

UStTrust

RECORDATION NO. 15084 Filed & Recorded

OCT 23 1985 3-1 5 PM

INTERSTATE COMMERCE COMMISSION October 22, 1986

ICC OFFICE OF
THE SECRETARY
OCT 23 3 01 PM '86
NO. OF LEASING UNIT

FEDERAL EXPRESS

The Honorable Noretta R. McGee
Acting Secretary
INTERSTATE COMMERCE COMMISSION
Washington, DC 20423

No. 6-296A065

Date ..OCT. 23. 1986.....

Fee \$10.00.....

ICC Washington, D. C.

Dear Secretary McGee:

Enclosed is an original and two counterparts of the documents described below to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code. The enclosed primary documents which have not been previously recorded are an Equipment Lease Agreement, Lease No. 19864, dated October 16, 1986, and Rental Schedule No. One, dated October 16, 1986.

The names and address of the parties to the above referenced documents are as follows:

LESSOR (Secured Party): UNITED STATES TRUST COMPANY
40 Court Street
Boston, MA 02108

LESSEE (Debtor): NEW HAMPSHIRE NORTHCOAST CORP.
A wholly-owned subsidiary of BOSTON
SAND AND GRAVEL COMPANY
169 Portland Street
Boston, MA 02114

A description of the equipment covered by these primary documents is attached as Schedule A thereto. A fee of \$10.00 is enclosed. Please return the original and any extra copies not needed by the Commission for recordation to:

Tamara P. Davis
Senior Vice President
Investment Banking-Leasing
UNITED STATES TRUST COMPANY
30 Court Street
Boston, MA 02108

United States Trust Company
30 Court Street
Boston, Massachusetts 02108
(617) 726-7000
Telex 951494 UST BSN

The Honorable Noreta R. McGee
INTERSTATE COMMERCE COMMISSION
October 22, 1986
Page Two

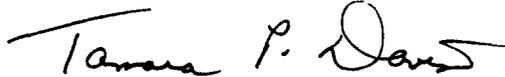
A short summary of the documents to appear in the index follows:

Equipment Lease Agreement No. 19864 dated October 16, 1986 and Rental Schedule No. One dated October 16, 1986 between UNITED STATES TRUST COMPANY as Lessor and NEW HAMPSHIRE NORTHCOAST CORP. as Lessee and BOSTON SAND AND GRAVEL COMPANY as Guarantor pertaining to certain collateral described as thirty-three (33) 100 ton capacity, 42 foot open-top Portec aggregate hopper railroad cars built in 1979, Serial Numbers TCCX0300 - TCCX0332 inclusive, each with two bottom drop-gates, together with all attachments, accessories and substitutions thereto, whether now owned or hereafter acquired. AAR Type Code: H440. AAR Mechanical Designation: HM.

Please contact the undersigned if you have any questions or require any additional information.

Thank you for your assistance.

Very truly yours,



Tamara P. Davis
Senior Vice President
Investment Banking-Leasing

TPD/lh
Enclosures

SCHEDULE A

Thirty-three (33) 100 ton capacity, 42 foot open-top Portec aggregate hopper railroad cars built in 1979, Serial Numbers TCCX0300 - TCCX0332 inclusive, each with two bottom drop-gates, together with all attachments, accessories and substitutions thereto, whether now owned or hereafter acquired. AAR Type Code: H440. AAR Mechanical Designation: HM.

Interstate Commerce Commission

Washington, D.C. 20423

10/24/86

OFFICE OF THE SECRETARY

Tamars P. Davis
Senior Vice President
Investment Banking-Leasing
U.S. Trust Company
30 Court Street
Boston, MA. 02108

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 10/23/86 at 3:15pm, and assigned re-
recording number(s).

15084

Sincerely yours,

Noreta R. McGee
Secretary

Enclosure(s)

SE-30
(7/79)



October 24, 1986

Tamara P. Davis
Senior Vice President
Investment Banking • Leasing

INTERSTATE COMMERCE COMMISSION
12th Street & Constitution Avenue, NW
Washington, DC 20423
Attention: Mildred Lee, 2303

Re: Filing No. 15084

Dear Mildred:

As we dicussed this morning via telephone, I am enclosing the appropriate notarized signatures for your records in reference to Lease Agreement No. 19864 dated October 16, 1986 between UNITED STATES TRUST COMPANY (Lessor) and NEW HAMPSHIRE NORTHCOAST CORP. (Lessee).

