

MAYER, BROWN & PLATT

9830

231 SOUTH LA SALLE STREET

RECORDATION NO. Filed 1425

EUROPEAN OFFICE
14 MOORFIELDS HIGHWALK
LONDON EC2Y 9DL
01-588-0667
TELEX 8811095
CABLE LEMAYLON

CHICAGO, ILLINOIS 60601
312-782-0600
TELEX 253760
CABLE LEMAY

WASHINGTON OFFICE
888 SEVENTEENTH STREET, N.W.
WASHINGTON, D.C. 20006
TELEX 85-4443
TELEX 892603
CABLE LEMAYDC

9830 B

RECORDATION NO. Filed 1425 October 6, 1978

NOV 13 1978-9 20 AM

INTERSTATE COMMERCE COMMISSION
Secretary
Interstate Commerce Commission
Washington, D. C. 20423

RECORDATION NO. Filed 1425
NOV 13 1978-9 20 AM
INTERSTATE COMMERCE COMMISSION

RECEIVED
NOV 13 9 19 AM '78

Dear Sir:

This is a letter of transmittal pursuant to 49 C.F.R. 1116, et seq., which requests you to record the Second Supplemental Deed to Secure Debt, Security Agreement and Assignment (the "Second Supplemental Deed") between Continental Illinois National Bank and Trust Company of Chicago (the "Bank") as Grantee and Nord Kaolin Company as Grantor. This document serves to assign the rights of Nord Kaolin Company as Lessee of certain railroad cars (described in Attachment II hereto) to the Bank. Since the Second Supplemental Deed is an assignment of rights, pursuant to 49 C.F.R. 1116.3(d) enclosed please find a \$60.00 filing fee.

The equipment covered by the Second Supplemental Deed is described more fully in Attachment II hereto.

The leases of the railroad cars described in Attachment II hereto have not, in all probability, been previously recorded with the Interstate Commerce Commission.

Sincerely,

James E. Padilla

James E. Padilla

JEP:gc
Enclosure

Signature of executive officer of a party to Second Supplemental Deed

[Signature]
Vice President
Continental Illinois National Bank
and Trust Company of Chicago

No. 8-317,0012
NOV 13 1978
Date.....
Fee \$ 60.00

ICC Washington, D. C.

RECORDATION NO. 9830-B Filed 1425

NOV 13 1978-9 20 AM

SECOND SUPPLEMENTAL DEED TO SECURE DEBT,
SECURITY AGREEMENT AND ASSIGNMENT

ILLINOIS COMMERCE COURT

THIS SECOND SUPPLEMENTAL DEED TO SECURE DEBT, SECURITY AGREEMENT AND ASSIGNMENT, dated as of October ⁶ 1978, is from NORD KAOLIN COMPANY, a Georgia limited partnership (herein called the "Grantor") to CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO (herein called the "Bank").

W I T N E S S E T H:

WHEREAS, the Grantor has heretofore executed and delivered to the Bank that certain Deed to Secure Debt, Security Agreement and Assignment, dated as of December 15, 1977 (herein called the "Original Deed"), in order to secure the payment of indebtedness owed or to be owing to the Bank pursuant to the terms of a Loan Agreement, dated December 15, 1977, as heretofore amended (the "Loan Agreement"), between the Grantor and the Bank, including indebtedness evidenced by a promissory note (herein called the "Original Note"), dated December 23, 1977, in the principal amount of \$3,000,000, payable to the Bank, or its order, in 22 equal quarterly installments commencing July 31, 1979 and continuing through and including October 31, 1984; and

WHEREAS, the Original Deed is recorded in the records of the Clerk's office, Superior Court, Twiggs County, Georgia, in book 92, Folio 285, and in the records of the Clerk's office, Superior Court, Wilkinson County, Georgia, in book 145, folio 307; and

