

ASSIGNMENT AND ASSUMPTION AGREEMENT
K52130

This Assignment and Assumption Agreement ("Assignment") entered this 26 day of March, 1998, between Frank H. Wallace and Peggy L. Wallace, husband and wife, ("Wallaces"), and Rogue Aggregates, Inc., an Oregon corporation ("Rogue Aggregates"),

Recitals:

A. On May 9, 1984, Wallaces and James M. Barnes ("Barnes") entered into a Lease Agreement which lease was amended on March 17, 1998 (collectively the "Lease"), copies of which are attached hereto marked Exhibit "A" and made a part hereof, of the Barnes cinder pit ("Barnes Cinder Pit").

B. Wallaces desire to assign all of their interest in the Lease to Rogue Aggregates and Rogue Aggregates desires to assume said Lease.

C. Contemporaneously herewith, Wallaces, Randy Wallace, and Farmers Rock Products, LLC (collectively "Sellers") and Rogue Aggregates are entering into an Agreement for Sale and Purchase of Business Assets wherein Sellers will be selling and Rogue Aggregates will be purchasing all of the personal property, real property, and other assets involved in the operation of the aggregate

business operated by Sellers ("Definitive Agreement").

NOW, THEREFORE, it is agreed as follows:

1. Assignment of Lease: Subject to the terms and conditions set forth herein, Wallaces hereby assign all of their right, title, and interest in and to the Lease to Rogue Aggregates.

2. Consideration: The consideration for Wallaces' agreements herein contained is that which Wallaces will receive through the terms of the Definitive Agreement.

3. Warranty: Wallaces hereby warrant that as of the date hereof, the Lease is in full force and effect and that Wallaces are not in default of any of the terms thereof.

4. Consent: This Assignment is contingent upon Wallaces obtaining the consent of Barnes to this Assignment.

5. Indemnity: Subject to the terms and conditions set forth herein, Rogue Aggregates hereby assumes and agrees to perform Wallaces' obligations under the Lease and agrees to defend and indemnify and hold Wallaces free and clear of any and all liability under the Lease.

6. Time of Essence: Time is of the essence in this Assignment.

7. Notices: Any notice or other communication required or permitted to be given under this Assignment shall be in writing and shall be mailed by certified mail,

return receipt requested, postage prepaid, addressed to the parties as follows:

Wallaces: 9450 Buesing Road
Klamath Falls, OR 97603

Rogue
Aggregates: 3770 Kirtland Road
Central Point, OR 97502

Any notice or other communication shall be deemed to be given at the expiration of the second day after deposit in the United States mail. The address to which notices or other communication shall be mailed may be changed from time to time by giving written notice to the other party as provided in this section 7.

8. Attorney Fees: If any suit or action is filed by any party to enforce this Assignment or otherwise with respect to the subject matter of this Assignment, the prevailing party shall be entitled to recover reasonable attorney's fees incurred in preparation or in prosecution or defense of such suit or action as fixed by the trial court, and if any appeal is taken from the decision of the trial court, reasonable attorney fees as fixed by the appellate court.

9. Binding Effect: This Assignment shall be binding upon and inure to the benefit of the parties, their successors, and assigns.

10. Waiver: A provision of this Assignment may be

waived only by a written instrument executed by the party waiving compliance. No waiver of any provision of this Assignment shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. Failure to enforce any provision of this Assignment shall not operate as a waiver of such provision or any other provision.

Dated the day and year first hereinabove set forth.

Frank H. Wallace
Frank H. Wallace

Peggy L. Wallace
Peggy L. Wallace

"Wallaces"

Rogue Aggregates, Inc., an
Oregon corporation

William D. Leavens
By: William D. Leavens
Its: Vice President/
General Manager

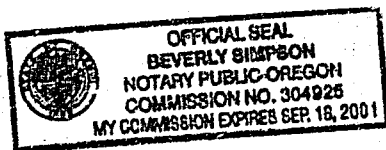
35058

STATE OF OREGON)
County of Klamath) ss.

