Item 3-1

1025

STATE OF ALABAMA)
)
COUNTY OF SHELBY)

LEASE AGREEMENT

THIS AGREEMENT, made and entered into on this the 20th day of May, 1974, by and between Martha Spidle Chandler and Betty Spidle Meriwether, as Trustees of The E. T. Spidle Trust, as Lessor, and William C. Chandler, as Lessee;

W I T N E S S E T H:

1. For and in consideration of the royalties hereinafter provided to be paid by the Lessee to the Lessor, the Lessor does hereby demise, let and lease unto the Lessee, his heirs and assigns, the hereinafter described property, for the purposes of investigating, exploring, prospecting, dredging for, dynamiting, producing and removing, any and all limestone, dolomite and other mineral ore from the following described real estate, situated in Shelby County, Alabama, to-wit:

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All that part of the Northwest Quarter of Section 33, Township 21, Range 3 West, that is to say, all the place heretofore known as and called "The John Cunningham Place", that lies East of the Montevallo and Elyton Public Road and North of that certain branch running in an Easterly direction through the South Half of the Northwest Quarter of said Section 33, Township 21, Range 3 West, EXCEPT 20 acres off of the North side of the above-described tract of land, and being the same lands conveyed to R. C. Dickson and wife, Lexie Dickson, by Oscar Gray and wife, Estella Gray, dated August 9, 1924, and recorded in Deed Book 75, on page 119, in the Office of the Judge of Probate of Shelby County, Alabama; the lands herein conveyed containing 45 acres, more or less. And being the same lands conveyed by Peddie A. Bearden and wife, Arnetar Bearden, to E. T. Spidle by deed dated January 10, 1952, and of record in the Office of the Judge of Probate of Shelby County, Alabama, in Deed Book 150 at page 329.

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HILL, HILL, CARTER, FRANCO, COLE & BLACK
ATTORNEYS AND COUNSELLORS AT LAW
P.O. BOX - 116
SECOND FLOOR, HILL BUILDING
MONTGOMERY, ALABAMA 36101

Subject to any easements, rights of way and encroachments which appear of record or are visible on a physical inspection of the demised premises.

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and for no other purpose.

2. This lease shall be for a period of five (5) years from date hereof, unless otherwise extended or terminated as provided hereinafter. Provided that this lease shall continue in effect for its full term of five (5) years, it may be extended by Lessee for an additional five (5) year term and thereafter for three (3) successive terms of five (5) years for a total aggregate period, including all extensions, of twenty-five (25) years. Each successive renewal shall commence at the end of the term then in effect unless Lessee gives to Lessor notice in writing of his election not to renew not less than ninety (90) days prior to the expiration of the term of the lease or term of renewal then in effect. The written notice given by Lessee to terminate at the end of any term shall void any right to renew for any successive term thereafter.

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3. Lessor grants to Lessee the right to build and use upon the above-described lands any and all plants, railroad tracks, roads, loading docks and storage areas, which the Lessee shall deem necessary in the said operations.

4. In the event of termination of this lease, the Lessee shall have a ninety (90) day period from the date of termination within which to remove the physical plant and equipment of Lessee, including any and all trade fixtures though attached to the real estate (which physical plant and equipment and trade fixtures shall not by reason of such attachment be deemed to lose their character as personal property), and any other property of Lessee (excluding, however, any buildings, railroad tracks and items of like kind which are of such general use and nature and are so attached as to become a part of the real estate), from said property, provided that prior to any such removal all royalties and other payments due to Lessor under this lease shall have been paid.

In the event, at the termination of this lease, there shall exist an inventory of limestone, rock, dolomite or other mineral ore, which has been produced or removed from the leased premises but not sold, and upon which no royalty has been paid, the Lessee shall have the right to remove all such inventory, within ninety (90) days after the termination of this lease, provided Lessee pays to Lessor a royalty equal to that paid upon the last sale of such type of product. It is understood and agreed that inventory shall not include rock which has been shot but not removed from the quarry.

5. Lessee covenants and agrees to pay to Lessor a royalty of five (5¢) cents per ton for all limestone, rock, dolomite and other mineral ore actually produced and sold from the above-described lands of the Lessor during the term of the lease; provided, however, that if the Lessee's sales price of the pulverized agriculture limestone actually produced and sold from the above-described lands is as much as thirty-seven (37¢) cents in excess of or less than One and 85/100 ($1.85) Dollars per ton for such agricultural limestone, then said royalty for such agricultural limestone shall be increased or decreased one (1¢) cent per ton for each variation of thirty-seven (37¢) cents from said $1.85 in the actual sales price. In the event the Lessee's sale price of pellatized agricultural limestone, sometimes called granular aglime, or mine dust, or other material not expressly named herein, is as much as sixty-five (65¢) cents more or less than Three and 25/100 ($3.25) Dollars per ton, said royalty of five (5¢) cents per ton shall be increased or decreased one (1¢) cent per ton for each variation of sixty-five (65¢) cents from said $3.25 in the actual sales price. The royalty shall be paid by the Lessee to

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the Lessor on the 20th day of each month, covering the royalty due for material sold during the preceding month.