Thank you for your assistance in filing and recording this document with the ICC.

Very truly yours,

A handwritten signature in cursive script that reads "Tamara P. Davis".

Tamara P. Davis
Senior Vice President
Investment Banking-Leasing

TPD/ln
Enclosure

RECORDATION NO. 15084 Filed & Recorded

EQUIPMENT LEASE AGREEMENT

OCT 23 1985 3:15 PM

Lease No. 19864

INTERSTATE COMMERCE COMMISSION

LESSOR: UNITED STATES TRUST COMPANY, a Massachusetts trust company ("Lessor")
40 Court Street
Boston, MA 02108

LESSEE: NEW HAMPSHIRE NORTHCOAST CORP., a New Hampshire corporation ("Lessee")
and wholly-owned subsidiary of BOSTON SAND AND GRAVEL COMPANY,
which is guarantor of said subsidiary's obligations hereunder.

GUARANTOR: BOSTON SAND AND GRAVEL COMPANY, a Massachusetts Corporation ("Guarantor")
169 Portland Street
Boston, MA 02114

WITNESSETH:

1. **LEASE.** Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the personal property described in the Rental Schedule to Equipment Lease Agreement (herein called "Schedule") attached hereto and made a part hereof (herein called "Equipment"), upon the terms and conditions set forth in this Equipment Lease Agreement (the "Lease"). The parties may, from time to time by mutual consent, lease additional Equipment under this Lease for such term and such rents as may be agreed to by execution of additional Schedules and this Lease shall control and be effective as to such additional Schedules, the same as though set forth herein. The term "Equipment" as used in this Lease shall refer to items leased under all Schedules and the terms hereof shall apply equally to all such Equipment.
2. **TERM AND RENT.** The Base Term for each item of Equipment shall be for the period specified in the Schedule and Lessee shall pay Lessor, throughout the Base Term for the use of the Equipment, the Rent specified in the Schedule ("Rent"). The Base Term and Rent with respect to each item of Equipment shall commence as set out in the applicable Schedule. Lessee shall make all payments of Rent, free from all claims, demands and steoffs against Lessor, at the address of the Lessor set forth above or such other address as the Lessor may designate in writing.
3. **LATE CHARGES.** Time is of the essence in this Lease and if any Rent is not paid within ten (10) days after the due date thereof or five (5) days after notice thereof, whichever is later, Lessor shall have the right to add and collect and Lessee agrees to pay interest on such Rent at one (1%) percent per month of such Rent, but not exceeding the lawful maximum rate prescribed by law, from the due date until such Rent and late charges are paid.
4. **ACCEPTANCE OF EQUIPMENT: NONCANCELLABLE.** Lessee's acceptance of the Equipment shall be conclusively and irrevocably evidenced by Lessee signing a Certificate of Acceptance or Bill of Sale provided by Lessor and upon acceptance or sale, this Agreement shall be noncancellable for the Base Term thereof.
5. **TITLE.** Lessor shall at all times retain title to the Equipment as security for the obligations of Lessee hereunder until Lessee has fulfilled all of its obligations hereunder. All documents of title and evidence of delivery shall be delivered to the Lessor. Upon request of Lessor, Lessee will affix to the Equipment, in a prominent place, labels, plates or other markings supplied by Lessor stating that the Equipment is owned by Lessor. Lessor may at Lessee's sole expense cause this Lease to be filed, recorded or financing statements to be filed as permitted or required by law. Lessee intends at Lessee's sole expense to cause this Lease to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20(c) of the Interstate Commerce Commission Act. Lessee at its expense shall protect and defend Lessor's title, at all times keeping the Equipment free from any legal process and/or encumbrances whatsoever, including, but not limited to liens, attachments, levies and executions, and shall give Lessor immediate written notice thereof and shall indemnify Lessor for any loss caused by the failure of the Lessee to take action as provided herein.
6. **USE, OPERATION AND MAINTENANCE.** Lessee, at its own cost and expense, shall maintain the Equipment in good operating condition, repair, and appearance and protect same from deterioration other than normal wear and tear; shall use the Equipment in the regular course of its business only, within its normal capacity, without abuse, and in accordance with all applicable manufacturer manuals and instruction and in compliance with all applicable laws, regulations and orders issued by the railroads on which the Equipment is operated and by appropriate government agencies; and shall furnish all parts mechanisms, devices and servicing required therefor and necessary to comply with all applicable health

