

August 30, 1993

Mr. Ray Fox, H-3-3  
Alternative Technologies Section  
US Environmental Protection Agency  
75 Hawthorne Street  
San Francisco, CA 94105

RE: Westates Carbon-Arizona, Inc.  
Carbon Regeneration Facility, Parker, Arizona

Dear Mr. Fox:

Pursuant to your request, the following documents are attached:

1. Business Lease Between the Colorado River Indian Tribes and Westates Carbon-Arizona, Inc.
2. Colorado River Sewage System Joint Venture Industrial Wastewater Discharge Permit No. 1001-91
3. Colorado River Indian Tribes, Building Permit Application Approved 8/6/91
4. Colorado River Indian Tribes, Plumbing Permit Application Approved 8/6/91
5. Colorado River Indian Tribes, Electrical Permit Application Approved 8/6/91

I believe that this is everything you requested. Please let me know if you need anything else. In addition, we would be happy to meet with you if it would be helpful.

Very truly yours,

  
Matthew P. Killeen  
Manager, Environmental Permitting

MPK208/ga

cc: S. Richmond  
M. Troup



BUSINESS LEASE  
between the  
COLORADO RIVER INDIAN TRIBES  
and  
WESTATES CARBON-ARIZONA, INC.  
a subsidiary of  
Westates Carbon, Inc.



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WESTATES CARBON-ARIZONA, INC.  
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COLORADO RIVER INDIAN TRIBES  
Route 1, Box 23-B, Parker, Arizona 85344  
Colorado River Indian Reservation

U. S. DEPARTMENT OF THE INTERIOR  
BUREAU OF INDIAN AFFAIRS  
Colorado River Agency  
Route 1, Box 9-C, Parker, Arizona 85344

Lease No. B-1122-CR

WESTATES CARBON-ARIZONA, INC.

a wholly owned subsidiary of  
WESTATES CARBON, INC.

BUSINESS LEASE

THIS LEASE AGREEMENT is made and entered into this 1st day of April, 1990, by and between the COLORADO RIVER INDIAN TRIBES, an Indian tribe organized in accordance with Section 16 of the Act of June 18, 1934, 25 U.S.C. § 476, hereinafter called "LESSOR", whose address is: Route 1, Box 23-B, Parker, Arizona 85344, and Westates Carbon-Arizona, Inc., an Arizona corporation, hereinafter called "LESSEE", a wholly-owned subsidiary of Westates Carbon, Inc., a corporation existing under the laws of California, whose address is: 3225 North Central Avenue, Suite 1601, Phoenix, Arizona 85012, in accordance with the provisions of the Act of April 30, 1964 (78 Stat. 188), as implemented by the regulations contained in 25 C.F.R. Part 162, including all amendments thereto, and other applicable federal laws and regulations.

3 TERM.

3.1 Primary Term.

The Primary Term of this Lease shall be 20 years, beginning on the Effective Date of this Lease.

3.2 Renewal Term.

Upon expiration of the Primary Term, LESSEE shall have the option to continue this Lease for a Renewal Term of 20 years.

3.3 Exercise of Renewal Term Option.

In order to exercise its Renewal Term option, LESSEE shall, on or before 12 months prior to expiration of the Primary Term, deliver to LESSOR and the Secretary written notification of its intent to exercise the Renewal Term option. The rights, duties and obligations of LESSOR, the Secretary and LESSEE, as specified in this Lease, shall govern the Renewal Term.

3.4 Lease Void If Environmental Impact Statement Necessary.

The parties agree that if the Environmental Assessment provided for in Paragraph 4 below indicates that an Environmental Impact Statement is necessary, this Lease shall be void as of the date of its execution.

3.5 Holding Over Not Renewal or Extension.

Holding over by LESSEE after the termination of this Lease shall not constitute a renewal or extension thereof, or give LESSEE any rights hereunder, in or to the leased premises.

COLORADO RIVER INDIAN TRIBES  
Route 1, Box 23-B, Parker, Arizona 85344  
Colorado River Indian Reservation

U. S. DEPARTMENT OF THE INTERIOR  
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1     DEFINITIONS.

1.1     "Corporate successor" means the corporate entity created through corporate reorganization of the LESSEE, including any subsequent corporate entity created through any subsequent corporate reorganization or public stock offering, but not including any corporation into which the LESSEE is merged or any subsequent corporate entity into which any such corporate entity is subsequently merged.

1.2     "Effective Date" means the first day of the month following the date of approval of this Lease by the Secretary.

1.3     "Encumbrance" means a deed of trust, mortgage or any other security device which creates a security interest in LESSEE'S, or any approved sublessee's, leasehold interest in the leased premises, and which has been approved by LESSOR and the Secretary in accordance with the provisions of this Lease.

1.4     "Encumbrancer" means the owner of an encumbrance.

1.5     "Environmental Impact Statement" means the document of the same name which is required by the National Environmental Policy Act of 1969, as amended.

1.6     "Reservation" means the Colorado River Indian Reservation, established for the Colorado River Indian Tribes in Arizona and California.

1.7     "Secretary" means the Secretary of the Interior of the United States of America or his duly authorized representative.

2     LEASED PREMISES.

2.1     Lease of Premises; Property Description.

For and in consideration of the lease payments, and the covenants and agreements in this Lease, LESSOR hereby leases unto LESSEE the following described premises together with all rights, privileges, and necessary easements appurtenant thereto under applicable tribal law: Lots 13 and 14 in the Colorado River Indian Tribes Industrial Park, constituting a parcel of approximately 400 feet of frontage on Mutahar Street and 1089 feet in depth, comprising a total area of approximately 10 acres. The acreage figures shown above will be adjusted, if necessary, after LESSEE has completed actual surveys.

2.2     Title Report.

Prior to the execution of this Lease, LESSOR will provide LESSEE with a current BIA title report upon the leased premises. LESSEE'S execution of this Lease shall be contingent upon approval of all matters shown upon the title report.

2.3     Existing Liens.

The leased premises are subject to any prior, valid and existing claims or rights-of-way, including the present existing roads.

2.4     Survey; Plat Map.

Within 90 days after the Effective Date of this Lease, LESSEE, at its own expense, shall have the leased premises surveyed by a registered surveyor, the boundaries posted with substantial monuments, and a tie established with the nearest United States Land Survey marker. A plat map of the leased premises shall be furnished LESSOR and the Secretary.

3 TERM.

3.1 Primary Term.

The Primary Term of this Lease shall be 20 years, beginning on the Effective Date of this Lease.

3.2 Renewal Term.

Upon expiration of the Primary Term, LESSEE shall have the option to continue this Lease for a Renewal Term of 20 years.

3.3 Exercise of Renewal Term Option.

In order to exercise its Renewal Term option, LESSEE shall, on or before 12 months prior to expiration of the Primary Term, deliver to LESSOR and the Secretary written notification of its intent to exercise the Renewal Term option. The rights, duties and obligations of LESSOR, the Secretary and LESSEE, as specified in this Lease, shall govern the Renewal Term.

3.4 Lease Void If Environmental Impact Statement Necessary.

The parties agree that if the Environmental Assessment provided for in Paragraph 4 below indicates that an Environmental Impact Statement is necessary, this Lease shall be void as of the date of its execution.

3.5 Holding Over Not Renewal or Extension.

Holding over by LESSEE after the termination of this Lease shall not constitute a renewal or extension thereof, or give LESSEE any rights hereunder, in or to the leased premises.

4 CONDITION OF LEASED PREMISES.

4.1 Examination of Leased Premises: No warranties.

LESSEE has examined and knows the leased premises. No warranties or representations as to the condition of the leased premises have been made by LESSOR or any agent of LESSOR prior to or at the time of execution of this Lease. LESSEE warrants that it has not relied on any warranty or representation made by or for LESSOR, but has relied solely upon LESSEE'S independent investigation.

4.2 Environmental Assessment.

LESSOR and LESSEE acknowledge receipt of the Environmental Assessment prepared upon the premises for the purposes of this Lease by Engineering Enterprises, Inc., dated March, 1990 (revised July 3, 1990). LESSEE hereby accepts the leased premises in their present condition as revealed by LESSEE'S inspection of the leased premises and as set forth in the Environmental Assessment. LESSOR'S approval of this Lease is contingent upon LESSOR'S acceptance of the findings of the Environmental Assessment.

5 PURPOSE.

5.1 Purposes Authorized.

LESSEE is in the business of providing activated carbon, servicing pollution control devices and supplying engineered systems to its customers. Purposes for which LESSEE is authorized to use the leased premises are the following: construction and operation of a carbon reactivation plant, and servicing and fabricating of carbon reactivation pollution control devices and air strippers, all to be developed by LESSEE in a phased manner to accommodate business expansion in the markets named above. LESSEE

agrees to develop the leased premises only for these purposes and consistent with only these expansion needs, provided however, that LESSEE shall be entitled to utilize any improved technology developed therefor hereafter.

5.2 Limitation on Use of Leased Premises: Additional Purposes.

The leased premises shall not be used by LESSEE for any purpose or purposes other than those specified above. However, LESSEE may use the leased premises for any additional lawful purpose specifically authorized hereafter by written consent of LESSOR and the Secretary, which consent may be withheld, granted, or granted upon conditions, in the sole discretion of LESSOR.

6 UNLAWFUL USE OF LEASED PREMISES FORBIDDEN

LESSEE agrees that it will not use or cause to be used any part of the leased premises for any unlawful conduct or purpose, or engage in any activity in violation of any applicable law.

7 PAYMENTS TO LESSOR

7.1 Lease Payments.

LESSEE covenants and agrees to pay LESSOR annual rental upon the leased premises as follows:

7.1.1 Initial Rental Rate.

The rental rate for the first year of the Primary Term of this Lease shall be \$20,000.



7.1.2 Annual CPI Adjustment.

The rental rate for this Lease shall be increased on an annual basis as follows:

A. "CPI" means the Consumer Price Index for All Urban Consumers (All Cities--All Items) (1982-84 = 100).

B. "Base Year CPI" for the first rental adjustment is the publicized CPI for the year 1989. Each subsequent year's Base Year CPI shall be the prior year's Adjustment Year CPI.

C. "Adjustment Year CPI" is the publicized CPI for the most recently ended calendar year.

D. "Prior Year Rental Rate" means the rental rate for the previous lease year.

E. "Subsequent Year Rental Rate" means the rental rate for the year for which the CPI adjustment is being calculated.

F. The rental rate for each subsequent year after the first year of the Primary Term of this Lease shall be the amount calculated by application of the following formula:

$$\begin{array}{rcl} \text{Prior Year} & & \text{Subsequent Year} \\ \text{Rental} & \times & \text{Rental} \\ \text{Rate} & & \text{Rate} \\ & \times & \frac{\text{Adjustment Year CPI}}{\text{Base Year CPI}} = \end{array}$$

Notwithstanding the foregoing, in no event shall the Subsequent Year Rental Rate be less than 102% nor more than 106% of the Prior Year Rental Rate.

G. If the official base of the CPI changes from the base upon which the Base Year CPI is computed, such CPI shall thereafter be adjusted to the base upon which the Base Year CPI is determined before the computation indicated above is made. If the United States Bureau of Labor Statistics at any time hereafter discontinues publication of a Consumer Price Index or similar formula or table, a comparable index, formula or table generally accepted and employed by the real estate profession shall be used, as mutually determined by LESSOR and LESSEE.

7.1.3 Five Year Appraisal Adjustments.

In addition to the annual CPI adjustment described above, the rental rate shall be reviewed during the third quarter of years 5, 10, 15, and 20 of the Primary Term and Renewal Term of this Lease. The fair market rental value of the leased premises shall be redetermined by appraisal as set forth in this Subparagraph 7.1.3.

A. Limitation On Appraisal Adjustments. Each such appraisal shall relate only to the ground value, exclusive of any improvements, and provide further that in no event shall such redetermination result in a decrease in the rental rate for the leased premises, or in an increase which exceeds 40% of the yearly rental rate for the first year of the five-year period immediately prior to the effective date of the adjustment. The new rental rate base of each successive five-year segment shall be the higher of the CPI adjustment or the appraisal adjustment.

B. Effective Date of Appraisal Adjustments.

Any such adjustment in the rental rate shall become effective during years 6, 11 and 16 of the Primary Term and years 1, 6, 11, and 16 of the Renewal Term of this Lease.

C. Selection of Appraiser. LESSOR and LESSEE

shall mutually agree upon a qualified, independent appraiser who is a member of the American Institute of Real Estate Appraisers ("MAI") or similarly qualified appraiser. Such appraiser shall determine the fair market rental value of the leased premises and shall notify LESSEE and LESSOR of such value within 30 days after such appraiser's selection. The cost of the appraisal shall be borne equally by the parties.

D. Basis of Appraisal. The appraisal shall be

based upon the fair market value method for similarly situated properties.

