

AC-73

FIRST AMENDMENT TO LIMESTONE QUARRY LEASE

This First Amendment to Limestone Quarry Lease ("First Amendment") is made and entered into as of September 30, 1996 by and between NORTH AMERICAN CHEMICAL COMPANY, a Delaware corporation ("Lessor") and ACE Cogeneration Company, a California limited partnership ("Lessee").

WHEREAS, Kerr McGee Chemical Corporation ("KMCC") and Lessee entered into that certain Limestone Quarry Lease dated as of November 30, 1990 (the "Lease"), pursuant to which KMCC and Lessee set forth their respective rights, duties and obligations in connection with the ownership, use and operation a limestone quarry located in Inyo County, California, and more particularly described in Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, KMCC and Lessee entered into that certain Ground Lease dated as of April 22, 1988, and as amended by the First Amendment to Lease, dated as of April 22, 1988, and as amended by the Second Amendment Agreement dated as of November 30, 1990, and the Third Amendment Agreement dated as of November 3, 1993 (collectively the "Ground Lease"), pursuant to which KMCC leased to Lessee certain real property (the "Ground Lease Premises") located in the County of San Bernardino, State of California, as more particularly described in the Lease, upon the terms and conditions contained therein; and

WHEREAS, pursuant to that certain Assignment and Assumption Agreement dated as of November 30, 1990, KMCC assigned to NACC all of its rights, title and interest, together with the delegation of its duties and obligations, under the Lease and under the Ground Lease, and NACC thereby assumed and agreed to perform certain of KMCC's duties and obligations under the Lease and under the Ground Lease; and

WHEREAS, Lessor and Lessee desire to amend the Lease (i) to modify the term of the Lease and (ii) to provide current addresses for the receipt of notices under the Lease.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee hereby agree as follows:

1. Paragraph 1.02 of the Lease shall be amended to add the following to the end of such Paragraph:

"Notwithstanding the foregoing, upon recordation of the First Amendment to Memorandum of Limestone Quarry Lease, the Lease Term shall terminate on September 30, 2030."

2. Paragraph 15.03 of the Lease is amended and restated in its entirety as follows:

"15.03 Notices and Consents.

Wherever in this Lease it shall be required or permitted that notice, request, demand or other communication be given or served by either party to this Lease to or on the other, or on Lessee's Mortgagee, such notice, request, demand or other communication shall be given to the party to whom directed, in writing, and delivered personally or forwarded by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

if to Lessor, to:

North American Chemical Company
8300 College Boulevard
Overland Park, Kansas 66201
Attention: Vice President/Assistant Treasurer

with a copy to:

Harris Chemical North America
399 Park Avenue, 32nd Floor
New York, New York 10022
Attention: Donald G. Kilpatrick, Esq.

if to Lessee, to:

ACE Cogeneration Company
5095 Murphy Canyon Road, Suite 200
San Diego, California 92123
Attention: General Manager

with a copy to:

Ahlstrom Development Corporation
4350 La Jolla Village Drive, Suite 210
San Diego, California 92122
Attention: President

with a copy to:

Constellation Holdings, Inc.
250 West Pratt Street, 23rd Floor
Baltimore, Maryland 21201
Attention: General Counsel

with a copy to:

Pillsbury Madison & Sutro LLP
725 South Figueroa Street, #1200
Los Angeles, California 90017
Attention: Marshall M. Taylor, Esq.

Notices sent to Lessee shall not be deemed given unless received by both Lessee and Lessee's Mortgagee (after notice to Lessor of the name and address of Lessee's Mortgagee). Notices sent to Lessor shall not be deemed given unless received by both Lessor and the Fee Mortgagee (after notice to Lessee of the name and address of the Fee Mortgagee).

Either party, Lessee's Mortgagee and the Fee Mortgagee may change its address for notice by written notice given to the other in the manner hereinabove provided. Any notice, request, demand or other communication shall be deemed to have been duly given or served on the date personally delivered or shown on the return receipt or other evidence of delivery."

3. Defined Terms. Capitalized terms used and not otherwise defined herein shall have the same meanings ascribed to them in the Lease.