The Lessee guarantees to Lessor that during the period of this lease, from the date hereof to August 31, 1979, the lease will generate royalty payments of not less than Twenty-Two Thousand One Hundred Twenty-Three and 98/100 ($22,123.98) Dollars. Should the aggregate royalty payments made for materials produced and sold from the demised premises during the lease term ending August 31, 1979, be less than $22,123.98, the Lessee contracts and agrees to pay to Lessor in cash on August 31, 1979, the deficiency required to bring the total payments to Lessor to $22,123.98. From and after September 1, 1979, Lessee guarantees that during the balance of the term of the lease, and during the term of any extension, if the option to extend is exercised by Lessee, the payments to Lessor will, in the aggregate, generate payments computed at Nine Hundred ($900.00) Dollars annually ($20.00 per acre annually for forty-five [45] acres included). Any deficiency required to bring the royalty payments to $900.00 during each year shall be paid on September 1 for the preceding year, the first payment being September 1, 1980; it being stipulated, however, that any royalty payments during any year measured from September 1, 1979, and from anniversaries thereof, in excess of the minimum $900.00, shall be accumulated and applied against the $900.00 guaranty for future years, including the years of any of the one or more five (5) year renewal terms if the Lessee elects to renew.

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The allocation of royalty payments between the Lessor hereunder and the lessors of other lands which from time to time may be quarried shall be made by the Lessee according to the best determination of the site from which such limestone, dolomite, and

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other mineral ore was removed, and upon payment of such royalty to the Lessor whose identity has been so determined, the Lessee shall be released of any liability by reason of a dispute as to the allocation of such royalty payments, unless the Lessor, within thirty (30) days after the allocation and payment of such royalties to the Lessor shall take exception to the amount allocated to the Lessor hereunder. In the event the Lessor does take exception to the amount allocated under this lease by notice in writing to Lessee and the parties do not resolve their differences by negotiation, the issue shall be resolved by arbitration, each party appointing one arbitrator and the two, if unable to agree, shall select an umpire and the decision of any two of the three shall be final.

6. It is agreed that the Lessee will keep, or cause to be kept, complete and accurate records of all shipments and all removals of limestone, dolomite and any other mineral ore from said above-described real estate, and make such records available at all reasonable times for the inspection and audit of the Lessor, its agents and servants.

7. Lessee agrees to indemnify Lessor against all claims, damages, suits, judgments, expenses and costs of every kind on account of injury to, or death of, persons, or loss of, or damage to, any property arising out of or in connection with the use of said lands by Lessee or the operation of any business thereon by Lessee.

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8. Lessor does covenant and agree to and with Lessee that so long as Lessee shall perform the covenants and agreements on its part herein assumed by it, the said Lessor will guarantee the Lessee shall, and may, at all times, during the term herein granted, peaceably have, hold and enjoy the said demised premises, without any manner of let, suit, trouble, or hindrance, of and from said Lessor.

9. Lessee shall, during the term of this lease, pay all ad valorem taxes and assessments of every nature, upon the demised premises.

10. The terms, conditions and covenants of this lease shall be binding upon and shall inure to the benefit of each of the parties hereto, their heirs, personal representatives, successors and assigns.

11. Notices hereunder shall be delivered to the parties in writing by first class mail, postage prepaid, addressed as follows:

Mrs. Betty S. Meriwether
Trustee of the E. T. Spidle Trust
2172 Fernway Drive
Montgomery, Alabama

Mr. William C. Chandler
P. O. Box 13
Montgomery, Alabama

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Either party may change the address to which notices shall be sent to them or request a duplicate notice at another address by notice in writing under this paragraph.

12. All agreements, contracts, understandings, or arrangements which may have been heretofore made or had between the parties hereto with reference to the lease of the above-described lands, or any part thereof, are hereby wholly cancelled, abrogated, discharged and annulled; it being hereby agreed that this writing constitutes and expresses the whole agreement of the parties with reference to the leasing of said lands.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first above written.

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Martha Spidle Chandler L.S.
Martha Spidle Chandler

Betty Spidle Meriwether L.S.
Betty Spidle Meriwether

As Trustees of The E. T. Spidle Trust

L E S S O R

William C. Chandler L.S.
William C. Chandler

L E S S E E

STATE OF ALABAMA

MONTGOMERY COUNTY

BEFORE ME, the undersigned authority, personally appeared ~~Martha S. Chandler and~~ Betty Spidle Meriwether, whose name~~s~~ as Trustee~~s~~ of

The E. T. Spidle Trust ~~are~~ is signed to the foregoing instrument, and who ~~are~~ is known to me, acknowledged before me on this day, that being informed of the contents of said instrument, ~~they~~ she, in ~~their~~ her capacity as such Trustee~~s~~, executed the same voluntarily on the day the same bears date.

Given under my hand this the 21st day of May, 1974.

Notary Public
State of Alabama at Large

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STATE OF ALABAMA

MONTGOMERY COUNTY

BEFORE ME, the undersigned authority, personally appeared William C. Chandler, known to me, who acknowledged before me on this day, that being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand this the 27th day of May, 1974.

Notary Public
State of Alabama at Large

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STATE OF ALABAMA

MONTGOMERY COUNTY

BEFORE ME, the undersigned authority, personally appeared Martha Spidle Chandler, whose name as Trustee of The E. T. Spidle Trust is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that being informed of the contents of said instrument, she, in her capacity as such Trustee, executed the same voluntarily on the day the same bears date.

Given under my hand this the 27th day of May, 1974.

Notary Public
State of Alabama at Large

STATE OF ALA. SHELBY CO.
I CERTIFY THIS INSTRUMENT WAS FILED
1979 APR 25 PM 1:10
JUDGE OF PROBATE

Deed Tax 34.00
Rec. 10.50
1.00
45.50