

LEASE AGREEMENT

This lease, dated February 27, 1981 among BILL JOYNER, BRAD HILL, TERRY ETCHEVERRY AND KEN RICHARDSON, JR. doing business as "Crystal Springs Co.", a joint venture hereafter referred to as "Landlord" and JOE ERNI AND RICK BARTON doing business as "Western States Supply Co.", hereafter referred to as "tenant".

WITNESSETH that landlord and tenant hereby agree as follows:

(1) DEFINITIONS

Unless the context clearly indicates otherwise, the following words and phrases shall have the following meanings:

"LEASE" means this instrument as it may hereafter be modified, amended, or supplemented.

"LEASE YEAR" means a period during the term of this lease commencing on the 27th day of February in any years and ending at midnight on the next succeeding February 27th.

"PREMISES" means the portion of the land as shown in Exhibit A leased to tenant hereunder.

"RENT" means the rent payable by tenant in respect to each month during the term hereof.

"GALLONS" means the entire gross gallons of all diesel fuels, propane, and gasolines used by a diesel engine and or combustible engine which is sold by the tenants on the premises.

(2) PREMISES AND TERMS

Landlord hereby leases to tenant, and tenant hereby hires from landlord a portion of the premises that is suitable for constructing a service station that is equipped with at least diesel fuel and gasoline service sales.

The term of this lease shall commence February 27, 1981 and shall be perpetual in existence given certain exceptions contained within this lease agreement.

Any service station operation that would use more than two (2) acres of the premises requires landlord's prior written consent.

(3) TENANTS WORK

Tenant shall, at its sole cost and expense, commence construction of a service station on the premises on or before March 15, 1981. Tenant and landlord acknowledge that the proposed site plan for the service station on Exhibit A is tentative and that such site plan on the premises may change.

(4) RENT

FIRST LEASE YEAR: Rent payable will be 1¢ (one cent) rent per U. S. Gallon of all diesel fuel, gasoline and propane sold on the premises.

SECOND LEASE YEAR: The rent payable will be 3¢ (three cent) rent per U. S. Gallon of all diesel fuel, gasoline and propane sold on the premises.

THIRD LEASE YEAR TO END OF LEASE TERM: The rent payable per gallon will be a minimal of 3¢ (three cents) per U. S. Gallon of all diesel fuel, gasoline and propane sold on the premises. At the end of the second lease year rent per gallon for the immediate future years will be negotiated based upon a national published inflation or deflation index that landlord and tenant may agree upon.

The rents for all lease years shall be due and payable by the 10th day of each month following each and every month gasoline, diesel fuel or propane sales are made.

(5) TENANT'S RECORDS AND STATEMENTS

Tenant shall keep at the premises, or at such other place as shall be agreed upon between landlord and tenant, true and complete records and accounts of all diesel fuel, gasoline and propane sales

at the premises. Tenant shall give Landlord access, during reasonable hours, to such records and accounts. Tenant shall retain all sales slips, purchase invoices, fuel purchases and sales transacted at the premises for at least six (6) months after the end of each lease year.

(6) TENANTS OPERATING EXPENSE

Tenant agrees to pay for all construction costs related to the construction of the service station. Tenant shall defend and indemnify Landlord and save it harmless from and against any and all tenants, creditors claims incurred throughout the term of this lease. Tenant also agrees to pay all costs and expenses necessary to operate the service station including, but not limited to utilities, insurance and real estate taxes.

(7) PERMITTED USE OF PREMISES

The premises may be used and occupied only for the purpose of services normally offered by a diesel and a gasoline service station except with the following exceptions:

In general, without Landlord's prior written consent, Tenant shall NOT operate or permit to be operated on the premises any slot machines, or any coin-operated or token-operated vending machines or similar devices for the sale of or leasing of goods, merchandise, food, beverages, ice or services including: without limitation, pay telephones, junk car sales, pay toilets, motel service, and amusement devices. Tenant shall not use or permit the use of any portion of the premises as a dwelling, except for living quarters for employee, or for any unlawful purpose or purposes, nor shall tenant permit any cooking or the sale or distribution of alcoholic beverages on the premises without Landlord's permission. Landlord will provide a space (location to be agreed upon mutually between Tenant and Landlord) for one mobile home for Tenant's employees and also allow hook-ups for water, sewage and power.

No auction, fire or bankruptcy sale, or gambling may be conducted on the premises without Landlord's written consent.

Landlord agrees to install proper facilities for large quantities of ice sales on the premises otherwise Tenant will be permitted to sell ice.