and safety standards. For the purpose of assuring Lessor that Lessor's Equipment will be properly serviced, Lessee agrees to cause the Equipment to be maintained and used pursuant to the manufacturer's standard preventive maintenance contract and/or recommendations. Lessee shall not make modifications, alterations or additions to the Equipment (other than normal operating accessories or controls) without the written consent of Lessor, which shall not be unreasonably withheld; shall not so affix the Equipment to realty so as to change its nature to real property and agrees that the Equipment shall remain personal property at all times, regardless of how attached or installed; and shall operate the Equipment only within the continental United States. If requested by Lessor, Lessee will obtain a waiver in recordable form, from all persons with a real property interest in the premises wherein the Equipment may be located, waiving any claim with respect thereto. All modifications, repairs, alterations, additions, replacements, substitutions, operating accessories and controls shall accrue to the Equipment and become the property of the Lessor. Lessor shall have the right, during normal business hours, to enter upon the premises where the Equipment is located in order to inspect or remove the same, or otherwise protect Lessor's interest, and Lessee shall cooperate in affording Lessor the opportunity to do the same.

Lessee shall keep the Equipment free and clear from all liens, charges, encumbrances, legal process and claims. Lessee shall not assign, sublet, hypothecate, sell, transfer or part with possession of the Equipment or any interest in this Lease, and any attempt to do so shall be null and void. Neither this Lease nor any interest in the Equipment is assignable or transferable by operation of law except amongst majority-owned subsidiaries of Guarantor. Lessee agrees not to waive its right to use and possess the Equipment in favor of any party other than Lessor and further agrees not to abandon the Equipment to any party other than Lessor. So long as Lessee faithfully performs and meets each and every term and condition to be performed or met by Lessee under this Lease, Lessee's quiet and peaceful possession of the Equipment will not be disturbed by Lessor.

7. **DISCLAIMER OF WARRANTIES.** Lessee acknowledges that Lessor is not the manufacturer of the Equipment nor manufacturer's agent, and Lessee represents that Lessee has selected the Equipment leased hereunder based upon Lessee's judgement prior to having requested Lessor to purchase the same for leasing to Lessee, and Lessee agrees that the Equipment leased hereunder is of a design, size, fitness and capacity selected by Lessee and that Lessee is satisfied that the same is suitable and fit for its intended purposes. LESSEE FURTHER AGREES THAT LESSOR HAS MADE AND MAKES NO REPRESENTATIONS OR WARRANTIES OF WHATSOEVER NATURE, DIRECTLY OR INDIRECTLY, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY REPRESENTATIONS OR WARRANTIES WITH RESPECT TO SUITABILITY, DURABILITY, FITNESS FOR USE AND MERCHANTABILITY OF ANY SUCH EQUIPMENT, THE PURPOSES AND USES OF THE LESSEE OR OTHERWISE. Lessee specifically waives all rights to make claim against Lessor herein for breach of any warranty of any kind whatsoever and Lessor hereby passes to Lessee all warranties, if any, received by Lessor by virtue of its ownership of the Equipment. Lessor shall not be liable to Lessee or anyone else for any loss, damage, liability, claim or expense of any kind or nature caused directly or indirectly by any Equipment leased hereunder or for the use or maintenance thereof, or for the failure of operations thereof, or for the repairs, service, or adjustment thereto, or by any delay or failure to provide any thereof, or by any interruption of service or loss of use or performance thereof or for any loss of business or any other damage whatsoever and howsoever caused. No defect or unfitness of the Equipment shall relieve Lessee of the obligation to pay Rent, or any other obligation under this Agreement to Lessor.

8. **NET LEASE/TAXES.** This is an absolutely Net Lease, and any present or future law to the contrary notwithstanding, Lessee's obligation to pay Lessor all amounts due hereunder is absolutely unconditional, and this Lease shall not terminate by operation of law or otherwise, nor shall Lessee be entitled to any abatement, reduction, setoff, counterclaim, defense or deduction with respect to any Rent or any other sum payable hereunder, nor shall any obligations of Lessee hereunder be affected for any reason whatsoever, no matter how, when or against whom asserted, arising or claimed. Lessee shall pay to Lessor all reasonable costs and expenses including attorney's fees as hereinafter defined in connection with the enforcement of Lessor's rights under this Lease. Lessee shall comply with all laws and shall pay all taxes. Lessee shall pay directly, or to Lessor, all license fees, registration fees, assessments and taxes which may now or hereafter be imposed upon the ownership, sale (if authorized), possession or use of the Equipment, excepting only those based on Lessor's income and shall keep the Equipment free and clear of all levies, liens or encumbrances arising therefrom. All required personal property tax returns relating to the Equipment shall be filed by Lessee unless otherwise indicated in writing. If Lessee fails to pay any said fees, assessment or taxes, Lessor shall have the right, but not the obligation, to pay the same and such amount, including penalties and costs, shall be repayable to Lessor with the next installment of Rent and if not so paid shall be the same as failure to pay any installment of Rent due hereunder. Lessor shall