On this 15th day of September, 1998,
personally appeared the above-named Frank H. Wallace and
Peggy L. Wallace and acknowledged the foregoing instrument
to be their voluntary act and deed.

Before me:

Beverly Simpson
Notary Public for Oregon

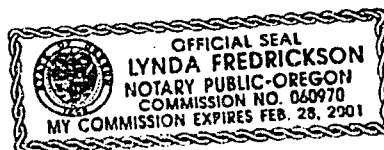


STATE OF OREGON)
County of Jackson) ss.

On this 28th day of August, 1998,
personally appeared the above-named William D. Leavens, who
being duly sworn, stated that he is the Vice
President/General Manager of Rogue Aggregates, Inc., an
Oregon corporation, and that the foregoing instrument was
voluntarily signed on behalf of said corporation and by
authority of its board of directors; and acknowledged said
instrument to be its voluntary act and deed.

Before me:

Lynda Fredrickson
Notary Public for Oregon



LEASE AGREEMENT

THIS AGREEMENT made this 9 day of May, 1984, by and between JAMES M. BARNES, who is the Lessor and hereinafter called "Barnes," and FRANK E. WALLACE and PEGGY L. WALLACE, husband and wife, who are the Lessees and hereinafter called "Wallace", all of the County of Klamath, State of Oregon,

W I T N E S S E T H:

Barnes and Wallace agree to the following terms and conditions:

(1) Barnes owns real property in Klamath County, Oregon, described as the SW-1/4 NW-1/4 SE-1/4 and the SW-1/4 SE-1/4 of Section 4, Township 41 South, Range 10 East Willamette Meridian, subject to easements and rights of way of record or apparent on the land and contracts, obligations, laws, regulations or assessments for irrigation or drainage purposes, and Barnes has the right to lease the real property to Wallace upon the terms and conditions described in this agreement.

(2) The real property consists of a cinder pit and other undeveloped lands in the vicinity which are suitable to be developed and used for a site for an asphalt/concrete mixing plant and Portland cement concrete batch plant. Barnes has been in the past, and presently is, in the process of excavating, removing and selling cinders, and such use is permitted by the present Klamath County zoning laws. Operation as a concrete batch plant may be permitted under the grandfather clause of the Klamath County Zoning Ordinance and is a conditional use for which a conditional use permit may be obtained.

(3) Barnes hereby leases to Wallace for a period of thirty (30) years the right to exclusively occupy the real property described in Sections (1) and (2) of this agreement and to excavate, remove and sell cinders. Barnes hereby consents to allow Wallace to operate an asphalt/concrete plant and Portland cement concrete batch plant. Barnes hereby grants to Wallace a non-exclusive easement for ingress and egress over and across Barnes' property on existing roads.

(4) Barnes shall permit Wallace to place a mobile home upon the following described real property: Beginning at a point on the South line of said NE-1/4 of the SW-1/4 of Section 3, which is 42.24 feet East of the Southwest corner thereof, thence East along said South line of the NE-1/4 of the SW-1/4 of said Section 3,

1,017.06 feet; thence North 33° 48' West 450.12 feet; thence North 60° West 85.8 feet; thence South 80° West 65.8 feet; thence South 56° 24' West 728.64 feet more or less to the point of beginning. The placement of the mobile home shall be located at the pre-existing mobile home site where the power, telephone, and septic system hook-up are presently situated. Wallace shall be responsible for and pay all expenses incurred in the placement, use and removal of the mobile home including but not limited to maintenance, utility costs, and taxes assessed upon the mobile home, its contents and the portion of land occupied by the mobile home. Wallace shall be permitted to remove the mobile home upon termination of this lease. Upon removal of the mobile home, Wallace shall leave the premises in as good condition as when received.