(8) TENANTS USE OF SPACE AND CONTINUOUS OPERATION

At all times, Tenant shall carry adequate stock of diesel fuel and gasoline for sale and shall maintain adequate personnel for the efficient service of its customers. Tenant shall employ its best judgement, efforts, and abilities to operate the business conducted on by it on the premises in a manner calculated to produce the maximum profitable volume of gross sales and to enhance the reputation and attractiveness of the premises.

Tenant shall cause its station on the premises to be and remain open for business at least during all hours and days that will maximize net profits.

(9) COMPLIANCE WITH REGULATIONS: OPERATION OF PREMISES

Tenant shall at its own expense, promptly comply with all present and future federal, state and local laws, ordinances, orders and regulations. Without Landlord's prior written consent, Tenant shall not add or remove fixtures that affect or otherwise alter the view or structure of the Landlord's building on the premises. Landlord agrees that consent will not be unreasonably withheld.

Tenant shall keep and maintain every part of its station on the premises.

(10) INDEMNITY

Tenants shall defend and indemnify Landlord and save it harmless from and against any and all liability, damage, costs, or expense, including attorney's fees, arising from any act, omission, or

negligence of Tenant, or its contractors, licensees, agents, customers, servants, or employees, or arising from any accident, injury, or damage howsoever and by whomsoever caused, to any person or property, occurring in or about the premises or any part thereof unless such accident, injury or damage shall arise solely from Landlord's negligence.

Landlord shall not be liable to Tenant or anyone else for any loss or damage arising out of or occasioned by the bursting, running, leaking, or other malfunctioning of any property located on the premises, nor shall Landlord be liable in damages or otherwise for any failure to furnish, or any interruption of service of any water, gas, electricity, air conditioning, heated water, steam, or chilled water, caused by fire accident, riot, strike, labor dispute, act of God, or any other cause beyond Landlord's occurring during the making of repairs or improvements.

(11) PUBLIC LIABILITY INSURANCE

Tenant shall at its own expense maintain in full force comprehensive, public liability insurance insuring Tenant and Landlord where applicable and such others as may be designated by Landlord, against liability for injury to persons and property for death of any person or persons occurring in or about the premises. Such insurance shall be in amounts of not less than would reasonably be recommended by a legitimate insurance agency.

(12) WAIVER OF SUBROGATION

Each party hereby waives all rights against the other in respect of any loss or damage for which (but only to the extent that) such party has been compensated under any policy of insurance carried by it or for its benefit. Each party shall cause its insurance carriers to consent to such waiver and to waive all rights of subrogation against the other party.

All insurance required of Tenant herein shall be issued by responsible companies, reasonably acceptable to Landlord and shall be issued in the names of Tenant and Landlord and for their mutual and joint protection where applicable. On Landlord's request, executed copies or certificates of such policies shall be delivered to Landlord by Tenant.

(13) DAMAGE AND RECONSTRUCTION

If the Tenant's portion of the premises shall be damaged by fire or other casualty Tenant shall repair or rebuild the premises as speedily as possible - otherwise this lease shall be deemed to be cancelled.

(14) CONDEMNATION

If title to, or an estate for years in, all of the premises shall be condemned (which shall include any taking for public or quasi-public use under any statute, or by right of eminent domain, or by purchase in lieu of eminent domain, or if title to so much of the premises shall be condemned that reasonable reconstruction of the premises will not result in their being suitable for Tenant's continued occupancy then in their event, this lease shall terminate on the date possession of all or part of the premises is taken.

All compensation awarded or paid upon a total or partial condemnation of the premises shall belong to Landlord, except that Tenant shall be entitled to any portion of such award allowed for Tenant's leasehold improvements or trade fixtures.

(15) ASSIGNMENT

Tenant shall not assign or in any manner transfer this lease or any interest therein, or sublet the premises or any part thereof, or permit occupancy of the premises by anyone with, through or under Tenant, without Landlord's prior written consent. Consent may not be unreasonably withheld by Landlord.

Landlord's consent to an assignment of this lease or to a subletting of the premises, shall not operate as a waiver of Landlord's rights as to any subsequent assignment or subletting. No assignment shall release Tenant of any obligation under this lease or be construed as a waiver of any of Landlord's rights or remedies hereunder.

(16) DEFAULT AND REMEDIES

If all or part of Tenant's interest in this lease be assigned or involuntarily transferred, either voluntarily or by operation of any law, except with Landlord's consent or if Tenant, after written notice, fails to remedy any default in the payment of rents herein or any default in the conditions of this lease with all reasonable dispatch, commencing not later than ten (10) days after receipt of such notice, then, in addition to any other remedy Landlord may have by law, Landlord may terminate this lease in which event Tenant shall immediately pay to Landlord a sum equal to any past due rents.