E. Disagreement With Appraisal. If either

party disagrees with the results of the appraisal, then each party shall select an independent MAI appraiser who shall determine the fair market rental value of the leased premises in the manner set forth above. The rental rate shall be the average of the three appraisals; provided, however, that any appraisal which varies more than 15% from the average shall be excluded from the calculation and the rental rate shall be the average of the other two appraisals. If, however, the two additional appraisals are both within 8% of the original appraisal, the disagreeing party shall bear the sole cost of both additional appraisals.

7.2 Lease Payments in Advance And By Check.

Rental for the leased premises shall be paid in advance and without prior notice or demand on each anniversary of the Effective Date of the Primary Term and Renewal Term of this Lease. Payment shall be by check made payable to LESSOR and mailed to LESSOR at LESSOR's address specified in Paragraph 33.

7.3 Interest on Overdue Lease Payments.

Any lease payment unpaid after the due date shall bear interest at 18% per annum from the date it becomes due until it is paid, but this provision shall not be construed to relieve LESSEE from any default in making any lease payment at the time and in the manner herein specified.

7.4 Evidence of Payment to Secretary.

At the time the annual lease payment is mailed by LESSEE to LESSOR, LESSEE shall mail a photocopy of the lease payment check to the Superintendent of the Colorado River Indian Agency, Bureau of Indian Affairs ("BIA").

7.5 Additional Water Filter System Installation.

7.5.1 Installation of Additional Water Filter Equipment.

LESSOR agrees to install on the tribal water system, at LESSEE'S sole expense, but not in excess of \$60,000, additional water filter equipment in order to provide adequate water filtering capacity for LESSEE'S use of the leased premises for the purposes authorized in Paragraph 5.

7.5.2 Partial Payment For Additional Water Filter Capacity.

LESSOR agrees to repay LESSEE the sum of money necessary to defray that portion of such cost of the additional water filter equipment as is not attributable solely to LESSEE's use of the leased premises. Such sum will bear interest at 9%, and will be repaid by LESSOR'S furnishing LESSEE with water without charge until such sum is paid in full. LESSEE shall be given credit upon such sum at the rate of \$38.50 per first 20,000 gallons and 65 cents per 1,000 gallons in excess thereof per month, provided however, that if such sum is not repaid within 18 months after installation, LESSEE shall be given credit at the rate established by the following formula:

$$\begin{array}{rcl} \text{Cost of Additional} & & \text{Gallonage of Water} \\ \text{Water Filter Equipment} & \times & \text{To Be Used By LESSEE} \\ & & \text{Gallonage of Additional} \\ & & \text{Water Filtering Capacity} \\ & & \text{Added by Additional Water} \\ & & \text{Filter Equipment} \end{array}$$

"Gallonage of Water To Be Used By LESSEE" shall be the maximum gallonage of water which could be used by the equipment installed on the leased premises by LESSEE if such equipment were operated at maximum operating capacity.

7.5.3 Replacement of Water Filter Equipment For Renewal Term.

If at the time LESSEE opts to renew this Lease for the Renewal Term, the additional water filtering equipment added pursuant to Subparagraph 7.5 is in need of repair or replacement, LESSEE agrees to contribute to such repair or replacement according to the formula contained in Subparagraph 7.5.2, but based upon

operation of LESSEE'S equipment at the then maximum design capacity.

7.5.4 Water Rates.

During the term of this Lease, except as provided for in 7.5.2, LESSEE shall be charged the then existing commercial rate being paid by comparable commercial users as established by the Tribal Utility Board. However, in the event the Tribal Utility Board establishes an "industrial user" rate and LESSEE qualifies as an "industrial user" as determined by the Tribal Utility Board, the LESSEE shall be charged the then established industrial rate being paid by comparable industrial users on the Tribal water system.

7.6 LESSOR'S Attorney Fees and Expenses.

LESSEE covenants and agrees to pay LESSOR, on the Effective Date of this Lease, reasonable attorney fees and expenses incurred in negotiation of this Lease, not in excess of \$10,000.

8 IMPROVEMENTS AND PERSONAL PROPERTY.

8.1 Completion of Phase I.

As a material part of the consideration for this Lease, LESSEE covenants and agrees that within 18 months after the Effective Date of this Lease, LESSEE will have completed the construction and development of the improvements known as Phase I, as set out in Paragraph 9 and in Paragraph 10.

8.2 Force Majeure.

LESSEE shall not be liable for breach of this Lease due to delay in its performance of construction hereunder due to Force Majeure. Force Majeure shall mean and include: exercise of rights of priority or control by government authority for national defense or war purposes resulting in delay in obtaining or inability to obtain either material, equipment or means of transportation normally necessary for construction of LESSEE'S facilities; war; scarcity or failure of materials or equipment (but not delay caused by LESSEE'S attempting to obtain cheaper prices of materials); lack of labor or means of transportation of labor or material; acts of God; insurrection; flood or strike.

If, by reason of Force Majeure, LESSEE is delayed in the construction of its facilities, the period of delay so caused shall be added to the period stated herein for the completion of such work; provided, however, that LESSEE'S obligation to make lease payments shall not be affected by Force Majeure. In such an event LESSEE will notify LESSOR in writing as to the cause of delay and the expected length of the delay.

8.3 Buildings, Improvements, Personal Property and Trade Fixtures.

All buildings and permanent improvements on the leased premises shall become the property of LESSOR at the time of expiration or earlier termination of this Lease upon default of LESSEE. The parties agree that LESSEE owns or will own the personal property and trade fixtures set forth in Exhibit A, and any trade fixtures and personal property added to the leased premises during the Primary Term and the Renewal Term of this Lease.

8.4 Removal of Movable Personal Property.

LESSEE agrees to remove all personal property and trade fixtures under the terms of this Lease prior to the termination of this Lease, and further, if such property is not so removed, to pay a daily fee computed at the rate of double the daily rental charged during the year immediately preceding the termination of the Lease, from the day following the termination date of the Lease until such property is removed. Such payment shall not be construed as consent to any holdover tenancy. Should LESSEE fail to remove such property within the specified time, such property shall thereupon become the property of LESSOR and may be disposed of in any manner by LESSOR at LESSEE'S sole cost and expense.

9 PLANS AND DESIGNS.

9.1 Submission of General Plan and Phased Program.

Approval of this Lease constitutes LESSOR'S approval of the attached general plan for the complete development of the entire leased premises and the phased program, by specific area, of the developments included as a part of the general plan. The General Plan is attached hereto as Exhibit B.

9.2 Submission of Architect's Design for Phase I.

Within 175 days from the Effective Date of this Lease, LESSEE shall submit to LESSOR for approval, an architect's design for Phase I of LESSEE'S development of the leased premises.

9.3 Approval of Architect's Design For Phase I and Phased Program.

LESSOR shall approve or disapprove the architect's design for Phase I or any subsequent phase, and the phased program



of developments, pursuant to tribal law, but such approval or disapproval shall not be unreasonably delayed or withheld. LESSEE will respond to disapproval with submission of new plans and designs or with further information to support rebuttal to disapproval. LESSOR will respond to any such resubmittal pursuant to tribal law, but such approval or disapproval shall not be unreasonably delayed or withheld. If any such approval or disapproval is not made within 60 days, LESSEE'S time in which to complete construction under this Lease shall be extended by the amount of time in excess of 60 days until such approval or disapproval is made.

9.3.1 Phases II-V: Environmental Assessment; Soil Testing.

In the event that any phase after Phase I proposes use of the leased premises for a purpose other than one reviewed in the Environmental Assessment and approved pursuant to Subparagraph 30.1, LESSOR shall have the right, but not the obligation, at LESSEE'S expense and in cooperation with Paragraph 31 of this Lease to conduct a site environmental examination, including preparation of an Environmental Assessment and soil testing to establish site suitability for intended construction purposes for any such phase.

9.4 Changes to General Plan or Architect's Design; Applicable Law.

LESSEE shall make no change in the general plan or architect's design for Phase I or any subsequent phase after approval without the consent of LESSOR. Approval of the general plan, architect's design for Phase I or any subsequent phase, and the phased program of development shall in no way be deemed a waiver of the requirements of applicable tribal law, federal law or environmental requirements applicable to the leased premises regarding its use by LESSEE.

10 COMPLETION OF DEVELOPMENT.

10.1 Failure to Complete Improvement and Development.

LESSEE shall complete the full improvement and development of the leased premises in accordance with the general plan and architect's design for Phase I submitted in accordance with Paragraph 9, and shall complete the minimum construction according to the schedule and within the time limit established in Paragraph 8. If LESSEE fails to complete such improvement and development within such period, there shall be a 10% increase in the guaranteed minimum annual rental beginning 90 days following such failure to comply with the provisions of Paragraph 8, the 10% increase to be applicable only during the monthly periods in which such failure exists. If any such failure continues for a full lease year thereafter, the 10% increase in the guaranteed minimum annual rental payable under this Lease shall be permanent.

10.2 Phases II Through V Conceptual Only.

LESSOR and LESSEE acknowledge that Phases II through V are conceptual only, and agree that LESSEE'S failure to develop any of such phases shall not be construed as a breach of this Lease, and shall not result in any rental increase pursuant to this Paragraph 10.

11 CONSTRUCTION, MAINTENANCE, REPAIR, ALTERATION.

11.1 Construction of Buildings and Improvements.

All buildings and improvements placed on the leased premises shall be constructed in a good and workmanlike manner and in compliance with applicable law and building codes. All parts of buildings visible from adjacent properties shall present a pleasant

appearance, as determined in the reasonable discretion of LESSOR, and all service areas shall be screened from public view to the satisfaction of LESSOR.

11.2 Maintenance, Repairs and Alterations.

LESSEE shall, at all times during the term of this Lease and at LESSEE'S sole cost and expense, maintain the premises, all improvements thereon and any alterations, additions or appurtenances thereto in good order and repair, including major repairs, with ordinary wear and tear excepted, and shall otherwise comply with all applicable Tribal law. LESSOR shall have the right to require LESSEE to remove any damaged or unsightly buildings or improvements from the leased premises during the Primary Term, Renewal Term and after termination of this Lease by giving written notification to LESSEE. If so notified, LESSEE shall, at LESSEE'S sole cost and expense, remove such buildings or improvements within 90 days after the date of written notification and shall restore the leased premises to the condition existing on the Effective Date of this Lease.

11.3 Building Permits.

Construction of any buildings and improvements, irrespective of value, shall not commence until the required permits have been obtained. LESSEE shall make any and all additions to or alterations in the buildings and structures erected on the leased premises which may be required by law and shall observe and comply with all applicable law.

12 WATER USE AND FACILITIES.

12.1 Use of Water.

Water shall be used only for the specific purposes specifically authorized in Paragraph 5, or specifically authorized by LESSOR hereafter, and such uses as are incidental thereto. LESSEE may not use water for any other purpose, sell or trade water to a third party, or permit water to be sold or used off the leased premises. Determination of any question regarding water use shall be made by LESSOR in the reasonable discretion of the Tribal Council or any agency of LESSOR to which such power may be delegated hereafter.

13 NON-RESPONSIBILITY NOTICES.

13.1 Ten Days' Written Notice Required Prior to Improvement or Substantial Repair.

Prior to the commencement of construction of each improvement on the leased premises, any substantial repair or alteration thereto, or substantial work or labor thereon LESSEE shall give LESSOR and the Secretary 10 days notice in writing of its intention to begin such activity in order that non-responsibility notices may be posted. LESSOR hereby authorizes LESSEE to post such notices on LESSOR'S behalf and at the direction of LESSOR, and LESSEE hereby agrees to post such notices. Such notices will be provided by LESSOR.

14 BONDS.

14.1 Construction Surety Bond.

In order to ensure the proper and complete construction of the facilities as described in Paragraph 9, LESSEE, or its agent,

shall post a construction surety bond in a sum acceptable to LESSOR and, if required, the Secretary.

14.2 Performance Bonds.

As soon as construction is complete, LESSOR will waive further bond requirements, unless and until such time as LESSOR shall determine in LESSOR'S reasonable discretion that it has cause to require a corporate surety bond to ensure the correction of any rental deficiency, other breach of this Lease or performance of any obligation under this Lease.

14.3 Cash in Lieu of Surety Bond.

In lieu of furnishing a surety bond, LESSEE may deposit with the Secretary cash, negotiable United States Treasury Bonds, other negotiable Treasury obligations, time certificates of deposit, savings and loan association passbooks, or letter of credit in an amount acceptable to LESSOR, together with power of attorney appointing and empowering LESSOR in the event of LESSEE'S default in any of the provisions of this Lease to pay over any such cash or equivalent, withdraw the funds from any such savings and loan association account, dispose of any such bond or make demand upon any such letter of credit and retain the proceeds derived therefrom to apply to LESSOR'S damages or, at LESSOR'S option, as liquidated damages as provided by this Lease, subject to LESSEE'S privilege of curing such default as hereinafter provided. If United States Treasury Bonds are provided, LESSEE agrees to make up any deficiency in the value deposited that might occur due to a decrease in the value of the bonds. Interest on any such Treasury Bonds or time certificates of deposit in excess of damages or liquidated damages provided for in this Lease shall be paid to LESSEE.