(5) Wallace shall pay to Barnes as rental payment from the date of this agreement until the termination of this lease agreement the sum of \$.30 per truck yard measure of cinders or aggregate, or if weighed over a scale or sold over a scale, then the amount of tonnage to a yard measure as long as the pit price per truck yard measure is \$2.50, or less. When the pit price is increased the sum payable to Barnes per truck yard measure shall be equal to 12% of the pit price. Wallace shall not be required to pay a minimum rental fee between the date of this agreement and the 1st day of November, 1984. Beginning November 1, 1984, and for each month thereafter, Wallace shall pay to Barnes a minimum of \$250.00 each month during the remainder of the term of this lease agreement. All sales made by Wallace shall be recorded by sales tickets made in triplicate. Barnes shall receive copies of the sales tickets by the 25th day of each month following the month of sale; but in the event Wallace receives payment for the product on a contract monthly estimate basis, Wallace shall make payments to Barnes on the same basis within 5 days after Wallace has received payment. Wallace shall keep complete records of all materials sold and Barnes shall have a right to inspect the records at any reasonable time.

(6) Wallace agrees that they will indemnify and hold Barnes harmless from and against any liabilities, claims, demands and expenses whatsoever, including court costs and attorney's fees arising from or growing out of any injury to any persons or damage to any property under and by virtue of Wallaces' operations conducted upon or from the real property which is the subject of this lease agreement.

(7) Wallace agrees to obtain, carry and maintain on all their operations policies of insurance covering liability for property damage of not less than \$100,000.00 for each occurrence and policies of insurance for bodily injury in an amount not less than \$300,000.00 for each claim thereunder, and not less than \$500,000.00 for the aggregate of all claims thereunder. Said policy or policies to be in an insurance company licensed to do business in the State of Oregon. Wallace also agrees to furnish Barnes with an insurance certificate certifying Wallace is insured against liability for bodily injury, including death, property damage and liability

arising out of the operation of motor vehicles in an amount satisfactory to Barnes. The certificates shall certify that it includes the contractual liability assumed by Wallace hereunder and shall constitute primary insurance and shall not be canceled except upon 15 days' written notice to Barnes. Wallace shall cause Barnes to be included as an additional named insured on all coverage required by the terms of this agreement. Wallace shall also obtain and maintain casualty insurance coverage on the equipment which Wallace is purchasing from Barnes.

(8) Wallace agrees that they will carry insurance on their workmen as provided by the State of Oregon and on any and all employees for any operations conducted upon or from the real property which is the subject of this lease agreement and that immediately upon hiring of any employees Wallace will furnish to Barnes proof that the new employees are covered by such insurance.

(9) Wallace agrees to comply with all state and local laws, rules and regulations governing their operation, including load limit requirements required by the City of Merrill.

(10) Wallace agrees that they will not permit any liens or charges to be made against any of Barnes' real property as a result of their operations.

(11) Barnes shall not compete with Wallace by using any adjoining property for extraction and sale of cinders.

(12) If Wallace breaches any of the terms of this agreement, including failure to make any payments when due or within 30 days thereafter, it is agreed that at Barnes' option, or other termination of lease, this lease agreement and all rights and duties accruing under this agreement shall terminate and Wallace shall have 90 days to remove all equipment. Any materials or equipment thereafter remaining shall become the property of Barnes. All improvements to the real property, including construction of buildings shall become part of the real property and upon termination of the lease term shall remain on the property and become the property of Barnes. In the event of a breach by Wallace under the terms of this agreement and delivery by Barnes of his written notice of option to terminate this agreement, all of Wallaces' right under the terms of this agreement shall thereupon cease, and Barnes without further notice to Wallace shall have the right immediately to enter the leased premises and take possession thereof with or without process of law and to remove all personal property from the premises and all persons occupying the premises and to use all necessary force therefor and in all respects to take the actual, full and exclusive possession of the premises and every part thereof as Barnes' original estate, without incurring any liability to Wallace or to any persons occupying or using the premises or for any damage caused or sustained by any reason of such entry on the premises or such removal of such persons or property.