Upon any termination of this lease and providing the lease is not assigned or sublet in any way, Tenant shall immediately pursue a course of action that enables the service station located on the premises to be sold.

(17) SUBORDINATION

This shall automatically be subordinate to any mortgage or deed of trust hereafter placed upon the premises, to any and all advances made or to be made thereunder, to the interest on the obligations secured thereby and to all renewals, replacements and extensions thereof; provided, however, that (i) in the event of foreclosure of any such mortgage or deed of trust or exercise of the power of sale thereunder, Tenant shall attorn to the purchaser of the premises at such foreclosure or sale and recognize such purchaser as the Landlord under this lease, and (ii) notwithstanding any such foreclosure or sale this lease shall remain in full force if Tenant is not in default hereunder. If foreclosure should occur, Tenant may remove any property installed by Tenant and not suffer any penalty due to such foreclosure.

(18) ESTOPPEL CERTIFICATES

Tenant shall from time to time, upon not less than ten (10) days after written request by Landlord, execute, acknowledge, and deliver to Landlord a statement in writing certifying, if such be true, that this lease is unmodified and in full force and effect (or if there have been modifications) that the same is in full force and effect as modified and stating modifications.

(19) QUIET ENJOYMENT

Tenant recognizes that the building additions such as a motel, may be constructed on the premises by the Landlord providing it does not interfere with Tenant's operation.

(20) LANDLORD'S CONVEYENCE

If Landlord shall sell its interest in the premises, then from and after the effective date of the sale, Landlord shall be released and discharged from all obligations under this lease, except those already accrued, if Landlord's transferee shall expressly assume and agree to perform all such obligations.

(21) TERMS AND TIME

Each provision of this lease performable by Tenant shall be construed to be both a covenant and a condition. Time is of the essence of each provision thereof.

(22) PURCHASE OPTIONS

Lincoln County

Tenant expects to spend approximately \$50,000.00 to initially construct the service station. Given this approximation, Landlord and Tenant have certain purchase options as follows:

1. (a) During the first lease year, Landlord has the first right of refusal to purchase the service station located on the premises for \$15,000.00 over Tenant's actual cost to build the service station including but not limited to the building structure, equipment, fixtures, ^{improvements} and other personal property other than vehicles located on the premises and used in the service station operation. If Landlord exercises the purchase option, diesel fuel, gasoline and other inventories may be purchased by the Landlord at an average purchase cost as determined by generally accepted accounting principles. Tenant must agree to the sale of the service station to the Landlord providing Landlord desires to purchase.

(b) During the second lease year, the purchase option is as in (a) above, except rather than \$15,000.00, the amount is \$25,000.00.

(c) The option price for the third lease year and forward will increase \$10,000.00 over the \$25,000.00 as in (b) above for each and every subsequent succeeding year this lease remains in force.

2. Tenant throughout the lease term shall have the first right of refusal to purchase Landlord's entire business or portions thereof if made available for sale which is conducted on the premises. This lease does not contain a provision as to the Tenant's purchase option price.

Any purchase options in this lease must be exercised within thirty (30) days after written notification of sale intention to Landlord and/or Tenant.

IN WITNESS WHEREOF, LANDLORD and TENANT have duly executed this lease on the date first above written.

CRYSTAL SPRINGS (a joint venture)
Landlord

By _____

Title _____

(Date) _____

WESTERN STATES SUPPLY CO.
Tenant

By _____

Title _____

(Date) _____

Lincoln County

Exhibit A

"PREMISES"

All that real property situate in the County of Lincoln, State of Nevada, bounded and described as follows:

The East $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 11, Township 5 South, Range 60 East, M.D.B. & M., according to the official Plat of said land on file in the office of the Bureau of Land Management.

EXCEPTING AND RESERVING, also, to the United States all the oil, gas and potassium in the land so patented, and to it or persons authorized by it, the right to prospect for, mine, and remove such deposits from the same upon compliance with the conditions and subject to the provisions and limitations of the Act of June 1, 1938 as reserved in the Patent recorded May 11, 1967, in Book "N-1", page 197, of Real Estate Deeds, Lincoln County, Nevada, records.

No. 84532
FILED AND RECORDED AT REQUEST OF
Marilee Burton
Jan. 29, 1986
AT 1 MINUTES PAST 9 O'CLOCK
a M IN BOOK 69 OF OFFICIAL
RECORDS, PAGE 462 LINCOLN
COUNTY, NEVADA.
James Setzer
COUNTY RECORDER

BOOK 69 PAGE 468