14.4 Surety for Last Two Years' Minimum Rental.

Notwithstanding any waiver of the bonding provision, prior to the last two years of the Primary Term or Renewal Term of this Lease, LESSEE shall provide a surety bond or certificate of deposit in twice the amount of the then current rental.

15 COMPANIES BONDING AND INSURING.

Every corporate surety bond provided by LESSEE in compliance with this Lease shall be furnished by a company holding a certificate of authority from the Secretary of the Treasury as an acceptable surety on federal bonds. Insurance policies shall be furnished by such responsible companies as are rated A-plus or better in the current edition of Best's Insurance Guide.

16 SUBLEASE, ASSIGNMENT, TRANSFER.

16.1 Approval Prerequisite.

Before (a) entering into any sublease, assignment or transfer of this Lease or any right or interest therein; or (b) entering into any merger transaction or any other transaction for the sale, assignment or transfer of the corporate stock of LESSEE, or its parent corporation, which transfer would result in a material change of control of LESSEE, or its parent corporation, LESSEE shall notify LESSOR in writing. If LESSOR and the Secretary approve of such transaction, LESSEE shall be entitled to go forward with the transaction subject to the terms of the Lease. For purposes of Part (b) of the first sentence of this subparagraph only, LESSOR'S and the Secretary's approval shall be limited solely to approval of the right of any subsequent entity, which exists as a result of LESSEE engaging in a transaction described in Part (b), to receive the benefits of this Lease. If LESSOR does not approve of the transaction as proposed, LESSEE shall have the right to (i)

terminate the Lease and pay to LESSOR an amount equal to the then applicable rental rate multiplied by the prorated unexpired term of the Primary or Renewal Term of the Lease, in addition LESSEE will be subject to all termination obligations defined in this Lease; or (ii) cease operations, continue making Lease payments and attempt to enter into a sublease, assignment, transfer, merger or other transaction with another party or parties, subject to the approval rights of LESSOR as set forth above.

No such sublease, assignment, transfer or merger shall be valid or binding upon LESSOR without LESSOR'S approval, and then only upon the condition that the sublessee, assignee or transferee, including an approved encumbrancer or corporation into which LESSEE shall be merged, shall agree in writing to be bound by all provisions of this Lease. Any other provision to the contrary notwithstanding, an encumbrancer may enforce his rights in the manner hereinafter provided. LESSOR'S approval of one sublease, assignment, transfer or merger shall not validate a subsequent sublease, assignment, transfer or merger and the restrictions of Paragraph 16 shall apply to each successive sublease, assignment, transfer or merger hereunder and shall be severally binding upon each and every sublessee, assignee, transferee or corporation into which LESSEE shall be merged, corporate successor and other successor in interest of LESSEE.

LESSOR'S approval under this Subparagraph 16.1 shall not be unreasonably withheld or delayed. For the purpose of Paragraph 16, "control" shall mean the direct or indirect power to direct or cause the direction of the management and policies of LESSEE, or its parent corporation, whether through the ownership of voting securities, by contract or otherwise.

16.2 Limitation of Term "Unreasonably Withheld".

Approval of LESSOR to any action referred to in Subparagraph 16.1 shall not be deemed to be unreasonably withheld if the reason for LESSOR'S refusal to approve is made within 30 days of a written request therefor and is based upon the fact that the proposed successor in interest of the acting party, including any corporation with which LESSEE has merged, has participated in, financed or supported any activity which seeks to limit or destroy Indian tribal sovereignty or self government, or any rights or immunities under federal or state law, including treaties, and court and administrative decisions, of either LESSOR or of any Indian tribe, tribal organization or individual Indians, whether members of LESSOR or of any other Indian tribe.

16.3 Right to Alter Corporate Structure.

Subject to Subparagraph 16.1, LESSEE has the right and the intention to change its corporate structure in the event of a public offering of the stock of LESSEE, or its parent corporation. The parties agree that, except as otherwise provided in this Lease, LESSEE, or its parent corporation, shall have the right to engage in such action and further that LESSEE, as a privately held company or as a public company, is one in the same for purposes of this Lease.

16.4 Adjustment of Rental Provisions.

The sublease, assignment or transfer of this Lease, any right to or interest in this Lease, or any of the buildings or other improvements on the leased premises by LESSEE, sale, assignment, transfer of control of the corporate stock of LESSEE, or any corporate successor thereof, or merger with another corporation shall initiate a five-year reevaluation of the leased premises pursuant to Paragraph 7 of this Lease. Lease payments pursuant to



the reevaluation shall begin as of the date of such sublease, assignment, transfer, sale or merger. However, such reevaluation shall not be deemed to alter the five-year periods of the Primary Term and Renewal Term of this Lease in any other respect. However, no rental adjustment shall be made in the event of a public or private stock offering of LESSEE.

17 RIGHTS OF SUCCESSOR IN INTEREST OF LESSEE UPON TERMINATION OF LEASE.

17.1 Termination to Operate as Assignment.

Termination of this Lease, by cancellation or otherwise, shall not serve to cancel any approved sublease or subtenancy, or the rights of any party acquired in accordance with Subparagraph 19.1, but shall operate as an assignment to LESSOR of any such sublease, subtenancy or any such rights.

18 AGREEMENTS FOR UTILITY LINES AND STREET.

18.1 Payment for Utility Facilities.

LESSEE hereby agrees to install sewage and water facilities at its own expense in accordance with approved specifications. LESSEE shall connect within six months at its own expense to any sewer lines or water mains which may in the future be constructed in reasonable proximity to the leased premises. LESSEE shall provide LESSOR and the Secretary with plats or diagrams showing the true location of all utility lines or streets constructed by LESSEE on the leased premises.

18.2 Payment for Utility Services.

LESSEE shall pay all charges for water, sewage, gas, electricity, trash collection and other utility services supplied to and used on the leased premises during the Primary Term and Renewal Term of this Lease. All such charges shall be paid before they are delinquent. LESSOR and the United States of America shall be protected and held harmless by LESSEE from all claims arising therefrom.

19 ENCUMBRANCES.

19.1 Written Approval Required.

19.1.1 Approval By LESSOR and Secretary.

This Lease or any right to or interest in this Lease may be encumbered only with the written approval of LESSOR, the Secretary and sureties, if any, which approval shall not be unreasonably withheld. No such encumbrance shall be valid without such approval.

19.1.2 Limitation of Term "Unreasonably Withheld".

Approval of LESSOR of any proposed encumbrance shall not be deemed to be unreasonably withheld if the reason for LESSOR'S refusal to approve is made within 30 days of a written request therefor and is based upon the fact that the proposed security holder has participated in, financed or supported any activity which seeks to limit or destroy Indian tribal sovereignty or self government, or any rights or immunities under federal or state law, including treaties, and court and administrative decisions, of either LESSOR or of any Indian tribe, tribal organization or individual Indian, whether a member of LESSOR or of any other Indian tribe.

19.2 Purposes For Which Encumbrances Are Permitted.

The leasehold may be encumbered only for purposes of borrowing capital for the development and improvement of the leased premises, unless a waiver of 25 C.F.R. § 162.12(c) is granted by the Secretary. Any such encumbrance shall be confined to the leasehold interest of LESSEE and shall not jeopardize the LESSOR'S interest in the land in any way. The term of any such encumbrance shall not extend beyond the expiration date of this Lease. Any such encumbrance shall be governed by the provisions of this Lease. LESSEE agrees to furnish as requested any financial statements or analysis pertinent to the encumbrance that the LESSOR or the Secretary may deem necessary to justify the amount, purpose and terms of any such encumbrance. In the event LESSEE chooses to finance its construction hereunder with industrial development bonds, LESSOR agrees to provide LESSEE with reasonable assistance in providing whatever information and documentation is required therefor, provided however, that LESSEE agrees to reimburse LESSOR for any attorney fees or other costs incurred by LESSOR thereby.

19.3 Breach of Encumbrance By LESSEE.

In the event the LESSEE breaches the terms of an encumbrance, the encumbrancer may exercise any rights provided therein, provided however, that before the date of sale of the leasehold, whether under power of sale or foreclosure, the encumbrancer shall give to the LESSOR and the Secretary notice of the same character as is required to be given to LESSEE by such encumbrance or by law.

19.4 LESSOR'S Rights with Respect to Sale.

If, pursuant to breach of an encumbrance, notice of sale be given, and the breach upon which such notice of sale is based shall

continue, LESSOR may exercise any of the following rights at any time prior to completion of sale proceedings.

19.4.1 Payment of Encumbrance Indebtedness.

LESSOR may pay to the encumbrancer the full unpaid principal amount of the encumbrance plus unpaid interest accrued to the date of such payment plus sale costs incurred to the date of such payment, or any such smaller figure as encumbrancer will accept, in full payment of the encumbrance.

19.4.2 Substitute Encumbrance.

LESSOR may execute a promissory note and a new encumbrance in favor of the encumbrancer, which new encumbrance must be approved by the Secretary, for the full unpaid principal amount of the breached encumbrance plus unpaid interest accrued to the date of such execution plus sale expenses incurred to the date of such execution, or any such smaller figure as encumbrancer will accept, upon no less favorable terms and conditions as provided by the breached encumbrance and insuring that the new encumbrance has the same priority upon the property described in this Lease as the breached encumbrance had, subject only to current taxes and to conditions, restrictions and reservations of record at the time of recording of the new encumbrance.

19.4.3 Other Rights of LESSOR.

LESSOR may exercise any other rights inuring to LESSOR prior to completion of sale proceedings.

If LESSOR exercises any of the rights provided in Subparagraph 19.4, this Lease will automatically terminate on the date any such rights are exercised and shall be of no further force and effect; provided however, that such termination shall not

relieve LESSEE of any obligations or liability under this Lease which accrued prior to the date of termination.

19.5 Encumbrancer's Rights Upon Sale.

In the event LESSOR does not avail itself of the rights provided in Subparagraph 19.4 and any such sale under the encumbrance occurs, whether by power of sale or foreclosure, the purchaser at such sale shall succeed to all of the rights, title and interest of LESSEE in the leasehold estate covered by the encumbrance.

19.6 Purchase by Encumbrancer.

If the purchaser at any such sale is the encumbrancer, such encumbrancer may sell and assign the leasehold without further consent, provided however, that the assignee shall agree in writing to be bound by all the provisions of this Lease and that there are no uncured breaches in this Lease by the LESSEE at the time of execution of any such assignment. If the encumbrancer is the purchaser, it shall be required to perform this Lease only so long as it retains title thereto.

19.7 Purchase by Other than Encumbrancer.

If a sale under any such encumbrance occurs and the purchaser is a party other than the encumbrancer, such purchaser, when approved by the LESSOR and the Secretary, as successor in interest to LESSEE, shall be bound by all provisions of this Lease. LESSOR shall approve and execute such assignment only if there are no uncured breaches of this Lease by the LESSEE at the time of execution of any such assignment.

19.8 Notices To Encumbrancers.

19.8.1 Cancellation or Termination Notice.

LESSOR upon providing LESSEE any notice of material breach of this Lease or termination of this Lease shall at the same time provide a true copy of such notice to every encumbrancer. No such notice by LESSOR to LESSEE shall be deemed to have been duly given to any such encumbrancer unless and until a copy thereof has been so provided to every encumbrancer which has received approval of LESSOR in accordance with Subparagraph 19.1.1.

19.8.2 Notice of Arbitration.

Any encumbrancer shall be given prompt notice by LESSEE of any arbitration or legal proceeding by the parties hereto involving obligations under this Lease, shall have the right to intervene therein and be made a party to such proceedings. The parties hereto hereby consent to such intervention. In the event that any such encumbrancer shall not elect to intervene or become a party to any such proceeding, such encumbrancer shall receive notice of, and a copy of, any award or decision made in such arbitration or legal proceeding which shall be binding on all encumbrancers.

19.9 Right of Encumbrancer to Cure Material Breach.

From and after such notice has been given to an encumbrancer, such encumbrancer shall have the same period as is provided LESSEE for remedying any default plus an additional 30 days after the receipt of such notice. If a material breach is of such nature that it can be reasonably cured by lawful means only by an encumbrancer's obtaining actual physical possession of the leased premises, or any part thereof, the period for such encumbrancer's curing the material breach shall be extended for so long as (i)

such encumbrancer shall be diligently attempting to obtain the right to actual physical possession of the leased premises, or any part thereof, in tribal court, and (ii) such encumbrancer cures all other material breaches, provided however, that LESSEE's period for curing any such material breach shall not be extended hereby.