WHEREAS, the Original Deed has been amended by a First Supplement, dated April 1, 1978 (the Original Deed as amended by the First Supplement herein called the "Deed") to include as Indebtedness (as that term is defined in the Deed) all obligations incurred by the Grantor in connection with certain letters of

credit in the aggregate amount of \$250,000 opened by the Bank for the account of the Grantor; and

WHEREAS, the First Supplement is recorded in the records of the Clerk's office, Superior Court, Twiggs County, Georgia, in Book 92, Folio 688-690; and

WHEREAS, pursuant to the terms of a First Amendment to Loan Agreement of even date herewith (the "First Amendment"), the Grantor has executed and delivered to the Bank a new promissory note (the "New Promissory Note"), dated October 6, 1978, in the principal amount of \$3,600,000, payable to the Bank, or its order, in 22 equal quarterly installments commencing July 31, 1979 and continuing through and including October 31, 1984, said New Promissory Note being, to the extent of \$3,000,000, in extension and renewal of the Original Note, and to the extent of \$600,000, being evidence of additional loans from the Bank to the Company; and

WHEREAS, the Grantor desires to amend the Deed so as, among other things, to include the New Promissory Note in the Indebtedness (as defined in the Deed), and so as to supplement the Deed by the inclusion in the Subject Property (as defined in the Deed) of certain mineral and tank car leases.

NOW, THEREFORE, in consideration of the premises and of the debts and trusts mentioned above and the agreements herein contained and other good and valuable considerations, the Grantor agrees as follows:

1. INCLUSION OF NEW PROMISSORY NOTE IN INDEBTEDNESS.

The New Promissory Note and all other obligations of the Grantor under the Loan Agreement, as amended by the First Amendment, are hereby made a part of the Indebtedness (as defined in the Deed), and the term Indebtedness shall, when used herein or in the Deed, be deemed to include the New Promissory Note and all other obligations of the Grantor under the Loan Agreement as amended by the First Amendment.

2. REAFFIRMANCE OF THE DEED AND CONVEYANCE OF ADDITIONAL PROPERTY AS SECURITY FOR INDEBTEDNESS.

To secure the Indebtedness the Grantor has bargained, transferred, assigned, granted, conveyed, sold and granted a security interest, and by these presents does bargain, transfer, assign, grant convey, sell and grant a security interest unto the Bank, all the Grantor's right, title and interest, whether now owned or hereafter acquired, in and to:

(a) the lands described in Attachment 1 hereto, and the leases and the fee, mineral, overriding royalty, royalty and other interests specifically described in Attachment 1,

(b) the kaolin and other minerals which are in, under, upon, produced or to be produced from the lands described in Attachment 1 hereto,

(c) the Tank Car Leases (as such term is defined in the Deed) described in Attachment 2 hereto, together with any and all corrections or amendments to, or renewals, extensions or ratifications of, any of the same, or of any instruments relating thereto, and all rights-of-way, franchises, easements, tenements, hereditaments and appurtenances now existing or in the future obtained in connection with any of the aforesaid, and all other things of value and incident thereto which the Grantor might at any time have or be entitled to.

The property, rights and interests covered hereby (and which are hereby added to the Subject Property, as defined in the Deed) are hereinafter collectively called the "Supplemental Subject Property," and the term "Subject Property" when used in the Deed shall be deemed to include the Supplemental Subject Property.

Attachment 1 hereto shall be made a part of Exhibit A to the Deed.

~~and each reference to "Exhibit A" in the Deed shall be deemed to~~ include reference to Attachment 1 hereto. Attachment 2 hereto shall be made part of Exhibit D to the Deed, and each reference to "Exhibit D" in the Deed shall be deemed to include reference to Attachment 2 hereto.

Subject, however, to the condition that the Bank shall not be liable in any respect for the performance of any covenant or obligation of the Grantor in respect of the Subject Property. (including the Supplemental Subject Property).

TO HAVE AND TO HOLD the Supplemental Subject Property to the only proper use, benefit and behalf of the Bank, forever, in fee simple.

