



Mercantile Bank

Richard S. Palmer
Vice President

0-310A061

No.)
Date NOV 5 1980
Fee \$ 50.00

ICC Washington, D. C.

October 30, 1980

12394

RECORDATION NO. Filed 1425

NOV 5 1980 - 2 45 PM

INTERSTATE COMMERCE COMMISSION

Secretary of Interstate
Commerce Commission
Washington, D.C. 20423

Dear Sir:

Enclosed for recordation are three originals of a Security Agreement and Assignment from Burke Energy Corporation, a Nevada corporation with offices at 707 Main Street, Hutchinson, Kansas 67501, as Mortgagor, to Mercantile National Bank at Dallas with offices at 1704 Main Street, Dallas, Texas 75201, as Mortgagee, covering (i) the mortgage of sixteen (16) liquid petroleum tank cars marked and numbered WPWX4 through WPWX14, both inclusive, WPWX218, WPWX221, WPWX226, WPWX232, and WPWX235, and (ii) the assignment of contract rights under a platinum inventory stock account. Also enclosed is a check for \$50 representing the filing fee for the Security Agreement and Assignment.

Please return the original to the undersigned at 1704 Main Street, Dallas, Texas 75201, Attention: Richard S. Palmer, Vice President, Energy Department.

Should you have any questions or comments concerning the recordation requirements, please contact Robert N. Rule, Jr. at Shank, Irwin, Conant, Williamson & Grevelle, 3100 First National Bank Building, Dallas, Texas 75201, AC 214 - 748-9696.

Very truly yours,

MERCANTILE NATIONAL BANK AT
DALLAS

BY 
Richard S. Palmer
Vice President

NOV 5 2 45 PM '80
FEE OFFICE
RECORDATION

INTERSTATE
COMMERCE COMMISSION
RECEIVED
NOV 4 1980
ADMINISTRATIVE SERVICES
MAIL UNIT

RSP:db
Enclosures

Interstate Commerce Commission
Washington, D.C. 20423

11/7/80

OFFICE OF THE SECRETARY

Richard S. Palmer
Vice President
Energy Dept.
1704 Main Street
Dallas, Texas 75201

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 11/5/80 at 2:45pm, and assigned re-
recording number (s). 12394

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

SE-30
(7/79)

NOV 5 1980 -2 45 PM

SECURITY AGREEMENT AND INTERSTATE COMMERCE COMMISSION
ASSIGNMENT

THIS SECURITY AGREEMENT AND ASSIGNMENT dated as of October 30, 1980 from BURKE ENERGY CORPORATION, a Nevada corporation (the "Borrower") and Mercantile National Bank at Dallas (the "Bank"),

W I T N E S S E T H:

WHEREAS, Borrower desires to borrow money from the Bank to finance the purchase of equipment to be used in the construction of that certain 4,000 barrel per day butane isomerization facility to be constructed by Borrower at Conway, Kansas, together with all necessary support facilities (the "Plant"); and

WHEREAS, the Bank desires to lend the Borrower the sum of \$2,000,000 plus interest thereon to be used for the purpose of purchasing the said equipment to be used in construction of the Plant (the "Loan");

NOW, THEREFORE, in order to induce the Bank to make the Loan to the Borrower and to provide for the prompt payment of the Indebtedness (as hereinafter defined), the Borrower hereby grants, sells, assigns, conveys, transfers and sets over to the Bank all of his right, title and interest (i) in and to the liquid petroleum railroad tank cars listed and described in Exhibit "A" attached hereto and made a part hereof for all purposes the same as if copied herein in full, together with all accessories, equipment, parts and appurtenances appertaining or attached to any of such railcars whether now owned or hereafter acquired along with all substitutions, replacements of and additions, improvements, accessions and accumulations to any or all of such cars ("Cars"), and (ii) in and to the account or contract rights listed and described on Exhibit "B" attached hereto and made a part hereof for all purposes the same as if copied herein in full (the "Contract"), said security interest to include a lien on all proceeds, assessments and substitutions of and for such Cars and Contract (which Cars and Contract are hereinafter collectively called the "Collateral") including without limitation, all claims for damages arising out of the breach of any or all of the Contract and the right of the Bank to terminate such Contract in accordance with their terms, to perform thereunder directly or through a nominee and to compel performance of the terms thereof;

TO HAVE AND TO HOLD the Collateral to the Bank and its successors and assigns for the use and benefit of the Bank and subsequent holders of the Indebtedness (as hereinafter defined).