19.10 Right of Encumbrancer to Repair; Subrogation Rights of Encumbrancer.

Any encumbrancer may at the time of any damage or destruction, by fire or otherwise, to the leased premises or any machinery, fixtures or equipment therein, at no cost or expense to LESSOR, repair the same or construct new buildings, as the case may be. If the encumbrancer repairs or constructs in accordance herewith, it shall be subrogated to the rights of LESSEE to all insurance proceeds pursuant to this Lease payable as a result of such damage or destruction.

19.11 Financing Contingencies.

It is understood and agreed by the parties hereto that LESSEE desires and intends, using reasonable efforts, to obtain financing for the construction of the buildings and improvements to be located upon the leased premises, as well as financing for certain trade fixtures and equipment. LESSOR and the Secretary acknowledge that such financing is a material factor in LESSEE'S decision to enter into this Lease. Accordingly, LESSEE shall be entitled to terminate this Lease at any time within 180 days after the Effective Date in the event that LESSEE is unable to obtain financing or commitments for financing for the improvements, trade fixtures and equipment necessary or desirable for the operation of LESSEE'S business to be conducted on the leased premises. If LESSEE desires to terminate the Lease as set forth above, LESSEE shall give written notice to LESSOR and the Secretary within such 180 days period. In which event, this Lease shall be deemed null

and void, and the parties shall have no further obligation or liability to one another after the date of such termination. LESSOR and the Secretary agree to cooperate reasonably with LESSEE in LESSEE'S efforts to obtain financing and shall respond promptly to requests from LESSEE regarding proposed financing. LESSEE shall reimburse LESSOR for its reasonable costs and attorney fees incurred in connection with LESSOR'S response to such requests from LESSEE regarding proposed financing. If the Lease is terminated because of this subparagraph, LESSOR agrees to refund to LESSEE the first year lease payment less an amount equal to the then applicable rental rate multiplied by the prorated expired term of the first lease year. In addition, LESSEE shall pay an amount, prorated for the time period between the Effective Date and the date of termination, of \$1,000 per month for the first 120 day period and \$2,000 per month for the period after day 120. If construction, not to include surveying and testing, has started on the leased premises during this 180 day period, the LESSEE shall waive its rights to terminate pursuant to this subparagraph.

20 LIENS, TAXES, ASSESSMENTS, AND UTILITY CHARGES.

20.1 LESSEE to Discharge Liens and Taxes Prior to Enforcement or Delinquency.

LESSEE shall not permit to be enforced against the leased premises, or any part thereof, any liens arising from any work performed, materials furnished or obligations incurred by LESSEE, but LESSEE shall discharge all such liens before any action is brought to enforcement action. Further, LESSEE shall pay before delinquent all applicable taxes, assessments, licenses, fees and other like charges levied during the term of this Lease upon or against the leased premises, all interests therein and property thereon for which either LESSEE or LESSOR, as a result of LESSEE'S action, may become liable. Upon written application, LESSEE shall furnish LESSOR and the Secretary written evidence, duly certified,



that any and all applicable taxes required to be paid by LESSEE have been paid, satisfied or otherwise discharged. LESSEE has the right to contest any tribal, federal, state or county claim, asserted tax or assessment against the property by posting bond to prevent enforcement of any lien resulting therefrom, subject to applicable law. LESSEE agrees to protect and hold harmless LESSOR, the Secretary, the leased premises, all interest therein and improvements thereon from any and all claims, taxes, assessments and like charges, from any liens therefore, sales or other proceedings to enforce payment thereof, and all costs in connection therewith. LESSOR shall execute and file any appropriate documents with reference to state real estate tax exemption of the leased premises when requested by LESSEE. In addition to the lease payments, taxes and other charges herein described, LESSEE shall pay all charges for water, sewage, gas, electricity, telephone and other utility services supplied to the leased premises.

21 RIGHT OF LESSOR TO PAY CLAIMS.

21.1 LESSOR May Pay Liens or Charges Payable by LESSEE.

LESSOR shall have the option to pay any lien or charge payable by LESSEE under this Lease, or settle any action therefor, if LESSEE, after written notice from LESSOR or the Secretary, fails to pay or post bond against enforcement. All costs and other expenses incurred by LESSOR in so doing shall be paid to LESSOR by LESSEE upon demand with interest at the rate of 18% per annum from the date of payment until repaid. Failure to make such repayment on demand shall constitute a breach of this Lease.

22 LIABILITY INSURANCE

22.1 Public Liability Insurance.

At all times during the term of this Lease, LESSEE shall carry public liability insurance in the amount of \$3,000,000 with coverage for personal injury, bodily injury and property damage resulting from one incident. Every policy shall be written to protect LESSOR, LESSEE and the Secretary jointly, and shall provide for notification to LESSOR and Secretary prior to its cancellation for any reason including non-payment of premiums. A copy of every policy shall be furnished LESSOR and the Secretary. Neither LESSOR, the United States Government nor their officers, agents or employees shall be liable for any loss, damage, death or injury of any kind whatsoever to the person or property of LESSEE, any sublessees or of any other person whomsoever caused by any use of the leased premises, by any defect in any structure erected thereon, or arising from any accident, fire, other casualty on the premises or other cause whatsoever. LESSEE, as a material part of the consideration for this Lease, hereby waives on LESSEE'S behalf all claims against LESSOR and the United States Government, and agrees to hold LESSOR and the United States Government free and harmless from liability for all claims for any loss, damage, injury or death arising from the use of the premises by LESSEE, together with all costs and expenses in connection therewith.

23 FIRE, DAMAGE AND POLLUTION INSURANCE.

23.1 Fire, Damage and Pollution Insurance; Proceeds.

LESSEE shall, from the date of approval of this Lease, carry fire insurance with extended coverage endorsements covering the full replacement value of all improvements on the leased premises, vandalism insurance and pollution insurance, all jointly in the names of LESSOR, LESSEE and the Secretary. Each policy or a copy

thereof shall be deposited with LESSOR and the Secretary. LESSEE shall pay all premiums and other charges payable in respect to such insurance, and shall deposit with LESSOR and the Secretary the receipt for each premium or other charge as paid, or satisfactory evidence thereof. In the event of damage to any improvement on the leased premises, LESSEE shall rebuild, repair or otherwise reinstate the damaged improvement or building in a good and substantial manner according to the plan and elevation of the improvement or building so destroyed or damaged, or such modified plan as shall be previously approved in writing by LESSOR and the Secretary. Such reconstruction shall commence within three months after the damage occurs and shall be pursued diligently. Insurance proceeds shall be deposited in escrow with an institution approved by the Secretary and LESSOR. LESSEE shall also deposit in escrow all additional funds required to reconstruct the damaged improvement. Escrow instructions shall include provisions stipulated by LESSOR or Secretary. All money in escrow after reconstruction has been completed and approved by LESSOR shall be paid to LESSEE.

23.2 LESSOR'S Option to Require Reconstruction of Improvements.

In the event of damage to the extent of 75% or more of the total replacement value of all improvements on the leased premises during the Primary Term and Renewal Term of this Lease, LESSOR shall have the option of requiring reconstruction of such improvements. Should LESSOR elect not to require reconstruction, then LESSEE may reconstruct the improvements or, if not, the leased premises shall be cleared at LESSEE'S expense. LESSEE agrees to pay to LESSOR an amount equal to the then applicable rental rate multiplied by the prorated unexpired term of the Primary or Renewal Term of the Lease. In addition, LESSEE will be subject to all termination obligations defined in this Lease.

23.3 Amount of Pollution Insurance.

The pollution insurance shall be in the amount of \$3,000,000 for each incident. If LESSEE is unable to obtain insurance in such amount, LESSEE will use reasonable efforts to obtain the maximum pollution insurance coverage available and provide evidence of its efforts to LESSOR, but in no event less than \$1,000,000. Should increased insurance coverage become available up to the \$3,000,000 amount, or such amount established pursuant to Paragraph 25, LESSEE shall immediately increase its insurance to such amount. Each policy or a copy thereof shall be deposited with LESSOR and the Secretary, and LESSEE shall pay all premiums and other charges payable in respect to such insurance, and shall deposit with LESSOR and the Secretary the receipt for each premium or other charge as paid, or satisfactory evidence thereof.

24 INSURANCE, SOCIAL SECURITY, ETC.

24.1 Workman's Compensation and Occupational Disease Insurance; Applicable Law.

LESSEE agrees to carry such insurance covering all persons working in, on or in connection with the leased premises as will fully comply with the provisions of the statutes of the State of Arizona covering workman's compensation and occupation disease as are now in force or as may be amended. Further, LESSEE agrees to comply with all the terms and provisions of all applicable laws of LESSOR and the United States of America, as now exist or as may be amended, pertaining to Social Security, unemployment compensation, wages, hours and conditions of labor; and to indemnify and hold LESSOR and the United States harmless from payment of any damages occasioned by LESSEE'S failure to comply with the law.

25 PERIODIC REVIEW OF INSURANCE.

LESSOR may make a periodic review, at not less than three year intervals, of all insurance policies and coverage amounts held under this Lease. The review shall give consideration to the economic conditions at the time and may result in adjustment of the type of insurance coverage or the amounts of any coverage whenever in the discretion of LESSOR any such adjustment is necessary for the protection of LESSOR.

26 EMINENT DOMAIN.

26.1 LESSEE'S Leasehold Interest to Terminate Upon Condemnation; Compensation for Buildings.

If, at any time during the term of this Lease, the leased premises, or any part thereof, is taken or condemned under the laws of eminent domain, then, in every such case, the leasehold estate and interest of LESSEE in the leased premises, or part thereof taken, shall forthwith cease and terminate. All compensation awarded by reason of the taking of the leased premises shall be payable to and solely the property of LESSOR, and LESSEE, in proportion to their interests as defined in this Lease and in accordance with existing law. The rental thereafter payable hereunder for the remainder of the term of the Lease shall be reduced in the proportion that the value of the entire premises is reduced by such taking or condemnation. The foregoing notwithstanding, in the event of a partial taking or condemnation of the leased premises which, in the reasonable discretion of LESSEE, renders the remainder of the leased premises unsuitable for the purposes of operation of LESSEE'S business, LESSEE shall have the right to terminate this Lease upon written notice to the LESSOR and the Secretary.

27 TERMINATION FOR DEFAULT.

27.1 LESSEE'S Material Breach Defined.

A material breach of this Lease shall include, but not be limited to, a failure of LESSEE to perform any duty or obligation on its part under this Lease for the time period provided by applicable federal regulations after the required date of performance.

27.2 Who May Terminate.

LESSOR and the Secretary, or the Secretary acting alone, may terminate this Lease if LESSEE commits or allows to be committed any material breach of this Lease.

27.3 Notice of Termination.

27.3.1 Notice By Secretary.

The Secretary may not terminate this Lease on grounds of material breach unless it has provided written notice to LESSEE of its intention to terminate and LESSEE fails to cure or takes step to cure such breach substantially within the time period provided by applicable federal regulations after receipt of such notice. The discontinuance of or correction of the material breach shall constitute a cure thereof.

27.3.2 Notice By LESSOR.

LESSOR may not terminate this Lease on grounds of material breach unless it has provided written notice to LESSEE of its intention to terminate and LESSEE fails to cure or take steps to cure such breach substantially within the time period provided by applicable federal regulations after receipt of such notice.

The discontinuance of or correction of the material breach shall constitute a cure thereof. In the event the applicable federal regulations are amended in such manner as to delete the time period provided for cure of any such breach, the applicable time period under this Subparagraph shall be the last time period included in such regulations.

27.4 Remedies of LESSOR or Secretary.

In the event LESSOR or the Secretary terminates this Lease for material breach, LESSOR or the Secretary may pursue any of the following remedies:

27.4.1 Collection by Suit.

LESSOR or the Secretary may collect, by suit or otherwise, all monies as they become due hereunder, or enforce, by suit or otherwise, LESSEE'S compliance with any other provision of this Lease.

27.4.2 Eviction.

LESSOR or the Secretary may re-enter the premises and remove all persons and property therefrom, excluding the property belonging to authorized sublessees, and either:

(A) Re-let the premises without terminating this Lease, as the agent and for the account of LESSEE, but without prejudice to the right to terminate the Lease thereafter, and without invalidating any right of LESSOR and the Secretary or any obligation of LESSEE hereunder. Terms and conditions of such re-letting shall be at the discretion of LESSOR and the Secretary who shall have the right to alter and repair the premises as they deem advisable, and to re-let with or without any equipment or fixtures situated thereon. Lease payments from any

such re-letting shall be applied first to the expense of re-letting, collecting, altering, repairing, including attorney fees and any real estate commission actually paid, insurance, taxes and assessments, and thereafter toward the payment to liquidate the total due LESSOR under this Lease. LESSEE shall pay to LESSOR monthly when due, any deficiency and LESSOR and the Secretary may sue thereafter as each monthly deficiency shall arise; or

(B) Terminate this Lease at any time even though LESSOR and the Secretary have exercised rights as outlined in Subparagraph (A) above; or

(C) Take any other action deemed necessary to protect any interest of LESSOR.

