

NEW 11/26

RECORDATION NO. 11085
NOV 26 1979 - 11 55 AM
INTERSTATE COMMERCE COMMISSION

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INTERSTATE COMMERCE COMMISSION

ELIAS C. ALVORD (1942)
ELLSWORTH C. ALVORD (1964)

ROBERT W. ALVORD
ALBERT H. GREENE
CARL C. DAVIS*
CHARLES T. KAPPLER
ROBERT S. HOPE
JOHN H. DOYLE
MILTON C. GRACE*
GEORGE JOHN KETO**
RICHARD N. BAGENSTOS

* NOT A MEMBER OF D C BAR
** ALSO A MEMBER OF OHIO BAR

L. E. USTAW
LAW OFFICES
ALVORD AND ALVORD
200 WORLD CENTER BUILDING
SIXTEENTH STREET, N.W.
WASHINGTON, D.C.
20006

OF COUNSEL
JESS LARSON
URBAN A. LESTER

CABLE ADDRESS
ALVORD

TELEPHONE
AREA CODE 202
393-2266

TELEX
440348 CDAA UI

November 23, 1979

9-239AC42

NOV 26 1979

Fee \$ 100.00

DC Washington, D.C.

Copy Handed to Karpender

Agatha L. Mergenovich, Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Dear Madam:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. §11303(a) and the regulations thereunder are six fully executed copies of an Agreement dated as of October 3, 1979 and seven fully executed copies of a Consent and Agreement (Shipper) dated as of October 3, 1979.

A general description of the railroad rolling stock covered by the enclosed documents is, as follows:

Fifty (50) 4000 cubic foot capacity, 100-ton covered hopper cars bearing Providence and Worcester Company identification marks PW 50050 through PW 50099, both inclusive.

The names and addresses of the parties to the enclosed documents are:

Agreement

Owner: Crystal Hopper Associates, a Michigan limited partnership
209 Huron Avenue
Port Huron, Michigan 48060

Shipper: Diamond Crystal Salt Company
916 South Riverside Drive
St. Clair, Michigan 48079

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Consent and Agreement

Shipper: Diamond Crystal Salt Company
916 South Riverside Drive
St. Clair, Michigan 48079

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

Please cross-reference the Agreement and Consent and Agreement to the Security Agreement dated as of October 5, 1979 between Crystal Hopper Associates, a Michigan limited partnership, and Continental Illinois National Bank and Trust Company of Chicago which was recorded at 10:50 a.m. on October 10, 1979 and assigned Recordation Number 10871 and a Consent and Agreement dated as of October 5, 1979 between Providence and Worcester Company and Continental Illinois National Bank and Trust Company of Chicago which was recorded at 10:50 a.m. on October 10, 1979 and assigned Recordation Number 10873.

Please return the copies of the Agreement and Consent and Agreement not needed for your records to Charles T. Kappler, Esq., Alvord and Alvord, 918 Sixteenth Street, N.W., Washington, D.C. or to the bearer hereof.

Also enclosed is a check in the amount of \$100.00 payable to the order of the Interstate Commerce Commission covering required recordation fees.

Very truly yours,

ALVORD AND ALVORD

By Charles T. Kappler
Charles T. Kappler

Interstate Commerce Commission
Washington, D.C. 20423

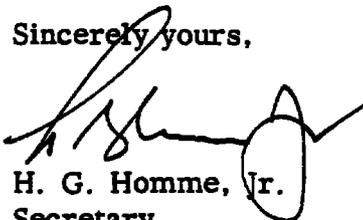
OFFICE OF THE SECRETARY

Charles T. Kappler, Esq.
Alvord and Alvord
918 Sixteenth Street, N. W.
Washington, D. C.

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 11/26/79 at 11:55AM, and assigned recordation number(s). 11085 & 11086.