(13) Any waiver of any breach of the terms of this agreement to be kept and performed by Wallace shall not be deemed or considered as a continuing waiver, and shall not operate to bar or prevent Barnes from declaring a forfeiture for any succeeding breach, either of the same condition or otherwise.

(14) In the event any suit or action is brought to collect any of the rents or to enforce any provisions of this lease or to repossess the premises, the losing party agrees to pay such sums as the trial court may adjudge reasonable as attorney's fees to be allowed the prevailing party in such suit or action, and in the event of any appeal in such suit or action the losing party agrees to pay such further sums as the appellate court shall adjudge reasonable as the prevailing party's attorney's fees.

(15) Barnes agrees to cooperate as required for Wallace to obtain all permits and certificates necessary to conduct their operations on the leased land.

(16) This lease shall be binding upon and inure to the benefit of Barnes and Wallace, their successors and assigns. No part of the leased premises may be assigned or subleased without the prior written consent of Barnes, which consent shall not unreasonably withheld.

(17) This instrument does not guarantee that any particular use may be made of the property described in this instrument, except as specifically provided herein. Wallace should check with the appropriate county planning department to verify approved uses.

IN WITNESS WHEREOF the parties have hereunto set their hands the day, month and year first above written.

James M. Barnes
James M. Barnes

Frank H. Wallace
Frank H. Wallace

Peggy L. Wallace
Peggy L. Wallace

STATE OF OREGON)
) ss.
County of Klamath)

Before me this ____ day of May, 1984, personally appeared the above-named JAMES M. BARNES and acknowledged the foregoing instrument to be his voluntary act and deed.

(S E A L)

35063

Until a change is requested,
mail all tax statements to:

No change.

After recording return for
Joni Angus
Hague, Dye, Kirschy & Dillmore, P.C.
Tenth Floor, Pioneer Tower
888 S. W. Fifth Avenue
Portland, Oregon 97204-2124

911 BLS

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**MODIFICATION OF LEASE AGREEMENT
AND LANDLORD'S CONSENT TO LESSEE'S ASSIGNMENT**

AMONG:

JAMES M. BARNES, Trustee, or his Successors in Trust, under the Barnes Loving Trust, dated May 17, 1990, and any amendments thereto ("Landlord").

AND:

FRANK H. WALLACE and **PEGGY L. WALLACE**, ("Lessee/Assignor").

DATED:

March __, 1998.

RECITAL:

Landlord is the owner of certain real property, which Landlord has leased to Lessee/Assignor pursuant to a Lease Agreement dated May 9, 1984, which is recorded at Vol. __, Page __, Official Records of Klamath County, Oregon (the "Lease Agreement"). The Landlord received its interest in the Lease Agreement pursuant to an assignment to Loving Trust of Lease dated July 10, 1990, recorded at Vol. __, Page __, Official Records of Klamath County, Oregon.

Lessee/Assignor is selling its business to Rogue Aggregates, Inc. ("Assignee") and, accordingly, desires to assign its interest in the Lease Agreement to Assignee. It has come to the attention of all of the parties of this Agreement and Assignee that the legal description contained

Page 1 - MODIFICATION OF LEASE AGREEMENT AND LANDLORD'S CONSENT TO LESSEE'S ASSIGNMENT

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March 17, 1998

35064

on page 1 of the Lease Agreement erroneously omits real property which was intended to be included in the leasehold under the Lease Agreement. Accordingly, the parties to this Agreement desire that (1) the Lease Agreement be amended to include the additional real property, and (2) the Landlord consent to Lessee/Assignor's assignment of its Lessee's interest in the Lease Agreement to the Assignee (the "Assignment"). In consideration of the Assignment, Landlord is willing to release Lessee/Assignor from any and all obligations under the Lease Agreement.

AGREEMENT:


1. Modification of Lease Agreement. The Lease Agreement is hereby modified to include the real property described in Exhibit A attached hereto and incorporated by this reference. The property described in Exhibit A shall be a portion of the leasehold under the Lease Agreement, in addition to the other real property described in the Lease Agreement and as specifically set forth in the Lease Agreement.