not be responsible for contesting any valuation of or tax imposed on the Equipment but may do so strictly as an accommodation to Lessee and shall not be liable or accountable to Lessee therefor.

9. **LOSS OR DAMAGE OF EQUIPMENT.** Lessee hereby assumes and shall bear the risk of loss or destruction of or damage to the Equipment from any and every cause whatsoever, whether or not insured. No such loss or damage shall impair any obligation of Lessee under this Agreement which shall continue in full force and effect. In event of damage to or theft, loss or destruction of the Equipment (or any item thereof), Lessee shall promptly notify Lessor in writing of such fact and of all details with respect thereto. Within thirty (30) days of such event, Lessee at its sole expense and at Lessor's option, shall either (a) place the same in good repair, condition and working order returning it to its previous condition; or (b) replace the Equipment (or any item thereof) with like personal property in good repair, condition working order and equipment value and transfer clear title to such replacement property to Lessor whereupon such property shall be subject to this Agreement and be deemed the Equipment for purposes hereof; or (c) pay Lessor immediately or according to the scheduled term all unpaid Rents or such unpaid Rents as may be allocated to specific items of Equipment. Upon payment of all unpaid Rents this Lease shall terminate, except for Lessee's duties under Section 11. hereof, with respect to the Equipment (or any item thereof) for which such payment is received by Lessor and Lessee shall take title to same on an as-is where-is basis. Upon payment of the amount set forth in (c), the Rent for such Schedule shall be reduced by an amount equal to the product of the Rent times a fraction, the numerator of which is the original cost of the Equipment which was lost or damaged and the denominator of which is the Total Cost of the Equipment leased pursuant to such Schedule. Any insurance proceeds received with respect to the Equipment (or item thereof) shall be applied, in the event option (c) is elected, in reduction of the then unpaid obligations of Lessee to Lessor, if not already paid by Lessee, or, if already paid by Lessee to reimburse Lessee for such payment or, in the event option (a) or (b) is elected, to reimburse Lessee for the cost of repairing, restoring or replacing the Equipment (or any item thereof) upon receipt by Lessor of evidence, satisfactory to Lessor, that such repair, restoration or replacement has been completed, and an invoice therefor. In case Lessee shall fail to repair, replace or pay for the same, Lessor may repair at Lessee's expense, to be charged as additional Rent.

10. **INSURANCE.** Lessee shall keep the Equipment insured against theft and all risks of loss or damages from every cause whatsoever for not less than the greater of the replacement cost or the outstanding balance of the Lease per Association of American Railroads Standards and shall carry public liability insurance, both personal injury and property damage covering the Equipment, and Lessee shall be liable for all deductible portions of all required insurance. All said insurance shall be in form and amount and with companies satisfactory to Lessor. All insurance for theft, loss or damage shall provide that losses, if any, shall be payable to Lessor, and all such liability insurance shall name Lessor as additional insured. Lessee shall pay the premiums therefor and deliver to Lessor a Certificate of Insurance or other evidence satisfactory to Lessor that such insurance coverage is in effect; provided, however, that Lessor shall be under no duty either to ascertain the existence of or to examine such insurance policies or to advise Lessee in the event such insurance coverage shall not comply with the requirements hereof. Each insurer shall agree by endorsement upon the policy or policies issued by it or by independent instrument furnished to Lessor, that it will give Lessor thirty (30) days written notice by certified mail prior to the effective date of any alteration or cancellation of such policy. The proceeds of such insurance payable as a result of loss of or damage to the Equipment shall be applied as set out in Section 9. hereof. Lessee hereby irrevocably appoints Lessor as Lessee's attorney-in-fact to make claim for, receive payment of, and execute and endorse all documents, checks or drafts received in payment for loss or damage under any said insurance policies. In case of the failure of Lessee to procure or maintain said insurance or to comply with any other provision of this Lease, Lessor shall have the right but shall not be obligated, to effect such insurance or compliance on behalf of Lessee. In that event, all monies spent by and expenses of Lessor in effecting such insurance or compliance shall be deemed to be additional Rent, and shall be paid by Lessee to Lessor upon demand.