As further security for the payment of the Indebtedness (whether heretofore of hereafter incurred), the Grantor hereby bargains, transfers, assigns, grants, conveys, and sells unto the Bank, effective as of the date hereof, all kaolin and other minerals which are thereafter produced from and which accrue to the Supplemental Subject Property, and all proceeds therefrom. All parties producing, purchasing or receiving any such kaolin or other minerals, or having such, or proceeds therefrom, in their possession for which they or others are accountable to the Bank by virtue of the provisions hereof, are authorized and directed to treat and regard the Bank as the assignee and transferee of the Grantor and entitled in the Grantor's place and stead to receive such kaolin and other minerals and all proceeds therefrom; and said parties and each of them shall be fully protected in so treating and regarding the Bank, and shall be under no obligation to see to the application by the Bank of any such proceeds or payments received by it.

3. WARRANTIES.

The warranties contained in the Deed shall apply to the Supplemental Subject Property to the same extent and with the same force and effect as if the Supplemental Subject Property had been specifically described and referred to in the Deed.

4. MISCELLANEOUS.

(a) This Second Supplement shall be considered as an amendment and supplement to the Deed and, except as herein

expressly supplemented and amended, the Deed is hereby ratified, approved and confirmed in every respect.

(b) This conveyance is intended (i) to constitute a security agreement under the Uniform Commercial Code of Georgia and (ii) to operate as and to be construed as a deed passing the title to the Supplemental Subject Property to the Bank and is made under those provisions of the existing laws of the State of Georgia relating to Deeds to Secure Debt, and not as a mortgage, and is given to secure the Indebtedness (as defined in the Deed) and the performance by the Grantor of its obligations herein and in the Loan Agreement contained.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be executed as of the day and year first above written.

NORD KAOLIN COMPANY

By NORD KAOLIN CORPORATION,
General Partner

ATTEST:

By Richard L. Steinberg
Executive Vice President

stant
James A. Lauf
Secretary

Signed, Sealed and Delivered
in the presence of:

James E. Parkella
Unofficial Witness

Clairne M. Slegg
Notary Public

My Commission Expires: 8-3-82

The address of the Grantor is:

Nord Kaolin Company
Jeffersonville, Georgia 30144

The address of the Bank is:

Continental Illinois National
Bank and Trust Company of Chicago
231 South LaSalle Street
Chicago, Illinois 60693
Attn: Mining Division

This Instrument Was Prepared By:

Richard S. Brennan
231 South LaSalle Street
Chicago, Illinois 60604

STATE OF Illinois)
) SS.
COUNTY OF Cook)

I, Elaine M Styx, a Notary Public residing in the County and State aforesaid, do hereby certify that Richard L Steinhilber, who is personally to me known and known to me to be a Executive Vice President of Nord Kaolin Corporation, a Georgia corporation and the general partner of Nord Kaolin Company, a limited partnership, this day appeared before me personally and did acknowledge that he did sign, seal and deliver the foregoing instrument of his own free will and accord on behalf of said corporation as general partner of Nord Kaolin Company for the purposes therein named and expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 5 day of October, 1978.

Elaine M Styx
Notary Public in said County
and State

My Commission Expires: 8-3-82

Attachment 2

Tank Car Leases

I. Leases with General American
Transportation Company

<u>Contract No.</u>	<u>Date</u>	<u>Car No.</u>	<u>Termination Date</u>
2600	April 18, 1978	10 cars numbers unknown	5 years from last day of the month nearest the average Effec- tive Date of all of the cars

II. Leases with Union Tank
Car Company

<u>Contract No.</u>	<u>Date</u>	<u>Car No.</u>	<u>Termination Date</u>
None	May 25, 1978	UTLX 25902, 25927	May 25, 1983
		UTLX 25900, 25903, 25905, 25910, 25912, 25913, 25914, 25915, 25918, 25921, 25922, 25923, 25926	May 25, 1983
	Future leases not yet con- summated	42 cars numbers unknown	

