kaili
Signature of Notary

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

INDIVIDUAL
 CORPORATE OFFICER-Assistant Secretary

PARTNER(S) LIMITED
 GENERAL

ATTORNEY-IN-FACT
 TRUSTEE(S)
 GUARDIAN OR CONSERVATOR
 OTHER:

Intercreditor Agreement
TITLE OR TYPE OF DOCUMENTS

6

NUMBER OF PAGES

march 20, 2009
DATE OF DOCUMENTS

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

BP West Coast Products LLC

SIGNER(S) OTHER THAN NAMED ABOVE



200903240064
Skagit County Auditor

EXHIBIT "A"

LEGAL DESCRIPTION

Site #05581

LOT 1 OF BOUNDARY LINE ADJUSTMENT SURVEY RECORDED JULY 12, 1991, UNDER AUDITOR'S FILE NO. 9107120026, RECORDS OF SKAGIT COUNTY, WASHINGTON; MORE FULLY DESCRIBED AS FOLLOWS:

THAT PORTION OF THE NORTHEAST 1/4 OF SECTION 24, TOWNSHIP 35 NORTH, RANGE 4 EAST, W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WEST RIGHT OF WAY LINE (40 FEET FROM CENTERLINE) OF TOWNSHIP ROAD WITH THE NORTH RIGHT OF WAY LINE (75 FEET FROM CENTERLINE) OF SECONDARY STATE HIGHWAY NO. 1-A, THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG SAID WEST RIGHT OF WAY LINE OF TOWNSHIP ROAD, A DISTANCE OF 96.58 FEET TO A POINT 120 FEET NORTH OF, AS MEASURED PERPENDICULAR TO SAID SOUTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION; THENCE CONTINUING NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG SAID WEST RIGHT OF WAY LINE, A DISTANCE OF 52.00 FEET; THENCE NORTH 88 DEGREES 51 MINUTES 15 SECONDS WEST, 265.18 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 152.02 FEET TO A LINE PARALLEL WITH AND 20 FEET NORTH OF, AS MEASURED PERPENDICULAR TO, SAID SOUTH LINE OF THE NORTHEAST 1/4; THENCE SOUTH 88 DEGREES 51 MINUTES 15 SECONDS EAST ALONG SAID PARALLEL LINE, A DISTANCE OF 188.98 FEET TO A POINT OF INTERSECTION WITH SAID NORTHERLY RIGHT OF WAY LINE (75 FEET FROM THE CENTERLINE) OF SECONDARY STATE HIGHWAY NO. 1-A; THENCE NORTH 88 DEGREES 33 MINUTES 29 SECONDS EAST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 76.20 FEET TO THE POINT OF BEGINNING.

SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.

h#05581/SCDB#29526
2159921.2/17468.039



200903240064

Skagit County Auditor