27.5 Waiver of Material Breach Not A Waiver of Succeeding Breaches.

No waiver of a material breach of this Lease shall be construed to be a waiver of any succeeding material breach.

27.6 Recourse to Other Remedies.

Exercise of any of the remedies outlined in this Paragraph shall not exclude recourse to any other remedy.

27.7 Bankruptcy, Dissolution or Receivership.

Any action taken or suffered by LESSEE as a debtor under any insolvency or bankruptcy act shall constitute a breach of this Lease. In such event, LESSOR and Secretary shall have the options set forth in Subparagraph 27.4. Furthermore, LESSOR is hereby declared to be a first preferred creditor; provided however, that with respect to any such insolvency or bankruptcy proceedings,



nothing in this Lease shall constitute a waiver of the barrier of interference with self-government, a waiver of the sovereign immunity of LESSOR from suit in any court, or an agreement by LESSOR that the Bankruptcy Code, Title 11, United States Code, applies to LESSEE or LESSEE'S activities on the Reservation.

28 TERMINATION OF FEDERAL TRUST.

Nothing contained in this Lease shall operate to delay or prevent a termination of any federal trust responsibilities with respect to the leased premises by the issuance of a fee patent or otherwise during the term of this Lease; however, such termination shall not serve to abrogate the Lease. The owners of the leased premises and LESSEE and their surety or sureties shall be notified of any such change in the status of the leased premises.

29 OBLIGATION OF LESSEE.

LESSEE'S Obligation to United States of America.

While the leased premises are in trust or restricted status, all of LESSEE'S obligations under this Lease, and the obligations of its sureties, are to the United States of America as well as to LESSOR.

30 POLLUTION.

30.1 Recognition of Environmental Assessment Conclusion.

LESSOR and LESSEE acknowledge that the Environmental Assessment prepared by Engineering Enterprises, Inc., dated March, 1990 (revised July 1, 1990) concludes that the presently proposed facilities and process to utilize such facilities pose no imminent and substantial threat to the health and safety of persons and property on the Reservation.

30.2 Environmental Laws Enacted by LESSOR.

LESSEE shall be bound by all environmental laws, rules, regulations and standards established by LESSOR after the Effective Date of this Lease which may supersede in whole or in part those environmental laws, rules, regulations and standards in effect on the Reservation on the Effective Date of this Lease. If any such laws, rules, regulations and standards enacted or adopted by LESSOR differ from or provide more stringent requirements than the laws, rules, regulations and standards in effect on the Reservation on the Effective Date of this Lease, then:

30.2.1 New Technology; Feasible.

LESSEE shall, if the then available technology and equipment required by LESSOR to meet such requirements are both economically reasonable and technically feasible for LESSEE to install, install such equipment at the earliest practicable date.

30.2.2 New Technology; Not Feasible.

If LESSEE shall not be required to install such equipment pursuant to Subparagraph 30.2.1, LESSEE shall install equipment using Best Available Control Technology to meet such requirements, within five years after the date of any such enactment by LESSOR. The definition of "Best Available Control Technology" for purposes of this Lease shall be that definition found in 42 U.S.C. § 7479(3), as amended, including its implementing regulations (40 C.F.R. 51.166(b)(12)), expanded to include all media. In the event the environmental impacts of LESSEE'S operations on the leased premises pose an imminent and substantial threat to the safety of persons on the Reservation, in LESSOR'S reasonable discretion, LESSEE will cease operation until such condition can be corrected.

30.3 Interim Environmental Rules and Standards.

During the Primary and Renewal Terms of this Lease or until LESSOR adopts Reservation environmental laws, whichever occurs first, LESSEE shall comply with all Arizona environmental laws, rules, regulations and standards, including monitoring requirements. This subparagraph is agreed to by the parties for purposes of establishing standards and protecting the environment in connection with activities undertaken pursuant to this Lease and is not a consent to any jurisdiction by the State of Arizona.

30.4 Anti-Pollution Equipment.

The anti-pollution equipment installed as a result of this Paragraph is required to conform to the laws and ordinances of LESSOR and the United States of America governing the installation and quality of such equipment. Costs of such equipment shall be LESSEE'S sole responsibility.

30.5 Annual Environmental Review.

LESSEE shall, at LESSEE'S sole expense, conduct an annual environmental review of the leased premises during the first month of each successive year of the Primary Term and Renewal Term of this Lease. Such review may be conducted by private contractor chosen by LESSOR and LESSEE.

30.6 Additional Environmental Monitoring Requirements.

LESSEE agrees to comply with and conduct any monitoring activities, in addition to those included in Subparagraph 30.3, recommended in the Environmental Assessment prepared by Engineering Enterprises, Inc.

30.7 Tribal Environmental Permits Needed by LESSEE.

This Lease constitutes permission from LESSOR to LESSEE to proceed with construction and utilization of the leased premises pursuant to this Lease, as approved for Phase I. The LESSOR will not unreasonably withhold issuance of any other environmental permits which may be necessary.

30.8 Emergency Response Plan.

LESSEE agrees to submit to LESSOR a draft emergency response plan not less than one hundred twenty (120) days and a final emergency response plan not less than thirty (30) days prior to the anticipated date for starting operations of the carbon reactivation facility. LESSOR agrees to provide comments on the draft emergency response plan to LESSEE within sixty (60) days of submission of the draft emergency response plan to LESSOR. The emergency response plan shall meet the requirements of Subparagraph 30.3.

31 ANTIQUITIES.

31.1 Within Exterior Boundaries of Leased Premises.

In accordance with the National Historic Preservation Act, 16 U.S.C. §§ 431-433, the Archeological Resources Protection Act, 16 U.S.C. §§ 470aa, and other applicable federal and tribal laws, the parties hereto agree that any areas within the exterior boundaries of the leased premises containing graves, ruins or other antiquities known to LESSEE shall be undisturbed and plainly marked by LESSEE and reported immediately to LESSOR and the Secretary for appropriate disposition and action.

31.2 Discovered in Excavations.

This Paragraph shall apply to any graves, ruins or other antiquities discovered in excavations during the development of the leased premises. Any areas designated as antiquities shall be automatically withdrawn from the leased premises and the rental of this Lease adjusted accordingly. In the event that LESSEE shall determine, in its reasonable discretion, that after any such withdrawal the remainder of the leased premises is inadequate or unsuitable for LESSEE'S intended purposes, the parties shall negotiate in good faith to determine whether any contiguous property owned by LESSOR is available to supplement the leased premises. If the parties are unable to reach a mutually acceptable agreement with respect to such contiguous property, LESSEE shall have the right to terminate this Lease effective as of the date the parties fail to reach such agreement and the parties hereto shall have no further obligations or liabilities to one another except as expressly set forth herein.

31.3 Verification of Compliance.

During all phases of site development and construction a Tribal Museum representative may be on site to verify compliance with this Paragraph. LESSEE shall provide the Tribal Museum with 10 days' notice prior to any excavation or construction activities on the Leased Premises.

32 MINERALS.

32.1 No Interest, Right or Title to Minerals.

This Lease confers no vested interest, right or title to any minerals including sand and gravel and building stone materials within the leased premises. However, moving dirt, sand and rock

for the purpose of developing and improving the premises as required by this Lease shall not be construed as mining.

33 NOTICES.

All notices shall be sent to the parties hereto at the addresses shown below or to such addresses as the parties may hereafter designate in writing. Notices shall be sent by certified mail. Service of any notice shall be deemed complete ten days after mailing or the date actually received, whichever occurs first. Copies of all notices shall also be sent to the Secretary. Addresses for such notices are:

TO THE LESSOR:

Chairman  
Colorado River Tribal Council  
Route 1, Box 23-B  
Parker, AZ 85344

with a copy to:

Legal Department  
Colorado River Tribal Council  
Route 1, Box 23-B  
Parker, AZ 85344

TO THE LESSEE:

President  
Westates Carbon-Arizona, Inc  
3225 North Central Avenue  
Phoenix, AZ 85012

with a copy to:

President  
Westates Carbon, Inc.  
2130 Leo Avenue  
Los Angeles, CA 90040-1634

TO THE SECRETARY:

Superintendent, BIA  
Colorado River Agency  
Route 1, Box 9C  
Parker, AZ 85344

34 CONSENT TO TRIBAL LAW; CONSENT TO TRIBAL JURISDICTION.

34.1 Consent to Tribal Law.

LESSEE, LESSEE'S employees, agents, sublessees and assignees, and their employees and agents, agree to be bound by and to abide by all laws of the Colorado River Indian Tribes now in effect, or amended or enacted hereafter.

34.2 Consent to Jurisdiction of Tribal Court.

LESSEE, LESSEE'S employees, agents, sublessees and assignees, and their employees and agents, hereby consent to the jurisdiction of the Tribal Court of the Colorado River Indian Tribes. Such jurisdiction shall include, but not be limited to, jurisdiction to levy fines and enter judgments for compensatory and punitive damages and injunction relief in connection with all activities conducted by LESSEE, sublessees, assignees, and their respective employees and agents, on the Colorado River Indian Reservation or which have a proximate effect on persons or property on the said Reservation. LESSEE agrees to appoint a resident of the Colorado River Indian Reservation as its agent for service of

process. In the event LESSEE does not do so, the Secretary of the Tribal Council is hereby appointed agent for service of process.

34.3 Appeal Rights.

LESSEE retains the right to appeal in the Tribal Court system provided by tribal law and to appeal in the Federal District Court provided by federal law.

35 ARBITRATION

35.1 Resolution of Disputes By Negotiation.

Each party warrants that it will use its best efforts to negotiate an amicable resolution of any dispute between the parties arising from this Lease. If the parties are unable to negotiate an amicable resolution of any dispute within a reasonable period of time, deemed to be not more than 30 days, either party may refer the matter to arbitration under this Lease.

35.2 Disputes Subject to Arbitration.

Any dispute between the parties which is contractual in nature, whether as to the construction or operation of this Lease or the respective rights and liabilities of the parties hereunder, shall be subject to arbitration under this Paragraph 35. Any other dispute, including any dispute regarding legislative governmental actions or other nonproprietary actions of LESSOR, must be resolved either by negotiation or otherwise resolved pursuant to remedies provided in this Lease and Tribal law.



35.3 Initiation of Arbitration.

35.3.1 Selection of Arbitrators.

Arbitration may be initiated by written notice pursuant to Paragraph 33 hereof. Within seven days thereafter, each party shall notify the other party of its nominee for an arbitrator. If the parties can agree upon the nomination of a single arbitrator for the dispute, such person shall serve as sole arbitrator of the dispute. If the parties do not agree upon the nomination of a single arbitrator, each party's nominee shall serve as arbitrator upon a panel of three, and those two arbitrators shall nominate the third to serve with them. In the event the two arbitrators fail for any reason to name the third arbitrator within two weeks after the nomination of the last nominated one of them, either nominee shall be entitled to ask the American Arbitration Association to name the third arbitrator.

35.3.2 Commencement of Arbitration.

The arbitrators shall commence proceedings within 30 days after their appointment and hold proceedings providing each party a fair opportunity to present its side of the dispute, together with any documents or other evidence relevant to resolution of the dispute.

35.3.3 Interpretation of Tribal Law.

In any such arbitration and any federal court enforcement thereof, all questions of interpretation of Tribal law, including the Tribal Constitution and Bylaws, shall be made by the Tribal Court.

35.3.4 Arbitration Decision.

The arbitration decision shall be signed by the arbitrators and shall be made within 30 days after all evidence relevant to resolution of the dispute has been received by the arbitrators, but no later than 45 days after proceedings are commenced.

35.3.5 Arbitration Decision Final.

The arbitration decision shall be final and binding upon the parties unless, during or following completion of the arbitration proceedings, the parties have met and arrived at a different settlement of the dispute.

35.4 Enforcement.

If enforcement of a settlement or arbitration decision becomes necessary by reason of failure of one or both parties to implement its terms voluntarily, or if one of the parties refuses to participate in arbitration as provided in Subparagraph 35.3, the parties agree that the matter may be resolved by judicial resolution and enforcement, and that venue for judicial resolution and enforcement shall be in the U.S. District Court for the District of Arizona pursuant to the specific provisions of Subparagraph 36.5.

36 WAIVER OF SOVEREIGN IMMUNITY.

36.1 Limited Waiver of Sovereign Immunity.

The LESSOR hereby waives its sovereign immunity from suit for injunctive and declaratory relief, including specific performance, to the full extent necessary to provide for and ensure the arbitration of disputes regarding this Lease, the enforcement of

any such arbitration, the performance of this Lease and remedies for its breach, subject to the limitations stated in this Lease.

36.2 Limited Waiver: Public Liability Insurance.

LESSOR hereby waives its sovereign immunity from suits for damages arising out of any personal injury, bodily injury or property damage caused by or act committed by the LESSOR, its agents or employees, on the Reservation; provided that such waiver shall be limited only to the extent of the amount of any public liability insurance in effect and actually insuring against such damages or injury. This waiver is only in effect if LESSEE has similar liability insurance for such acts caused or committed by LESSEE'S agents or employees.