Terms of Assignment

1. This Security Agreement and Assignment is made by the Borrower to provide for and to secure ratably the payment of his indebtedness described below (collectively the "Indebtedness"):

(a) indebtedness evidenced by that certain Interim Note dated October 30, 1980 from Borrower as maker payable to the order of the Bank in the principal amount of

\$2,000,000 due on or before November 30, 1980 including interest at the rate stated therein (the "Note");

(b) all other indebtedness of the Borrower to the Bank presently outstanding and arising hereafter;

(c) all renewals and extensions, in whole or in part, of the Note or of any other indebtedness of the Borrower described in this Section 1; and

(d) all costs and expenses of enforcing the Note, and this Security Agreement and Assignment and the Contracts.

2. Until, but only until, the occurrence and continuation of an event which constitutes an Event of Default (as hereinafter defined), the Borrower may exercise all rights under the Collateral including without limitation the right to receive all moneys due or to become due thereunder.

3. If one or more of the following events (hereinafter called "Events of Default") shall occur and be continuing: (a) Borrower shall fail to pay when due the principal of or interest on the Note or any installment thereof; (b) any representation or warranty made under this Security Agreement and Assignment or in any certificate or statement furnished or made to the Bank pursuant hereto, or in connection herewith, or in connection with any document furnished hereunder, shall prove to be untrue in any respect as of the date on which such representation or warranty is made; (c) default shall be made in the performance of any of the covenants or obligations of the Borrower herein contained; (d) default shall be made in respect of any obligation for borrowed money other than the Note, for which Borrower is liable (directly, by assumption, as guarantor or otherwise), or any obligation secured by any mortgage, pledge or other security interest, lien, charge or encumbrance with respect thereto, any property of Borrower, or in respect of any agreement relating to any such obligation; (e) Borrower shall (i) apply for, or consent to the appointment of a receiver, trustee, intervenor or liquidator of all or a substantial part of his assets, or (ii) be adjudicated a bankrupt or involvent or file a voluntary petition in bankruptcy or admit in writing that he is unable to pay his debts as they become due, or (iii) make a general assignment for the benefit of creditors, or (iv) file a petition or answer seeking reorganization or an arrangement with creditors or to take advantage of any bankruptcy, reorganization or insolvency proceedings; (f) an order, judgment or decree shall be entered by any court of competent jurisdiction or other competent authority appointing a receiver, custodian, trustee, intervenor or liquidator for Borrower or for all or substantially all of the assets of Borrower and such order shall not be discharged within a sixty (60) day period; or (g) a default shall occur under the terms of the Note or any other instrument executed in connection herewith; then, and in any such event, the Bank may declare the principal of and all interest then accrued on the Note and any other liabilities hereunder that to be forthwith due and payable whereupon the same shall forthwith become due without presentment, demand, protest, notice of intent to accelerate or other notice of any kind, all of which Borrower hereby expressly waives, anything contained herein or in the Note to the contrary notwithstanding. Nothing herein contained shall be construed as limiting in any way any events of default enumerated in the Note or any other document executed in connection with the transaction contemplated herein.

4. To facilitate carrying out the terms and provisions of this Security Agreement and Assignment, the Borrower hereby authorizes and directs any person, firm or corporation which owes or may owe moneys to the Borrower pursuant to the Contract, upon receipt from the Bank of written notice to the effect that the Bank is entitled to receive such moneys in accordance with the terms hereof, to pay all such moneys directly to the Bank and to accept the receipt of the Bank therefor. The Bank may deliver such notice only upon the occurrence of an event which constitutes an Event of Default. All amounts at any time received by the Bank under or in connection with the Contract after the occurrence of an Event of Default shall be held and/or at any time and from time to time applied by the Bank for the benefit of the Bank as the same shall become due and payable under the instruments creating or evidencing the same such funds being first applied to the payment of expenses and then to accrued and unpaid interest and then to principal.