2. Consent of Landlord and Release of Lessee. Landlord hereby consents to the Assignment. This Agreement shall be binding on and operate to the benefit of the parties and their respective heirs, legal and personal representatives, successors and assigns. Upon the effective date of the Assignment, Landlord hereby forever releases Lessee/Assignor from any and all terms, covenants and obligations under the Lease Agreement, including but not limited to the performance of or failure to perform by Assignee.

3. Representation. This document has been prepared by the law firm of Hagen, Dye, Hirsch & DiLorenzo, P.C. on behalf of Lessee/Assignor. Should the Landlord desire legal counsel, the Landlord is hereby advised to seek legal counsel of its choice.

AGREED TO IN FORM AND CONTENT:

LANDLORD


JAMES M. BARNES, Trustee, or his
Successors in Trust, under the Barnes Loving
Trust, dated May 17, 1990

Page 2 - MODIFICATION OF LEASE AGREEMENT AND LANDLORD'S CONSENT TO
LESSOR'S ASSIGNMENT
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March 17, 1993

Exhibit A - Page 6 of 9
Lease and Modification

35065

LESSEE/ASSIGNORS

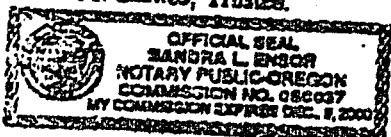
Frank H. Wallace
FRANK H. WALLACE

Peggy L. Wallace
PEGGY L. WALLACE

STATE OF OREGON)

County of Klamath) ss.

This instrument was acknowledged before me on MARCH 17, 1998, by
James M. Barnes, Trustee.

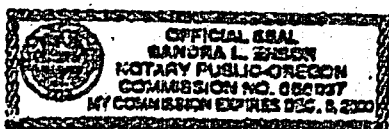


Sandra L. Benson
Notary Public for Oregon

STATE OF OREGON)

County of Klamath) ss.

This instrument was acknowledged before me on MARCH 17, 1998, by
Frank H. Wallace.



Sandra L. Benson
Notary Public for Oregon

Page 3 - MODIFICATION OF LEASE AGREEMENT AND LANDLORD'S CONSENT TO
LESSEE'S ASSIGNMENT

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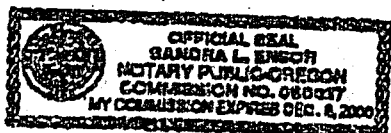
March 17, 1998

Exhibit A - Page 7 of 9
Lease and Modification

35066

STATE OF OREGON)
County of Klamath) ss.
)

This instrument was acknowledged before me on MARCH 17, 1998, by
Peggy L. Wallace.



Sandra L. Engen
Notary Public for Oregon

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LESSEE'S ASSIGNMENT

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March 17, 1998

Exhibit A - Page 8 of 9
Lease and Modification

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EXHIBIT A

LEGAL DESCRIPTION

PARCEL 2

A parcel of land situated in the NE1/4 of the SW1/4 of Section 4, Township 41, South, Range 10 East of the Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

Beginning at a 5/8" rebar marking the Center-South 1/16 corner of Section 4 from which the 1/4 corner of Sections 4 and 9 bears South 00 degrees 32' 02" West 1303.17 feet; thence North 00 degrees 32' 02" East 878.93 feet, along the North-South centerline of Section 4, to a 1/2" rebar; thence North 89 degrees 31' 06" West 150.00 feet to a 1/2" rebar; thence South 00 degrees 32' 02" West 878.93 feet to a 1/2" rebar on the East-West centerline of the SW1/4 of Section 4; thence South 89 degrees 31' 06" East 150.00 feet, along said East-West centerline of the SW1/4 of Section 4, to the point of beginning.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of First American Title the 24th day of September A.D., 19 98 at 11:39 o'clock A. M., and duly recorded in Vol. M98 of Mortgages on Page 35054.

FEE \$75.00

By Bernetha G. Letsch, County Clerk
Kathleen Ross

EXHIBIT A