Sincerely yours,



H. G. Homme, Jr.
Secretary

Enclosure(s)

SE-30
(3/79)

AGREEMENT

RECORDATION NO. 11085

NOV 26 1979 - 11 55 AM

INTERSTATE COMMERCE COMMISSION

THIS AGREEMENT, made as of the 3rd day of October, 1979, between Crystal Hopper Associates, a Michigan Partnership, of which Allen L. Stevens & Co., Inc., a New York corporation, 209 Huron Avenue, Port Huron, Michigan 48060 is General Partner, ("Owner"), and Diamond Crystal Salt Company, a Michigan corporation, 916 South Riverside Drive, St. Clair, Michigan 48079 ("Shipper");

WHEREAS, Shipper wishes to enter into an agreement with Owner whereby Owner will provide covered hopper cars for the beneficial use of Shipper by entering into an agreement with a railroad who will provide the cars for Shipper's use in assigned service at one or more of Shipper's plants;

NOW, THEREFORE Owner and Shipper enter into this Agreement:

1. Scope of Agreement

A. Owner agrees to enter into a joint venture agreement with a railroad company acceptable to Shipper ("Railroad") whereby Owner will provide fifty (50) 4,000 cubic foot capacity covered hopper cars ("Railcars") suitable for salt service to such railroad provided that such railroad company will assign the cars for service at the Shipper's plant or plants as directed by the Shipper. The Railcars are identified in the Schedule attached hereto.

2. Term

A. This Agreement shall remain in full force until it shall have been terminated as to all of the Railcars as herein provided. The term of this Agreement with respect to all the Railcars described herein shall be for the five years commencing on the date when all Railcars have been delivered to the Railroad. Delivery shall be the date the Railcars are accepted by the Owner from the manufacturer.

B. The present schedule for delivery of the Railcars provides for the start of delivery in August, 1979 with completion in September, 1979.

3. Assigned Service

A. Shipper shall obtain the permission of each railroad upon whose lines a plant of Shipper is located authorizing the assignment of the Railcars to load on its lines at the Shipper's plant for the term of this Agreement. The form of such consent shall be acceptable to and approved by the Owner and Railroad.

4. Consideration

In consideration of the Owner entering into an agreement with the Railroad and providing the Railcars to the Railroad for use by the Shipper, Shipper hereby agrees to remit to the Owner an amount calculated as follows:

A. Minimum Mileage: The total number of days operated by all Railcars in each calendar year shall be calculated as the sum of the number of days during each calendar year after delivery of each Railcar and prior to termination of this Agreement with respect to each Railcar less Owner authorized shop days for each Railcar ("Days Operated"). Such authorization shall not be unreasonably withheld by Owner.

B. From the total mileage actually operated by all the Railcars as reported to the Railroad by all railroads operating the Railcars during each calendar year shall be deducted an amount equal to 82.2 multiplied by the actual number of Days Operated by all the Railcars. If such number is negative, the Shipper shall pay an amount equal to the then current A.A.R. Car Hire mileage for the Railcars (currently 5.67¢ per mile) for such mileage deficiency.

C. Minimum Utilization: If the total number of hours for all Railcars during any calendar year for which the Railroad receives an hourly per diem is less than 90% of the number of hours calculated by multiplying 24 by the number of Days Operated ("Minimum Hours"), the Shipper shall pay an amount equal to the then current A.A.R. Car Hire hourly rate for the Railcars (currently \$.76 per hour) for each hour between the actual number of hours for which hourly per diem is earned by the Railroad and the Minimum Hours.

D. Within 60 days after the end of each calendar year during this Agreement the Owner shall supply to the Shipper a calculation of the amounts due under 4 (B) and 4 (C) above, if any. The Shipper shall remit such sum to the Owner within 30 days of receipt of such notice. The Shipper may inspect the records of the Owner and Railroad to audit the above calculation during normal business hours.

5. Assignment

A. It is agreed that the Owner may assign this Agreement to a partnership provided that Allen L. Stevens & Co., Inc. is a general partner of the partnership.

B. Should Shipper for any reason beyond his control be unable to utilize the equipment for an extended period of time (as solely determined by Shipper) during the term of this

Agreement, Shipper has the right to sub-assign the Railcars to another party and under terms acceptable to both the Shipper and the Owner. Owner shall not unreasonably withhold his approval of sub-assignment provided Diamond Crystal remains obligated under the terms and conditions of this Agreement.