5. The Borrower hereby irrevocably authorizes and empowers the Bank upon the occurrence of an event which constitutes an Event of Default (and, upon such occurrence, does hereby constitute the Bank, its successors and assigns, the true and lawful attorney-in-fact of the Borrower, irrevocably, with full power in the name of the Borrower or otherwise) (i) to demand, receive, collect or give acquittance for the payment of any and all moneys due under the Contract, (ii) to file any claims and to commence, maintain or discontinue any actions, suits or other proceedings which the Bank deems advisable in order to collect or enforce payment of any such moneys and (iii) to settle, adjust and compromise any and all disputes or claims in respect of such moneys; but the Bank is only responsible for moneys actually received by it and is not obligated in any manner to take any such action with respect thereto.

6. Bank, in addition to the rights and remedies provided for in the preceding paragraphs, shall have all the rights and remedies of a secured party under the Uniform Commercial Code as adopted in the State of Texas, and Bank shall be entitled to avail itself of all such other rights and remedies as may now or hereafter exist at law or in equity for the collection of said indebtedness and the enforcement of the covenants herein and the foreclosure of the security interest created hereby and the resort to any remedy provided hereunder or provided by the Uniform Commercial Code as adopted in the State of Texas, or by any other law of such state, shall not prevent the concurrent or subsequent employment of any other appropriate remedy or remedies.

7. The requirement of reasonable notice to the Borrower of the time and place of any public sale of the collateral or of the time after which any private sale, shall be met if such notice is mailed, postage prepaid, to the Borrower at 707 Main Street, Hutchinson, Kansas 67501 at least five (5) business days before the date of any public sale or at least five (5) business days before the time after which any private sale or other disposition is to be made.

8. The security interest herein granted shall not be affected by nor affect any other security taken for the indebtedness hereby secured, or any part thereof; and any extensions may be made of the indebtedness and this security interest and any releases may be executed of the collateral, or any part thereof, herein conveyed without affecting the priority of this security interest or the validity thereof with reference to any third person, and the holder of said indebtedness shall not be limited by any election of remedies

if he chooses to foreclose this security interest by suit. The right to sell under the terms hereof shall also exist cumulative with said suit; and one method so resorted to shall nor bar the other, but both may be exercised at the same or different times, nor shall one be a defense to the other.

9. Upon payment of the Indebtedness in full, the Bank shall take, upon the request and at the expense of the Borrower, all action necessary to cause this Security Agreement and Assignment to be released of record.

10. The Borrower hereby covenants and agrees with the Bank so long as any of the Indebtedness shall be outstanding that:

(a) in the event that the Borrower receives moneys due under or in connection with the Contract during the continuation of an event which constitutes an Event of Default, the Borrower will forthwith pay over and deliver the same to the Bank in the same form as received and until so paid over and delivered will hold the same in trust for the Bank and not commingle the same with any funds of the Borrower;

(b) the Borrower will at his own expense from time to time take all action necessary or advisable to perfect the Bank's rights in the Collateral. In addition, upon the request of the Bank, the Borrower will execute and deliver such further certificates, instruments or documents, and take such further actions, as may be deemed reasonably necessary or advisable by the Bank for the more effective vesting in it of the Collateral hereby assigned or intended to be assigned, including, without limitation, the execution and filing of financing and continuation statements and this Security Agreement and Assignment under the applicable law in all jurisdictions where any records of the Borrower pertaining to any of the Collateral are kept; and to the extent permitted by applicable law from time to time in effect, the Borrower hereby authorizes the Bank to sign and file any such financing or continuation statements without necessity of the same being signed by the Borrower;

(c) The Borrower will not, without prior written consent of the Bank, agree to or permit the amendment or modification of the Contract (except as may be required by order of any court or regulatory authority having jurisdiction) which (i) changes any significant term of the Contract, (ii) has any material effect on the Contract as security for the Note;

(d) The Borrower will not sell, assign, convey, mortgage, encumber or otherwise transfer any of the Collateral or any of his rights under the Contract to anyone other than the Bank;

(e) during the continuation of an event which constitutes an Event of Default, the Bank may endorse the name of the Borrower on all notes, checks, drafts, bills of exchange, money orders, commercial paper of any kind whatsoever and any other document received in the payment of moneys due under or in connection with this Security Agreement and Assignment, and the Bank or any officer or employee thereof is hereby irrevocably constituted and appointed the agent and attorney-in-fact for the Borrower for the foregoing purposes;

(f) the Bank shall not have any obligation under the Collateral by reason or arising out of this Security Agreement and Assignment or be obligated to perform any of the obligations or duties of the Borrower thereunder; and

(g) nothing in this Security Agreement and Assignment shall in any manner relieve the Borrower of its obligations to pay the Indebtedness except to the extent that the Bank applies to such Indebtedness, pursuant to the terms of this Security Agreement and Assignment, moneys actually and indefeasibly received by it.