11. **LESSEE INDEMNITY.** Lessee assumes liability for and shall indemnify, save, hold harmless and, if requested by Lessor, defend Lessor from and against any and all claims, actions, suits or proceedings of any kind and nature whatsoever, including all damages, liabilities, penalties, costs, expenses, and legal fees (hereinafter "Claims") based on, arising out of, connected with or resulting from this Lease of the Equipment, including without limitation the manufacture, selection, purchase, delivery, acceptance, rejection, possession, use, operation, ownership, return or disposition of the Equipment, and including without limitation Claims arising in contract or tort (including negligence,

strict liability or otherwise), arising out of latent defects (regardless of whether the same are discoverable by Lessor or Lessee) or arising out of any trademark, patent or copyright infringement. If any Claim is made against Lessee or Lessor, the party receiving notice of such Claim shall promptly notify the other, but the failure of such person receiving notice so to notify the other shall not relieve Lessee of any obligation hereunder.

12. **DEFAULT AND REMEDIES.** (a) The following shall constitute events of default ("Events of Default") hereunder: (i) Lessee shall fail to make any payments to Lessor when due hereunder and such failure shall continue for five days after notice thereof to Lessee; (ii) Any representation or warranty of Lessee contained herein or in any document furnished to Lessor in connection herewith shall be incorrect or misleading in any material respect when made; (iii) Lessee shall fail to observe or perform any other covenant, agreement or warranty made by Lessee hereunder and such failure shall continue for ten days after written notice thereof to Lessee; (iv) Lessee shall make an assignment for the benefit of creditors or shall file any petition or action under any bankruptcy, reorganization, insolvency or moratorium law, or any other law or laws for the relief of, or relating to, debtors; (v) any involuntary petition shall be filed under any bankruptcy statute against Lessee, or any receiver, trustee, custodian or similar official shall be appointed to take possession of the properties of Lessee, unless such petition or appointment is set aside or withdrawn or ceases to be in effect within sixty days from the date of said filing or appointment.

(b) If any Event of Default shall occur, Lessor, at its option, shall have the right to take one or more of the following actions: (i) proceed by appropriate court action or actions at law or in equity to enforce performance by Lessee of the terms and conditions of this Lease and/or recover damages for the breach thereof; and/or (ii) by written notice to Lessee, which notice shall apply to all Schedules hereunder except as specifically excluded therefrom by Lessor, declare due and payable, and Lessee shall without further demand, forthwith pay to Lessor an amount equal to any unpaid Rent then due as of the date of such notice plus, as liquidated damages for loss of the bargain and not as a penalty, an amount equal to the outstanding balance of the Lease and Lessee shall return the Equipment to Lessor as provided in Section 14. Lessee hereby waives a trial by jury with respect to this Lease, the Equipment covered hereunder and the repossession hereof. Should Lessee fail to return the Equipment within fifteen (15) days of receipt of such notice, Lessor may, personally, or by its agents, and with or without notice or legal process, enter upon the premises where the Equipment is located, without liability for trespass or other damages, and repossess the Equipment free from all claims by Lessee. Return or repossession of the Equipment shall not constitute a termination of this Lease unless Lessor so notifies Lessee in writing. With respect to Equipment returned to or repossessed by Lessor, if Lessor has not terminated this Lease, Lessor will, in such manner and upon such terms as Lessor may determine in its sole discretion, retain all prior payments of Rent and either sell such Equipment at public or private sale with or without notice to Lessee, with or without having the Equipment at the sale, at which sale Lessor may purchase all or any part of the Equipment or re-lease the Equipment for a longer or shorter term than the original Lease. The proceeds of sale or re-lease shall be applied in the following order or priority; (i) to pay all Lessor's fees, costs and expenses for which Lessee is obligated pursuant to (c) below; (ii) to the extent not previously paid by Lessee, to pay Lessor all Rent and other sums due and remaining unpaid hereunder; and (iii) to reimburse Lessee for any sums previously paid by Lessee to Lessor as liquidated damages. In the event the proceeds of sale or re-lease are less than the sum of the amounts payable under (i) and (ii), Lessee shall pay Lessor such deficiency, forthwith. (c) Lessee shall be liable for all reasonable legal and collection fees, reasonable costs and expenses arising from Lessee's default and the exercise of Lessor's remedies hereunder, including costs of repossessions, storage, repairs, reconditioning and sale or re-leasing of the Equipment. (d) In the event that any court of competent jurisdiction determines that any provision of this Section is invalid or unenforceable in whole or in part, such determination shall not prohibit Lessor from establishing its damages sustained as a result of any breach of this Lease in any action or proceeding in which Lessor seeks to recover such damages. Any repossession or sale or re-lease of the Equipment shall not bar an action for damages for breach of this Lease, as hereinabove provided, and the bringing of an action or the entry of judgment against Lessee shall not bar Lessor's right to repossess the Equipment. No express or implied waiver by Lessor of any default shall in any way be, or be construed to be a waiver of any future or subsequent default. Whenever any payment is not made when due hereunder, Lessee agrees to pay Lessor or its assigns, an amount calculated at the rate of twelve percent (12%) per annum for such delayed payment and to make such payments as liquidated damages occasioned by such delay.