36.3 Time Period.

The waivers granted herein shall commence as of the Effective Date of this Lease and shall continue for three years following expiration, termination or cancellation of this Lease, except that the waivers shall remain effective for any proceedings then pending and all appeals therefrom.

36.4 Recipient of Waivers.

The waivers granted herein are limited to only Westates Carbon-Arizona, Inc., its parent corporation, its corporate successors, its successors and assignees, and their successors, provided however, that any such entity is approved by LESSOR pursuant to Paragraph 16.

36.5 Federal Courts.

36.5.1 Federal Question.

The LESSOR and the LESSEE agree that judicial resolution and enforcement of any dispute between the parties, or a settlement or arbitration decision, regarding this Lease involves questions of federal law and shall be resolved pursuant to applicable federal law and applicable Tribal law, to the extent that applicable Tribal law is not inconsistent with the applicable federal law.

36.5.2 Federal Jurisdiction and Procedure Governs.

The parties defer to the jurisdiction and procedures of the Federal Court for the District of Arizona with respect to disputes regarding this Lease and expressly agree that any legal action in regard thereto shall be brought in such Federal Court.

36.5.3 Waiver of Exhaustion of Tribal Remedies.

The LESSOR hereby waives its right to require exhaustion of Tribal remedies and its right to seek Tribal remedies with respect to disputes regarding this Lease.

36.6 Limitation on Damages.

Damages awarded against LESSOR pursuant to this Paragraph shall be limited to the then value of LESSEE'S leasehold interest.

37 EXPENSES OF DISPUTE RESOLUTION.

The reasonable expenses of dispute resolution regarding this Lease, whether by arbitration or judicial enforcement, including but not limited to attorney fees and expenses, shall be paid by the losing party, or, in the event each party is partially successful, shall be apportioned between the parties in the reasonable discretion of the arbitrators or judge, whichever is applicable. If any such dispute is resolved by settlement between the parties, each party shall bear its own expenses.

38 EMPLOYEES.

38.1 Preference For Indians.

LESSEE agrees to give employment preference to Indians in accordance with the Tribal laws.

38.2 Worker Safety.

LESSEE agrees to submit to LESSOR a draft worker safety plan not less than ninety (90) days and a final worker safety plan not less than thirty (30) days prior to the anticipated date for starting operations of the carbon reactivation facility. LESSOR agrees to provide comments on the draft worker safety plan to LESSEE with forty-five days of submission of the draft worker safety plan to LESSOR. The worker safety plan shall meet the requirements of the Occupational Safety and Health Act of 1970 (29 U.S.C. §§ 651 et. seq.), as amended, including regulations promulgated thereunder. During the Primary Term and Renewal Term, the worker safety plan shall be amended to meet the requirements of applicable law.

39 RIGHT OF ENTRY OF LESSOR.

The Secretary and LESSOR and their authorized representatives shall have the right, at any reasonable times during the term of this Lease, to enter upon the leased premises, or any part thereof, to inspect the same and all buildings and other improvements erected and placed thereon.

40 DELIVERY OF PREMISES.

At the termination of this Lease, LESSEE will peaceably and without legal process deliver up the possession of the leased premises in good condition.

41 RESTRICTION ON LEASE INTERESTS.

No member of, or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this Lease or to any benefit that may arise herefrom, but this provision shall not be construed to extend to this Lease if made with a corporation or company for its general benefits.

42 GOVERNING LAW.

This Lease shall be governed by the laws of the Colorado River Indian Tribes now in effect, or amended or enacted hereafter, except as provided in this Lease. Nothing in this Lease constitutes consent to jurisdiction of the State of Arizona on the Reservation or with respect to LESSEE'S activities thereon.

43 LEASE BINDING.

43.1 Successors to Parties' Interests.

This Lease and the covenants, conditions and restrictions hereof shall extend to and be binding upon the corporate successors, successors, heirs, assigns, personal representatives and administrators of the parties hereto.

44 VALIDITY.

44.1 Secretary's Approval.

This Lease, and any modification of or amendment to this Lease, shall not be valid or binding upon either party hereto until approved by the Secretary.

44.2 Termination If Not Approved.

If the Secretary does not approve this lease within 45 days after it is submitted to him, each party shall have the option to rescind its execution of this Lease.

45 SPECIAL TAXATION AND LEVIES.

45.1 Taxes Affecting Only LESSEE.

LESSOR agrees that it will waive application to LESSEE of any law which would impose any tax, assessment, fee, royalty or other charge which would specially fall upon LESSEE, and not upon other lessees of LESSOR in substantially similar circumstances.

45.2 Taxes Of General Application.

In the event that LESSOR enacts any law which would impose upon LESSEE any such tax, assessment, fee, royalty or charge upon taxpayers of LESSOR in substantially similar circumstances to those of LESSEE and such tax, assessment, fee, royalty or charge would cause LESSEE to pay in the aggregate any amounts which are in excess of the aggregate tax liability which would otherwise be due and owing to the state and local governmental instrumentalities of the State of Arizona if LESSEE were located and doing business outside of the exterior boundaries of the Reservation on non-Indian land within La Paz County, State of Arizona, LESSOR waives the collection of any such excess amounts from LESSEE. For purposes of this subparagraph, in no event shall the aggregate tax liability to the State of Arizona, or its political subdivision, be less than the aggregate tax liability as of the Effective Date or any future increase in aggregate tax liability, whichever is greater.

45.3 Changes in Federal Taxation.

In the event of any significant change in the status of federal taxes on the Reservation after the Effective Date, LESSOR and LESSEE agree to make reasonable adjustments to the provisions of Subparagraph 45.2.

46 CONTESTS AFFECTING SOVEREIGNTY.

46.1 Notice to LESSOR.

In the event that any State of the United States attempts to assert against LESSEE, or its parent corporation, through administrative proceedings, courts or other lawful proceedings the right to collect or enforce any lien, tax or assessment, to exercise any regulatory authority or to assert any claim which



could affect the sovereignty of the Colorado River Indian Tribes, LESSEE agrees that it will immediately notify LESSOR of such attempts.

46.2 LESSOR'S Option To Contest Claims.

LESSOR shall have the option of deciding whether or not to contest a state's assertion of taxing power on behalf of itself and LESSEE. At LESSOR'S option, LESSOR may elect also to intervene in a contest as a named party at its own expense. In the event LESSOR decides to proceed with any such contest, it is agreed that LESSOR shall have the right to do so in the name of the LESSEE and through LESSOR'S own attorneys whom LESSOR shall pay. Any such contest may, at LESSOR'S option, include proceedings before administrative bodies, courts or any other lawful proceedings, and LESSOR shall have the right to control the conduct of the prosecution or defense. LESSEE agrees to cooperate with LESSOR in any such contest, and to render all assistance in its power towards procuring a favorable decision therein. LESSEE'S cooperation will, if called for, include, but not necessarily be limited to, providing records, testimony or other evidence for use in such proceedings, and cooperating in the formalities instant to any proceedings being conducted in its name. At LESSOR'S request, LESSEE will execute further documents evidencing the interest of LESSOR in any such contest, as for example an assignment to LESSOR of claims related to taxes or a power of attorney relating to said contest, provided that it is not intended by LESSOR and LESSEE that the execution of any document other than this Lease be necessary in order for LESSOR to proceed with a contest under this Paragraph 46, whether in its own name or that of LESSEE. In the event that it is in LESSEE'S interest to assert in the same proceedings a position on any issue other than whether a state has authority or power as a matter of Indian law, LESSEE shall have the right to participate in the proceedings with respect to that issue, but LESSEE shall do so at its own expense and LESSOR will have no

obligation to provide counsel to represent LESSEE with respect to said issue.

47 ENTIRE AGREEMENT.

47.1 Entire Agreement.

This Lease constitutes the entire agreement between the parties concerning the subjects of this Lease. There are no other oral or written agreements between the parties and there are no other contingent matters or conditions which constitute a part of this Lease other than stated herein. The parties mutually agree that by the execution of this Lease any and all prior agreements between the parties are rescinded and held void and unenforceable for the mutual consideration of the parties.

47.2 No Amendment Except as Provided Herein.

The parties specifically warrant and represent that they shall not cause, either directly or indirectly, this Lease to be altered, amended, modified, cancelled or terminated, except as provided herein. The parties herein may by mutual agreement alter, amend or modify this Lease agreement.

48 CONFIDENTIALITY.

This Lease, each of its terms, and all negotiations and proposals relating thereto shall be kept confidential and shall not be disclosed by the LESSEE, or its representatives, to any persons or entities except as may be required by law or as necessary in the ordinary course of business and to LESSEE'S corporate successors, assignees, transferees, sublessees, successors in interest or prospective encumbrancers, in which event LESSOR shall be notified immediately. In no event shall the terms of this Lease, or negotiations and proposals relating thereto, be used as a basis for, or referenced in, any other agreement. Breach of this paragraph shall not be deemed a breach of this Lease; however,

LESSEE will, in good faith, make every reasonable effort to protect the confidentiality of this Lease.

49 ANNUAL REPORTS OF LESSEE.

On the same date on which it shall file its required annual Corporation Filing Report with the State of Arizona, LESSEE shall file a copy with LESSOR. Attached as Exhibit C, is a copy of LESSEE'S required Corporation Filing Report for the current year.

50 TIME OF THE ESSENCE.

Time is declared to be of the essence of this Lease.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands.

LESSEE: WESTATES CARBON-ARIZONA, INC.

Date: 7/23/90

By: *Allan Sass*  
Dr. Allan Sass, President

LESSOR: COLORADO RIVER INDIAN TRIBES

Date: 7-26-90

By: *Daniel Eddy Jr*  
Daniel Eddy, Jr  
Chairman, Tribal Council

By: *LaWanda Laffoon*  
LaWanda Laffoon  
Secretary, Tribal Council

APPROVED:

*[Signature]* MAR 04 1991  
Superintendent, Colorado River Agency

*2/8/91*  
PURSUANT TO THAT AUTHORITY DELEGATED TO THE  
ASST. SECRETARY INDIAN AFFAIRS BY 209 D.M. 8  
REDELEGATED TO PHOENIX AREA DIRECTOR BY 230  
D.M. 3.1 and to the SUPERINTENDENT BY 10 BIAM 11.

ritha\westates July 16, 1990

LEASE NO. B-1122-CR

A C K N O W L E D G E M E N T

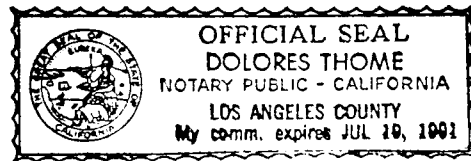
State of California )  
County of Los Angeles ) ss.

The foregoing instrument was acknowledged before me this 23 day of July, 1990, by Dr. Allan Sass, President, Westates Carbon-Arizona, Inc., an Arizona corporation, on behalf of the corporation.

Dolores Thome  
Notary

My commission expires:

July 19, 1991



LEASE NO. B-1122 - CR

A C K N O W L E D G E M E N T

STATE OF Arizona )  
COUNTY OF La Paz ) ss.

The foregoing instrument was acknowledged before me this <sup>26<sup>th</sup></sup>~~27<sup>th</sup>~~ day of July, 1990, by Daniel Eddy, Jr., Chairman, and LaWanda Laffoon, Secretary, of the Colorado River Indian Tribes, on behalf of the Tribe.

Lithatomo  
Notary

My commission expires:  
My Commission Expires Oct. 26, 1991

EXHIBIT A

PERSONAL PROPERTY AND TRADE FIXTURES

WESTATES CARBON - ARIZONA, INC.