C. Should any of the Railcars be wrecked or damaged to the point where, in the Owner's opinion, such cars should not be repaired and returned to service, upon notice to Shipper by Owner such car shall be deleted from this Agreement, and this Agreement will continue for the remaining Railcars.

6. Care of Railcars

The Shipper agrees that during the term of this Agreement it will take the following actions in the form of preventive maintenance to keep the Railcars in good condition, normal wear and tear excepted.

A. After the loading of any Railcar at a plant of the Shipper, the Shipper shall wash; if conditions permit, the exterior of the car as required to remove any salt from the exterior of the car and around the unloading gates, and

B. prior to loading any Railcar, if more than one year from the date of delivery or the date of last inspection under this section, inspect the Railcar before loading for any corrosion of the exterior or interior of the car, spot prime and finish coat with an appropriate coating any such locations on the car, and provide the Owner with a written inspection report stating the date and car number that compliance with this section was performed.

7. Arbitration

Any controversy or claim arising out of or relating to the performance or breach of this Agreement shall be settled by arbitration in the State of Michigan in accordance with the rules and procedures then prevailing of the American Arbitration Association.

8. Miscellaneous

A. Owner and Shipper represent, warrant and covenant that respectively each is a corporation duly organized, validly existing and in good standing under the laws of the state where it is incorporated and has the corporate power, authority and is duly qualified and authorized to do business wherever necessary,

to carry out its present business and operations and to perform its obligations under this Agreement.

B. No delay by the Owner in delivery of the Railcars to the Railroad will result in the cancellation of this Agreement provided the Railcars are so delivered prior to December 31, 1979.

C. This Agreement shall be governed by and construed according to the laws of the State of Michigan.

D. All notices hereunder shall be in writing and shall be deemed given when delivered personally or when deposited in the United States mail, postage prepaid, certified or registered, addressed to the president of the other party at the address set forth above.

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

CRYSTAL HOPPER ASSOCIATES

DIAMOND CRYSTAL SALT COMPANY

By: Allen L. Stevens & Co., Inc.,
General Partner

By: Jackson C. Meyers
Jackson C. Meyers,
Executive Vice President

David L. DeGiorgi
David L. DeGiorgi,
Vice-President

ATTEST:

[CORPORATE SEAL]

ATTEST:
[CORPORATE SEAL]

By: Teal Raberino
Its Asst. Secretary

By: James H. Vanden
Its Secretary

EQUIPMENT SCHEDULE TO AGREEMENT

DESCRIPTION OF EQUIPMENT

<u>Type of Equipment</u>	<u>Quantity</u>	<u>Railroad Reporting Marks</u>
4000 cubic-foot capacity, 100-ton covered hopper cars	50	PW 50050-50099

CRYSTAL HOPPER ASSOCIATES

By: Allen L. Stevens & Co., Inc.,
General Partner

By: *Allen L. Stevens*

Title: *Vice President*

Dated: *March 14, 1979*

DIAMOND CRYSTAL SALT COMPANY

By: *Garland C. Morgan*

Title: *Executive Vice President*

Dated: *March 15, 1979*

STATE OF Michigan)
COUNTY OF St. Clair) SS

On this 3rd day of October, 1979, before me personally appeared Donald DeGeorge, to me personally known, who being by me duly sworn, says that he is Vice President of Allen L. Stevens & Co., Inc., a New York corporation which is general partner of CRYSTAL HOPPER ASSOCIATES, a Michigan limited partnership, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation acting as such general partner by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation acting as such general partner.

(SEAL)

Charles R. Misch
Charles R. Misch
Notary Public
St. Clair County, Michigan

My commission expires: December 6, 1981

STATE OF Michigan)
COUNTY OF St. Clair) SS

On this 3rd day of October, 1979, before me personally appeared Jack R. Meyers, to me personally known, who being by me duly sworn, says that he is Executive Vice President of Diamond Crystal Salt Company, a Michigan corporation, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(SEAL)

Edna May Jolin
Notary Public

EDNA MAY JOLIN
Notary Public, St. Clair County, Mich.
My Commission Expires Oct. 14, 1981