13. **PURCHASE OPTION.** So long as no default shall have occurred and be continuing, Lessee may, at Lessee's option, purchase all the scheduled Equipment on an "as is, where is" basis without representation or warranty express or implied, at the end of the Base Term for a purchase price equal to one dollar (\$1.00), plus applicable taxes. This purchase option shall only be available if Lessee gives Lessor sixty (60) days prior written notice of Lessee's irrevocable intent to exercise such option and Lessor and Lessee shall have agreed to all terms and conditions of such purchase prior to the expiration date of the Base Term. Upon Lessee's payment of the purchase price plus any applicable sales or other taxes, Lessor shall execute and deliver to Lessee a bill of sale (without representations or warranties except that such Equipment is free and clear of all claims, liens, security interests and other encumbrances by or in favor of any person claiming by, through or under Lessor) for such Equipment, and such other documents as may be required to release such Equipment from the terms and scope of this Lease and to transfer title thereto to Lessee in such form as may reasonably be requested by Lessee, all at Lessee's expense.

14. **RETURN OF EQUIPMENT.** If Lessee does not elect to exercise its Purchase Option as described in Section 13, upon expiration of the Base Term, Lessee shall immediately return the Equipment in as good a condition as received, less normal wear and tear, to such place within the New England geographical area as is designated by Lessor. For the purpose of delivering Equipment to Lessor, the Lessee shall: (a) permit the Lessor to store such Equipment on such tracks or storage facilities of the Lessee or any of its affiliates as the Lessor reasonably may designate, at the risk of the Lessee, without charge for insurance, rent or storage until such Equipment has been sold, leased or otherwise disposed of by the Lessor; and (b) transport the same to any place on the lines of railroad operated by the Lessee or any of its affiliates or to any connecting carrier for shipment, all as directed by the Lessor. During the storage period, the Lessee will at its own expense, maintain and keep the Equipment in good condition and will permit and cooperate with Lessor or its representative to inspect the same in a reasonable manner consistent with current railroad industry practice. Except as specifically provided herein, the assembling, delivery, storage, insurance and transporting of the Equipment as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease. The Lessee shall also pay to the Lessor such sum as may be necessary to cover replacement for all damaged, broken or missing parts of the Equipment. Should Lessee fail to return the Equipment at the expiration of the Base Term, Lessee shall continue to pay to Lessor in the sum and on the due dates set out in the Schedule until Equipment is returned by Lessee.

15. **ASSIGNMENT.** Lessor may, without Lessee's consent, assign or transfer this Lease or any Equipment or any Rent or other sums due or to become due hereunder, and in such event Lessor's transferee or assignee shall have all the rights, powers, privileges and remedies of Lessor hereunder and Lessee's obligations hereunder shall not be subject to any defense, offset or counterclaim available to Lessee against Lessor. Lessee acknowledges notice of Lessor's intent to assign without the prior written consent of Lessee. Lessee shall not assign this Lease or any interest hereunder or enter into any sublease with respect to the Equipment covered hereby without the written consent of Lessor which consent shall not be unreasonably withheld, provided however that any consent to such assignment shall not release the Lessee from any liability hereunder.