4. Incorporation of Lease Terms; Conflict. With the exception of those matters set forth in this First Amendment, Lessor and Lessee shall be subject to all terms, covenants and conditions of the Lease. In the event of any express conflict or inconsistency between the terms of this First Amendment and the terms of the Lease, the terms of this First Amendment shall control and govern.

5. Ratification. Except as expressly modified by this First Amendment, all other terms and conditions of the Lease are hereby ratified and affirmed.

6. Counterpart. This First Amendment may be executed in counterparts and any party may execute any counterpart, each of which shall be deemed to be an original and all of which, taken together, shall be deemed to be one and the same document. The execution hereof by any party shall not become effective until this First Amendment is executed by all parties hereto.

7. Governing Law. This First Amendment shall be governed by and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the date first written above.

LESSOR:

NORTH AMERICAN CHEMICAL COMPANY,
a Delaware corporation

By: _____

Name: Emanuel Di Teresi
Its: Chief Financial Officer

LESSEE:

ACE COGENERATION COMPANY,
a California limited partnership

By: ACE Power Partners,
a California general partnership
Its: General Partner

By: Aquarius Power Company, Inc.,
a California corporation
Its: General Partner

By: _____

Name: Gerald C. Mayers
Title: President

By: Aquarius Power Partners,
a California limited partnership
Its: General Partner

By: Aquarius Power Company,
Inc.,
a California corporation
Its: General Partner

By: _____

Name: Gerald C. Mayers
Title: President

By: CE ACE Limited Partnership,
a Maryland limited partnership
Its: General Partner

By: CD ACE I, Inc.
a Maryland corporation
Its: General Partner

By: _____

Name: _____
Title: _____

7. Governing Law. This First Amendment shall be governed by and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the date first written above.

LESSOR:

NORTH AMERICAN CHEMICAL COMPANY,
a Delaware corporation

By: Tony Gasparovich
Name: ~~James P. ...~~ Tony Gasparovich
Its: ~~Chief Financial Officer~~
Vice President / Controller

LESSEE:

ACE COGENERATION COMPANY,
a California limited partnership

By: ACE Power Partners,
a California general partnership
Its: General Partner

By: Aquarius Power Company, Inc.,
a California corporation
Its: General Partner

By: _____
Name: _____
Title: _____

By: Aquarius Power Partners,
a California limited partnership
Its: General Partner

By: Aquarius Power Company,
Inc.,
a California corporation
Its: General Partner

By: _____
Name: _____
Title: _____

By: CE ACE Limited Partnership,
a Maryland limited partnership
Its: General Partner

By: CD ACE I, Inc.
a Maryland corporation
Its: General Partner

By: Charles H. Linthicum
Name: CHARLES H. LINTHICUM
Title: VICE PRESIDENT

EXHIBIT A

Legal Description of Limestone Quarry Lease Property

PARCEL NO. 1:

THE APRIL MILLSITE, BEING SURVEY NO. 6685, EMBRACING A PORTION OF SECTION 26, TOWNSHIP 20 SOUTH, RANGE 42 EAST, M.D.M., IN THE COUNTY OF INYO, STATE OF CALIFORNIA, AS MORE PARTICULARLY DESCRIBED IN THAT CERTAIN PATENT FROM THE UNITED STATES OF AMERICA TO THE STAUFFER CHEMICAL COMPANY RECORDED MAY 15, 1963 IN BOOK 157, PAGE 491 OF OFFICIAL RECORDS.

PARCEL NO. 2:

THOSE CERTAIN PATENTED PLACER MINING CLAIMS KNOWN AS APRIL, APRIL #3, APRIL #4 AND APRIL #5, BEING SURVEY NO. 6589 EMBRACING A PORTION OF SECTION 27, TOWNSHIP 20 SOUTH, RANGE 42 EAST, M.D.M., IN THE COUNTY OF INYO, STATE OF CALIFORNIA, AS MORE PARTICULARLY DESCRIBED IN THAT CERTAIN PATENT FROM THE UNITED STATES OF AMERICA TO THE STAUFFER CHEMICAL COMPANY RECORDED OCTOBER 15, 1963 IN BOOK 160, PAGE 306 OF OFFICIAL RECORDS.