List of Property Trade Fixtures & Personal Property

<u>Item</u>	<u>Equipment</u>
B-1	Induced Draft Fan
B-2	Center Shaft Blower
B-3	Oxidizer Combustion Air Blower
B-4	Furnace Combustion Air Blower
B-5	Oxidizer Auxiliary Air Blower
BC-1	Belt Conveyor #1
BC-2	Belt Conveyor #2
BC-3	Cross Conveyor
BC-4	Mobile Conveyor
BO-1	Low Press Steam Generator
C-1	Product Conveyor/Cooler
C-2	Gas Treating Cooler
CW-1	Container Wash Station
D-1	Dumper for 55-Gallon Drums
DS-1	Dewatering Screen
EV-1	Feed Stock Bucket Elevator
EV-2	Product Loading Bucket Elevator
EV-3	Product Rework Conveyor/Elevator
F-1	Reactivation Furnace
FR-1	Feeder Hopper
FI-1	Waste Water Filter Skid
FI-2	Plant Water Filters
H-1	Hazardous Feed Hopper
H-2	Non-Hazardous Feed Hopper
I-1	Offgas Oxidizer
LS-1	Finished Product Loading Spouts
LF-1	Emergency Feed Hoist
ME-1	P & I Air Compressor Package
ME-2	Boiler Treatment Package

ME-3	Chemical Feed System
ME-4	Water Chiller
P-1	Slurry Unloading Pump
P-2	Non-Hazardous Slurry Transfer Pump
P-3	Liquids Unloading Pump
P-4	Rinse Water Pump
P-5	Scrubber Circul. Water Pump
P-6	Sump Pump
S-1	Product Storage Hopper
S-2	Product Storage Hopper
S-3	Product Storage Hopper
SI-1	Scrubber Impingement
SC-1	Product Screener
SC-2	Product Screener
SS-1	Westates VSC-200
SV-1	Scrubber Venturi
T-1	Hazardous Material Feed Hopper
T-2	Non-Hazardous Material Feed Hopper (future)
T-3	Non-Hazardous Material Feed Hopper (future)
T-4	Recycled Water Storage
T-5	Chemical Storage Tank
TR-1	Fork Lift
TR-2	Fork Lift
VS-1	Central Dust Collection System
VS-2	Product Dust Collection System
W-1	Scale
WB-1	Weight Belt Conveyor
XE-1	Wash Down Sump
XE-2	Tote Bin/Super Sack Filler



# ASSIGNMENT OF LEASE

## I. Consent To Assignment

The Colorado River Indian Tribes ("Lessor") being Lessor of the premises located at Mutahar Street, Colorado River Indian Reservation, pursuant to the Lease dated July 23, 1990 between the Lessor and Westates Carbon-Arizona, Inc. ("the Lessee") ("the Lease"), agrees, certifies and acknowledges as follows:

1. Lessor consents to the assignment of the Lease, which, pursuant to paragraph 16.1 of the Lease, will result from the transfer of Lessee's stock to an affiliate of United States Filter Corporation ("U.S. Filter").
2. The Lease constitutes the entire agreement between Lessor and Lessee with respect to the leasehold premises and has not been supplemented, amended, modified in any way, canceled or terminated and remains in full force and effect.
3. To the best of Lessor's knowledge, all terms, covenants, provisions and conditions to be performed or observed by Lessee under the Lease have been performed, observed and complied with, no default or event of default by Lessee exists under the Lease, and there does not now exist any condition which, if remaining uncured, would result in a default by Lessee under the Lease. No rent, sums, assessments, dues or charges required to be paid by Lessee under the Lease are past due.
4. Lessor has not received any notice of default from Lessee.

## II. Acceptance Of Lease Terms

U.S. Filter guarantees the performance by Lessee of all the terms, conditions, covenants and agreements of the Lease arising and required to be performed after the effective date of this consent, and U.S. Filter agrees to be bound by the Lease in the same manner as if U.S. Filter had originally executed the Lease, provided that U.S. Filter shall not be required to perform any obligations arising, accruing, or owing prior to such date or arising out of or relating to acts or omissions occurring prior to such date. U.S. Filter's agreement shall be binding on the heirs, legal representatives, successors and assigns of U.S. Filter.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

COLORADO RIVER INDIAN TRIBES

By: Thomas White  
ACTING Chairman

By: Lawanda Saffron  
Title: Secretary  
(Resolution No. 78-97, dtd. 3/12/97)

UNITED STATES FILTER CORPORATION

By: [Signature]

Title: Vice President  
Attached Wheelabrator Environmental System  
letter of consent dated 4/2/97, herewith  
made part of this assignment.

APPROVED:

Allen J. Anspaugh 4-4-97 Date: March 25, 1997  
Superintendent  
Colorado River Agency

PURSUANT TO THAT AUTHORITY DELEGATED TO THE ASSISTANT SECRETARY OF INDIAN AFFAIRS BY 209 D.M. 8 AND TO PHOENIX AREA DIRECTOR BY 230 D.M. 3, AND TO THE SUPERINTENDENT BY 10 BIAM 11 by Sec. Order Nos. 3150 & 3177, Amendment No. 3, and 10 BIAM Bulletin 13, and No. 9702 dtd. 1/31/97.

**RESOLUTION**  
COLORADO RIVER TRIBAL COUNCIL

A Resolution to **Authorize an Assignment of Lease No. B-1122-CR for Westates Carbon-Arizona, Inc.**

Be it resolved by the Tribal Council of the Colorado River Indian Tribes, in ~~regular~~ special meeting assembled on March 12, 1997

WHEREAS, the Colorado River Indian Tribes and Westates Carbon-Arizona, Inc., entered into Business Lease No. B-1122-CR on March 4, 1991 for the purpose of constructing and operating a carbon reactivation facility; and

WHEREAS, the Westates Carbon-Arizona, Inc., a wholly-owned subsidiary of Wheelabrator Technologies, Inc., proposes to assign their stocks to United States Filter Corporation, Inc., whereby Westates Carbon-Arizona, Inc., would become a wholly-owned subsidiary of United States Filter Corporation, Inc.; and

WHEREAS, Article 16.1 of Lease No. B-1122-CR requires the approval of the Colorado River Indian Tribes; and

WHEREAS, Article 16.4 of the Lease provides that the proposed assignment shall initiate a re-evaluation of the rent for the leased premises pursuant to Article 7 of said Lease; and

WHEREAS, United States Filter Corporation has agreed to be bound by all of the provisions of Lease No. B-1122-CR; and

WHEREAS, the Tribal Council has reviewed the proposed transaction and finds that United States Filter Corporation has sufficient resources to assure fulfillment of all of the provisions of said Lease, and is otherwise qualified to acquire the interest in Lease No. B-1122-CR:

The foregoing resolution was on March 12, 1997 duly approved by a vote of 7 for, 0 against and 0 abstaining, by the Tribal Council of the Colorado River Indian Tribes, pursuant to authority vested in it by Section 1.e. Article VI of the Constitution and By laws of the Tribes, ratified by the Tribes on March 1, 1975 and approved by the Secretary of the Interior on May 29, 1975, pursuant to Section 16 of the Act of June 18, 1934, (46 Stat. 984). This resolution is effective as of the date of its adoption.

COLORADO RIVER TRIBAL COUNCIL

By

*David Webb*  
Chairman

*Lawanda Laffoon*  
Secretary

RESOLUTION NO. R- 78-97  
MARCH 12, 1997  
PAGE 2

**NOW, THEREFORE, BE IT RESOLVED** that the Tribal Council of the Colorado River Indian Tribes hereby approves the assignment of Lease No. B-1122-CR resulting from the transfer of shares of Westates Carbon-Arizona, Inc., from Wheelabrator Technologies, Inc., to United States Filter Corporation, Inc.; and

**BE IT FURTHER RESOLVED** that the Colorado River Indian Tribes will re-evaluate and adjust the rent as specified in Article 7 of the Lease; and

**BE IT FINALLY RESOLVED** that the Tribal Council Chairman and Secretary, or their designated representatives, are authorized to execute any and all documents necessary to implement this action.



Wheelabrator Technologies Inc.  
10000 West 10th Avenue  
Denver, CO 80202  
Tel: 303.755.1111  
Fax: 303.755.1112

April 2, 1997

Chairman Daniel Eddy, Jr.  
Colorado River Indian Tribes  
Route 1, Box 23-B  
Parker, AZ 85344

RE: Assignment of Lease Approval

Dear Chairman Eddy:

On March 12, 1997 the Colorado River Tribal Council approved Resolution No. 78-97 for the assignment of lease for the Westates Carbon-Arizona, Inc. facility.

This letter serves as Wheelabrator Technologies Inc.'s consent and approval of the Assignment of Lease for the Westates Carbon-Arizona, Inc. facility (Business Lease No. B-1122-CR) to United States Filter Corporation.

On behalf of Wheelabrator, I would like to thank you and your staff for your assistance in this matter.

Sincerely,

William H. Carlson  
Vice President &  
Western Region  
General Manager

cc: Allan Anspach (BIA)  
Monte McCue (WCAI)  
Monica Michelizzi (CRIT)  
Steve Richmond (WESI)

\*\*\*\*\*

THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES. READ AND UNDERSTAND ALL OF THE REQUIREMENTS AND CONDITIONS STATED HEREIN.

\*\*\*\*\*

COLORADO RIVER SEWAGE SYSTEM JOINT VENTURE  
INDUSTRIAL DISCHARGE PERMIT

Westates Carbon-Arizona, Inc  
2130 Leo Avenue  
Los Angeles, Ca. 90040

Is authorized to discharge wastewater from the noted business located at Lot 13 & 14 C.R.I.T. Industrial Park Parker, Arizona, to the Colorado River Sewerage System, contributory to the Colorado River Joint Venture Treatment Plant.

In accordance with the Industrial Discharge Ordinance of the Colorado River Indian Tribe and the Joint Venture Agreement with the Town of Parker, applicable Federal, State, and Tribal regulations and the conditions of this permit.

This Permit is effective Oct. 6th -1991

This permit, and authorization to discharge industrial wastewaters shall expire at 12:01 a.m. on October 6, 1995.

Signed this 5th day of August 1991

*Robert C. Garcia*

Robert C. Garcia, Manager  
Colorado River Sewage System Joint Venture.

PART I

A. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS.

1. Authorization.

During the effective period of this Permit, the Permit holder is authorized to discharge to the JVOTW. All discharged industrial wastewater shall pass through a designated monitoring manhole, as indicated in Part I.A.2., of this permit.

2. Sampling Location.

Samples shall be taken from a monitoring manhole constructed on the downstream side of the discharge, and before entering the Joint Venture Sewage System. As directed in section 3.C.1., below.

3. Limitations.

Discharges shall be limited and monitored by the Permit holder as specified below:

DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
Characteristic	Limitations daily\max	Type	Frequency
Flow,gpd	18,720		continuous
COD/mg/l	500	comp	2/mth
Sus Solids/mg/l	45	comp	2/mth
Settleable	1ml/l	grab	2/mth
TDS/mg/l	400	grab	continuous
Temp deg/F	140	grab	continuous
pH	6.0-8.0	grab	continuous

Trace substances shall be limited and monitored as specified below. All metal limits below are for total recoverables, as specified in Methods for Chemical Analysis of Water and Wastes (EPA 600/4-79-020 method 4.1.4).

<u>EFF. CHRCTRISTICS</u>	<u>DISCHARGE LIMITS</u>	<u>MONITORING REQU.</u>	
	<u>Daily Max.</u> <u>(mg/l)</u>	<u>Measurmnt</u> <u>Frequency</u>	<u>Sample</u> <u>Type</u>
Arsenic (as As)	0.05	1/3 months	comp.
Barium (as Ba)	1.00	1/3 months	comp.
Boron (as B )	1.00	1/3 months	comp.
Cadmium (as Cd)	0.01	1/3 months	comp.
Chromium (as Cr)	0.05	1/3 months	comp.
Copper (as Cu)	0.05	1/3 months	comp.
Lead (as Pb)	0.05	1/3 months	comp.
Manganese (as Mn)	10.00	1/3 months	comp.
Mercury (as Hg)	0.0002*	1/3 months	comp.
Selenium (as Se)	0.01	1/3 months	comp.
Silver (as Ag)	0.05	1/3 months	comp.
Zinc (as Zn)	0.50	1/3 months	comp.
Ammonia (as Un-ionized NH3 Cyanide (as Cyanide Ion and Complexes)	0.02	1/3 months	comp.
Phenolics	0.005	1/3 months	comp.
Sulfides (total)	0.10	1/3 months	comp.

\* Analytical results for mercury which are below 0.0005 mg/l may be reported as "Not Qualifiable". This permit may be modified to change this level of quantification or require additional monitoring if more information becomes available.

ATTACHMENT A

PRIORITY POLLUTANTS

1. Maximum Allowable Daily Discharge Limits for Regulated Substances (mg/l).

<u>SUBSTANCE</u>	<u>LIMIT</u>	
A. Arsenic - Total	0.9	(1)
B. Barium	10.0	(1)
B. Boron - Total	5.0	(1)
C. Cadmium - Total	0.10	(1)
D. Chromium - Total	1.60	(1)
E. Copper - Total	1.0	(1)
F. Lead - Total	0.5	(1)
G. Mercury - Total	0.001	(1)
H. Nickel - Total	3.98	(1)
I. Silver - Total	5.0	(1)
J. Zinc - Total	2.6	(1)
K. Cyanide - Total	1.0	(1)
L. Oil and Grease	200.0	(2)
M. Phenol - Total	0.01	(1)
N. Selenium - Total	0.05	(1)
O. Sulfide - Total	2.0	(1)
P. Sulfide - Dissolved	0.5	(2)

2. Maximum Allowable Daily Discharge Limits for Organics (mg/l)

<u>COMPOUND</u>	<u>LIMIT</u>	
A. Chloroform	0.10	(1)
B. 1,4-Dichlorobenzene	2.6	(1)
C. 1,2-Dichlorobenzene	0.60	(1)
D. Methylene chloride	0.015	(1)
E. Tetrachloroethene	0.005	(1)
F. 1,1,1-Trichloroethane	0.10	(1)
G. 2-Butanone	3.20	(1)
H. Styrene	0.005	(1)
I. Bis(2-ethylhexyl) phthalate	50.0	(1)
J. Diethyl phthalate	350.0	(1)
K. Benzyl butyl phthalate	3.7	(1)
L. Ethyl Benzene	0.70	(1)
M. Trichloroethene (TCE)	0.005	(1)
N. Bromodichloromethane	0.10	(1)
O. Acetone	0.630	(1)
P. Phenol	3.50	(1)
Q. Pentachlorophenol	1.01	(1)



R. 2,4-Dichlorophenol	3.09	(1)
S. 2,4-Dinitrophenol	188.0	(1)
T. 2-Methyl-4,6-Dinitrophenol	1.34	(1)
U. 2,4,6-Trichlorophenol	0.12	(1)
V. 2,4-Dimethylphenol	2.12	(1)
W. 2-Chlorophenol	4.38	(1)
X. 4-Nitrophenol	13.56	(1)
Y. 4-Chloro-3-Methylphenol	2.4	(1)
Z. 2-Nitrophenol	1.50	(1)

- (1) Based on composite sample.  
(2) Based on grab sample.