16. **FURTHER ASSURANCES.** Lessee agrees that its obligations under this Lease are absolute, and shall continue in force and effect regardless of the disability of the Lessee to use the Equipment because of any reason whatsoever, including but not limited to, wear, act of God, government regulations, strike, loss or damage, obsolescence, breach of contract warranty, failure of, or delay in, delivery, misdelivery and that its obligations shall not abate due to any claim or setoff against Lessor. Lessee shall, as soon as practical, deliver to Lessor, Lessee's annual reports of financial condition, prepared in accordance with generally accepted accounting principles, in a manner consistently applied, which reports Lessee represents and warrants shall fully and fairly present the true financial condition of Lessee. Lessee warrants that this Lease has been duly authorized and that no provision of this Lease is inconsistent with Lessee's charter or by-laws of any loan or credit agreement or other instrument to which Lessee is a party or which by Lessor or its property may be bound or affected. Lessee's covenants, representations, warranties and indemnities contained in Sections 8 and 11 of this Lease are made for the benefit of Lessor and shall survive, remain in full force and effect and be enforceable after the expiration or termination of this Lease for any reason.

17. MISCELLANEOUS. This Lease shall only be binding when accepted by the Lessor and shall be deemed to have been made in and governed by the laws of the Commonwealth of Massachusetts. For purposes of this Lease, the term "Rent" as used herein shall mean and include all amounts payable by Lessee to Lessor hereunder. The term "Lessee" as used herein shall mean and include any and all Lessees who have signed this Lease, each of whom shall be jointly and severally bound thereby. The captions of this Lease are for convenience only and shall not be read to define or omit the intent of the provision which follows such captions. This Lease and all attached Schedules contain the entire agreement and understanding between Lessor and Lessee relating to the subject matter hereof. Any variation or modification hereof and any waiver of any of the provisions or conditions hereof shall not be valid unless signed in writing by an authorized representative of the parties hereto. Any provision of this Lease which is unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforcability without invalidating the remaining provisions hereof and any such prohibition or unenforcability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Lessor's failure at any time to require strict performance by Lessee of any of the provisions hereof shall not waive or diminish Lessor's right thereafter to demand strict compliance therewith or with any other provision.

THIS LEASE IS A NON-CANCELLABLE LEASE. THIS LEASE CONSISTING OF SIX PAGES IS SUBJECT TO THE TERMS AND CONDITIONS PRINTED ABOVE WHICH LESSEE ACKNOWLEDGES HAVING READ. THIS LEASE SHALL BE EFFECTIVE UPON EXECUTION BY LESSEE, LESSOR AND GUARANTOR.

ACCEPTED THIS 16th DAY OF OCTOBER 1986.

LESSOR: UNITED STATES TRUST COMPANY

By: Tamara P. Davis
Authorized Signature

Title: Senior Vice President

LESSEE: NEW HAMPSHIRE NORTHCOAST CORP.

By: Dean M. Boylan Jr.
Authorized Signature

Title: Pres.

ATTEST: Ratelle Matthews
(Corporate Seal)

GUARANTOR: BOSTON SAND AND GRAVEL COMPANY

By: Jane Marie Boylan
Authorized Signature

Title: Treasurer

ATTEST: Dean M. Boylan Jr.
(Corporate Seal)

RENTAL SCHEDULE NO. One

To Equipment Lease Agreement No. 19864

This Rental Schedule is attached to and governed by the terms and provisions of the Equipment Lease Agreement dated October 16, 1986 ("Lease") by and between UNITED STATES TRUST COMPANY ("Lessor") and NEW HAMPSHIRE NORTHCOAST CORP. ("Lessee"), a wholly-owned subsidiary of BOSTON SAND AND GRAVEL COMPANY ("Guarantor"). All the terms used herein which are defined in the Lease shall have the same meaning herein.

1. The Equipment leased hereunder is as follows:

Quantity	New/Used	Description and Model Number	Serial No.	Purchase Price
E Q U I P M E N T	33 Used	100-ton capacity 42 foot open-top Portec aggregate hopper railroad cars built in 1979 each with two bottom drop gates, together with all attachments and accessories.		\$ 22,500.00 each
		AAR Type Code: H440. AAR Mechanical Designation: HM. Serial Numbers: TCCX0300 - TCCX0332 inclusive. New Serial Numbers: <u>N/A</u>		