EXCEPTING THEREFROM ANY VEINS OR LODES OR QUARTZ OR OTHER ROCK IN PLACE BEARING GOLD, SILVER, CINNABAR, LEAD, TIN, COPPER OR OTHER VALUABLE DEPOSITS WITHIN THE LAND ABOVE DESCRIBED WHICH MAY HAVE BEEN DISCOVERED OR KNOWN TO EXIST PRIOR TO MAY 10, 1961.

PARCEL NO. 3:

THOSE CERTAIN PATENTED PLACER MINING CLAIMS KNOWN AS APRIL #15, AND APRIL #16, BEING SURVEY NO. 6598, EMBRACING A PORTION OF SECTION 34, TOWNSHIP 20 SOUTH, RANGE 42 EAST, M.D.M., IN THE COUNTY OF INYO, STATE OF CALIFORNIA, AS MORE PARTICULARLY DESCRIBED IN THAT CERTAIN PATENT FROM THE UNITED STATES OF AMERICA TO THE STAUFFER CHEMICAL COMPANY RECORDED SEPTEMBER 26, 1963 IN BOOK 160, PAGE 87 OF OFFICIAL RECORDS.

EXCEPTING THEREFROM ANY VEINS OR LODES OR QUARTZ OR OTHER ROCK IN PLACE BEARING GOLD, SILVER, CINNABAR, LEAD, TIN, COPPER OR OTHER VALUABLE DEPOSITS WITHIN THE LAND ABOVE DESCRIBED WHICH MAY HAVE BEEN DISCOVERED OR KNOWN TO EXIST PRIOR TO MAY 10, 1961.

PARCEL NO. 4:

THAT CERTAIN PATENTED PLACER MINING CLAIM KNOWN AS APRIL #17, BEING SURVEY NO. 6604, EMBRACING A PORTION OF SECTION 27, TOWNSHIP 20 SOUTH, RANGE 42 EAST, M.D.M., IN THE COUNTY OF INYO, STATE OF CALIFORNIA, AS MORE PARTICULARLY DESCRIBED IN THAT CERTAIN PATENT

FROM THE UNITED STATES OF AMERICA TO THE STAUFFER CHEMICAL COMPANY,
RECORDED MAY 15, 1963 IN BOOK 157, PAGE 478 OF OFFICIAL RECORDS.

EXCEPTING THEREFROM ANY VEINS OR LODES OR QUARTZ OR OTHER ROCK IN
PLACE BEARING GOLD, SILVER, CINNABAR, LEAD, TIN, COPPER OR OTHER
VALUABLE DEPOSITS WITHIN THE LAND ABOVE DESCRIBED WHICH MAY HAVE BEEN
DISCOVERED OR KNOWN TO EXIST PRIOR TO MAY 9, 1961.

PARCEL NO. 5:

THOSE CERTAIN PATENTED PLACER MINING CLAIMS KNOWN AS APRIL #18,
APRIL #19, APRIL #24 AND APRIL #25, BEING SURVEY NO. 6669, EMBRACING
A PORTION OF SECTIONS 34 AND 35, TOWNSHIP 20 SOUTH, RANGE 42 EAST,
M.D.M., IN THE COUNTY OF INYO, STATE OF CALIFORNIA, AS MORE
PARTICULARLY DESCRIBED IN THAT CERTAIN PATENT FROM THE UNITED STATES
OF AMERICA TO THE STAUFFER CHEMICAL COMPANY, RECORDED SEPTEMBER 26,
1963 IN BOOK 160, PAGE 99 OF OFFICIAL RECORDS.

EXCEPTING THEREFROM ANY VEINS OR LODES OR QUARTZ OR OTHER ROCK IN
PLACE BEARING GOLD, SILVER, CINNABAR, LEAD, TIN, COPPER OR OTHER
VALUABLE DEPOSITS WITHIN THE LAND ABOVE DESCRIBED WHICH MAY HAVE BEEN
DISCOVERED OR KNOWN TO EXIST PRIOR TO MAY 10, 1961.