12. No failure or delay on the part of the Bank in exercising any power or rights hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power preclude any other or further exercise thereof or the exercise of any other right or power hereunder. No modification or waiver of any provision of this Security Agreement and Assignment nor consent to any departure therefrom shall in any event be effective unless the same be in writing and then such waiver or consent shall be effective only in the specific instance for the purpose for which given.

13. This Security Agreement and Assignment shall be binding upon, and shall inure to the benefit of, the Borrower and the Bank, and their respective heirs successors and assigns, including any subsequent holder of the Note. This instrument shall be deemed to be made under and governed by the laws of the State of Texas.

14. Nothing contained in this Security Agreement and Assignment shall be construed as modifying in any respect the rights and remedies granted to the Bank in the Note in the event of a default by the Borrower.

15. If an Event of Default should occur, the Bank shall, in addition to the rights and remedies set forth hereinabove, have all of the rights and remedies provided by the Texas Business and Commerce Code and otherwise at law or in equity.

16. Anything contained herein to the contrary notwithstanding (i) the Borrower shall at all times remain liable under the Contract to perform all his duties and obligations thereunder to the same extent as if this Security Agreement and Assignment had not been executed, and (ii) the exercise by the Bank or its nominee of any of the right, title and interest assigned hereunder shall not release the Borrower from any of its duties or obligations under the Contract.

IN WITNESS WHEREOF, the parties hereto have caused this Security Agreement and Assignment to be executed on the dates set forth in the acknowledgments below, in multiple originals, and delivered as of the date first above written.

BURKE ENERGY CORPORATION

By



M. M. Burke, President

MERCANTILE NATIONAL BANK AT
DALLAS

By



Richard S. Palmer,
Vice President

THE STATE OF TEXAS §
§
COUNTY OF DALLAS §

Before me, a notary public, on this day personally appeared M. M. BURKE, President of Burke Energy Corporation, a corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of said corporation for the purposes and consideration therein expressed and in the capacity therein stated.

Given under my hand and seal of office this 30th day of October, 1980.

Debbie Barton
Notary Public in and for
Dallas County, Texas

My Commission Expires:

DEBBIE BARTON, Notary Public
In and for the State of Texas
My commission Expires 1-7-84

THE STATE OF TEXAS §
§
COUNTY OF DALLAS §

Before me, a notary public, on this day personally appeared RICHARD S. PALMER, Vice President of MERCANTILE NATIONAL BANK AT DALLAS, a national banking association, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of said national banking association for the purposes and consideration therein expressed, and in the capacity therein stated.

Given under my hand and seal of office this 30th day of October, 1980.

Debbie Barton
Notary Public in and for
Dallas County, Texas

My Commission Expires:

DEBBIE BARTON, Notary Public
In and for the State of Texas
My commission Expires 1-7-84

EXHIBIT "A" TO SECURITY AGREEMENT AND ASSIGNMENT
DATED AS OF OCTOBER 30, 1980, FROM BURKE ENERGY
CORPORATION TO MERCANTILE NATIONAL BANK AT DALLAS

Sixteen (16) liquid petroleum tank cars marked and numbered WPWX4 through WPWX14, both inclusive, WPWX218, WPWX221, WPWX226, WPWX232, and WPWX235.

EXHIBIT "B" TO SECURITY AGREEMENT AND ASSIGNMENT
DATED AS OF OCTOBER 30, 1980, FROM BURKE ENERGY
CORPORATION TO MERCANTILE NATIONAL BANK AT DALLAS

Platinum inventory stock account, account number 2342 in the name of Petroleum Processing Inc., which account has been assigned to Borrower, which account contains 900 troy ounces of platinum and which account is located and is maintained at the offices of U.O.P. Process Division, a division of UOP Inc., 20 UOP Plaza, Des Plaines, Illinois 60016.