Total: \$742,500.00

RENTAL PAYMENT TERMS

Base Term: TWENTY Quarters. Rental Commencement Date: October 16, 19 86

Late Payment Penalty Rate: 12% annually Lease Maturity Date: July 16, 1991

Rent: \$46,713.85 Quarterly/Advance Rental Factor: 6.291428%

Sales/Use Tax: \$ N/A

Total Rent: \$46,713.85 Quarterly/Advance

2. The Base term of the Lease of the Equipment shall commence upon the date of Equipment Sale and Leaseback as indicated on the Bill of Sale and shall continue until expiration of the number of quarters in the Base Term specified above after the Rental Commencement Date. Rent in the amount specified above, plus applicable taxes, shall be due on the Rental Commencement Date and on the same day of each and every consecutive quarter thereafter for the Base Term. All Rent shall be due and payable to Lessor at 40 Court Street, Boston, MA 02108, Attn: Leasing, or at such other place as Lessor may hereafter designate.

3. Location of Equipment: New Hampshire/Massachusetts Area

IN WITNESS WHEREOF, this Schedule is executed and agreed to this 16th day of October, 19 86. THIS RENTAL SCHEDULE CANNOT BE CANCELLED.

LESSOR:

UNITED STATES TRUST COMPANY

By: Tamara P. Davis
Title: Senior Vice President

LESSEE:

NEW HAMPSHIRE NORTHCOAST CORP.

By: Dee M. Boyle J
Title: Pres

GUARANTOR:

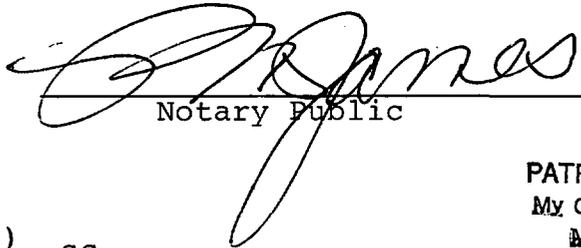
BOSTON SAND AND GRAVEL COMPANY

By: Jane-Marie Boyce
Title: Treas

Commonwealth of Massachusetts) SS.:
County of Suffolk)

On this 16th day of October, 1986, before me personally appeared DEAN M. BOYLAN JR., to me personally known, who, being by me duly sworn, says that he is PRESIDENT of NEW HAMPSHIRE NORTHCOAST CORP., that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, that said instrument is a certified copy of the original, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

NOTARIAL SEAL



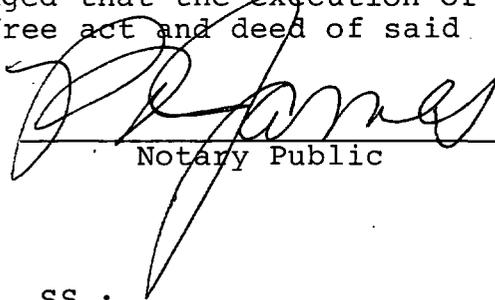
Notary Public

PATRICIA M. JAMES
My Commission Expires
March 28, 1991

Commonwealth of Massachusetts) SS.:
County of Suffolk)

On this 16th day of October, 1986, before me personally appeared JEANNE-MARIE BOYLAN, to me personally known, who, being by me duly sworn, says that he is TREASURER of BOSTON SAND AND GRAVEL COMPANY, that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, that said instrument is a certified copy of the original, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

NOTARIAL SEAL



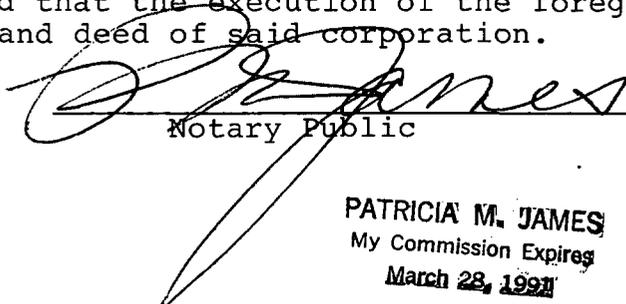
Notary Public

PATRICIA M. JAMES
My Commission Expires
March 28, 1991

Commonwealth of Massachusetts) SS.:
County of Suffolk)

On this 16th day of October, 1986, before me personally appeared TAMARA P. DAVIS, to me personally known, who, being by me duly sworn, says that he is SENIOR VICE PRESIDENT of UNITED STATES TRUST COMPANY, that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, that said instrument is a certified copy of the original, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

NOTARIAL SEAL



Notary Public

PATRICIA M. JAMES
My Commission Expires
March 28, 1991