The discharge limits for toxicity are based on grab samples (mg/l):

<u>COMPOUND</u>	<u>LIMIT</u>
A. Acrylonitrile	1.24
B. Benzene	0.13
C. Bromomethane	0.002
D. Carbon disulfide	0.06
E. Carbon tetrachloride	0.03
F. Chlorobenzene	2.35
G. Chloroethane	0.42
H. Chloroform	0.42
I. Chloromethane	0.007
J. 1,2-Dichlorobenzene	3.74
K. 1,4-Dichlorobenzene	3.54
L. Dichlorodifluoromethane	0.04
M. 1,1-Dichloropropene	3.65
N. trans-1,2-Dichloroethylene	0.28
O. 1,2-Dichloropropene	3.65
P. 1,3-Dichloropropene	0.09
Q. Ethyl Benzene	1.59
R. Ethylene dichloride	1.05
S. Heptachlor	0.003
T. Hexachloro-1,3-butadiene	0.0002
U. Hexachloroethane	0.96
V. Methyl ethyl ketone	249.0
W. Methylene chloride	4.15
X. Tetrachloroethylene	0.53
Y. Toluene	1.35
Z. 1,2,4-Trichlorobenzene	0.43
AA. 1,1,1-Trichloroethane	1.55
BB. Trichloroethylene	0.71-
CC. Trichlorofluoromethane	1.22
DD. Vinyl chloride	0.003

EE. Vinylidene chloride	0.003
FF. Aroclor 1242	0.01
GG. Aroclor 1254	0.005

#### 4. Other Monitoring Requirements

- a. Records shall be kept on site for each monitoring requirement. Records shall include the date and time monitoring was conducted for each Parameter.
- b. Samples shall be taken within a (24) hour duration, or during the peak flows of the day.
- c. All records, or copies thereof, kept under conditions of this Permit shall be available for inspection during normal business hours.

#### B. COMPLIANCE SCHEDULE

The Permit holder shall comply with the Discharge Limitations specified in Part I of this Permit, and in accordance with the compliance schedule contained in Part III of this Permit.

No later than (14) calendar days following each date identified in the above reference compliance schedule, the Permit holder shall submit a written report of progress and the probability of meeting the next scheduled requirement.

#### C. MONITORING AND REPORTING

##### 1. Representative Sampling.

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge and shall be taken in accordance with the monitoring requirements of Part I.A.3, of this Permit.

##### 2. Additional Monitoring by Permit Holder.

If the Permit holder monitors any pollutant at the locations designated herein more frequently than required by this Permit, using approved analytical methods as specified below, the results of such monitoring shall be included in the Discharge Monitoring Report, and the frequency shall also be indicated.

3. Test Procedures.

Test procedures for the analysis of pollutants shall conform to the U.S. EPA test procedures as designated in Guidelines Establishing Test Procedures for the Analysis of Pollutants (40 CFR 136). All samples shall be analyzed by a laboratory certified by the Arizona Department of Health Services (ADHS), State Laboratory, Laboratory Licensor Section. A list of certified laboratories can be obtained the ADHS Laboratory Licensor office at 542-6100.

4. Recording of Results.

For each measurement or sample taken pursuant to the requirements of this Permit, the Permit holder shall record or have the laboratory record the following information:

- a. The exact place, date, and time of sampling;
- b. The date the analysis was performed by the laboratory;
- c. The persons who performed the sampling and analysis;
- d. The type of containers used and their preparation, the preservatives used (if needed), and the analytical techniques or methods used;
- e. The results of all required analysis;
- f. A signature of the laboratory representative attesting to compliance with the test procedures in Part I.C.4., of this Permit.

5. Reporting.

Monitoring results obtained during each (three)-month reporting period shall be submitted, in tabular form, and postmarked no later than the 28th day of the month after the end of the reporting period.

The first reporting period ends on \_\_\_\_\_, and the first report is due no later than \_\_\_\_\_ and each (three) months thereafter.

Regulated Substances, Reports and tests are to be conducted every six months. Starting with the second quarterly report after Permit becomes effective.

- \*\* Regulated Substances may be open for review after two (2) consecutive testing results showing little or no increase in Discharge Limits.

All reports shall be submitted to Colorado River Sewage System Joint Venture at the following address:

Colorado River Sewage System  
Joint Venture  
P.O. Box 628  
Parker, Arizona 85344

6. Records Retention.

All records, books, correspondence, reports, and any and all information relating to monitoring, sampling, and chemical analysis made by or on behalf of the Permit holder in connection with its discharge shall be retained and preserved for no less than three years. All records, which pertain to matters which are subject to administrative action or any other enforcement or litigation activities brought by Colorado River Sewage System Joint Venture pursuant to Colorado River Indian Tribe Industrial Ordinance or other applicable regulations, shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation for appeals have expired.

PART II

A. MANAGEMENT REQUIREMENTS

1. Change in Discharge

All discharges authorized herein shall be consistent with the terms and conditions of this Permit. The discharge of any pollutant identified in this Permit at a concentration in excess of that authorized shall constitute a violation of the Permit. Any anticipated facility expansions, production increases, or process modifications which will result in new, different, or increased discharges of pollutants must be reported by submission of a new Permit application, if such changes will not violate the discharge limitations specified in this Permit, by notice to the Colorado River Sewage System Joint Venture at the address specified in Part I.C.5. Following such notice, the Permit may be modified to specify and limit any pollutants not previously limited or change existing limits or other requirements. Approval must be obtained prior to any new discharges. The Permit holder shall allow 180 days for review.

Permit No.:1001-91

2. Noncompliance Notification.

If, for any reason, the Permit holder does not comply with or will be unable to comply with any discharge limitation specified in this Permit, the Permit holder shall provide the Director with the following information, in writing, within (24) hours of becoming aware of such condition:

- a. A description of the discharge and cause of noncompliance; and
- b. The period of noncompliance including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue and the steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance discharge.

3. Facilities Operations.

The Permit holder shall at all times maintain in good working order and operation, all pretreatment or control facilities or systems installed or used by the Permit holder to achieve compliance with the terms and conditions of this Permit.

4. Adverse Impact.

The Permit holder shall take all reasonable steps to minimize any adverse impact to the Colorado River Sewage System Joint Venture resulting from noncompliance with any effluent limitations specified in this Permit, including any such accelerated or additional monitoring as is necessary to determine the nature and impact of the noncompliance discharge.

5. Bypass.

a. Definitions.

- (1) 'Bypass' means the intentional diversion of waste streams from any portion of a treatment facility.

(2) 'Severe property damage' means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b. Bypass Not Exceeding Limitations.

The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.

c. Notice.

(1) Anticipated bypass. If the Permit holder knows in advance of the need for a bypass, it shall submit prior notice, at least ten days before the date of the bypass.

(2) The Permit holder shall promptly notify the Manager verbally and in writing of each such diversion or bypass so that the Joint Venture owned treatment plant may be protected. The telephone number to use is (602) 669-9821 during normal working hours (8-5, M-F). Documentation shall also be sent as specified in Part II.A.2.

d. Prohibition of bypass.

(1) Bypass is prohibited, and the Manager may take enforcement action against a permittee for bypass, unless:

a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

- b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
- c. The permittee submitted notices as required under paragraph (c) of this section.

(1) The Manager may approve an anticipated bypass, after considering its adverse effects, if the Manager determines that it will meet the three conditions listed above in paragraph (d)(1) of this section.

6. Removed Substances.

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewater shall be disposed of in such a manner as to prevent their introduction to the Colorado River Sewage System Joint Venture. Disposal of said pollutants shall also be in accordance with any applicable Federal, State, or local rules and regulations.

7. Power Failure.

In order to maintain compliance with effluent limitations and prohibitions of this Permit, the Permit holder shall:

Not applicable.

8. Spill Protection.

The Permit holder shall be responsible for all accidental discharge protection and spill protection necessary to control the entry of materials into the sewage system. This includes compliance with schedules or requirements in Part III of this Permit.

B. RESPONSIBILITIES

1. Right of Entry.

The Permit holder shall allow the Manager or his representatives, upon the presentation of identification:

- a. To enter upon the Permit holder's premises where a discharge source is located or in which any records are required to be kept under the terms and conditions of this Permit and in accordance with Colorado River Indian Tribe Industrial Wastewater Ordinance; and
- b. At reasonable times to have access to and copy any records required to be kept under the terms and conditions of this Permit; to inspect any monitoring equipment or monitoring generating or suspected of generating industrial wastes; and to sample any discharge.

2. Transfer of Ownership or Control.

In the event of any change in control or ownership of facilities from which the authorized discharges occur, the Permit holder shall notify, by letter, the succeeding owner or controller of the existence of this Permit and the need to request Permit modification prior to the transfer. A copy of the letter shall be forwarded to the Manager at the address designated in the Part I.C.5., of this Permit.

3. Availability of Reports.

Except for data determined to be confidential under Colorado River Indian Tribe Industrial Wastewater Ordinance, all reports prepared in accordance with the terms of this Permit shall be available for public inspection at the Manager's office of the Colorado River Sewage System Joint Venture. As required by the Clean Water Act, effluent data shall not be considered confidential. Knowingly making any false statements on any such report may result in the imposition of civil or criminal penalties as provided for in the Colorado River Indian Tribe Industrial Wastewater Ordinance or Section 309 of the Clean Water Act.



4. Permit Modification.

- a. After notice and opportunity for a reply, this Permit may be modified in whole or in part during its term for cause including, but not limited to, the following:
1. A change in any condition, either temporary or permanent that requires either reduction or elimination of a Permit requirement;
  2. Initiation or modification of the Federal Categorical Requirements for the discharge;
  3. Violation of any terms or conditions of this Permit;
  4. Obtaining this Permit by misrepresentation or failure to disclose fully all relevant facts; or
  5. Change in Permit conditions or requirements due to amendment of the Colorado River Indian Tribe Industrial Wastewater Ordinance.
- b. Notwithstanding Part II.B.4.a., if an effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established or modified under Section 307(a) of the Clean Water Act, the Colorado River Indian Tribe Industrial Wastewater Ordinance, for a pollutant which is more stringent than any limitation for such pollutant in this Permit, this Permit shall be revised or modified in accordance with the effluent standard or prohibition and the Permit holder shall also be given at least 30 days notice.

5. Civil and Criminal Liability.

- a. Except as provided in Permit conditions on Bypass (Part II.A.5.) and Power Failures (Part II.A.7.), nothing in this permit shall be construed to relieve the Permit holder from civil or criminal penalties for noncompliance.

b. As a property leasee, (Westates Carbon-Arizona Robert J. Babbitt, 2130 Leo Avenue, Los Angeles, Ca. 90040, may also be liable for noncompliance of this permit.

6. Liability Under Federal, State, or Tribal Laws and Regulations.

Nothing in this Permit shall be construed to preclude the institution of any legal action or relieve the Permit holder from any responsibilities, liabilities, or penalties to which the Permit holder is or may be subject to under Colorado River Indian Tribe Industrial Wastewater Discharge Ordinance or any other applicable Federal laws or regulations.

7. Severability.

The provisions of this permit are severable. If any provision of this permit, or the application of any provision of this permit, is held invalid to any circumstances, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.

8. Reapplication.

If the permit holder desires to continue to discharge after 12:01 a.m. on October 08, 1995, he shall reapply not later than 180 days prior to the noted date of expiration.

COLORADO RIVER INDIAN TRIBES  
Route 1, Box 23-B • Parker, Arizona 85344 • (602) 669-9211

# BUILDING PERMIT APPLICATION

Applicant to complete numbered spaces only.

JOB ADDRESS Parker Industrial Park 2523 Mutahar Street			
LEGAL 1 DESCR.	LOT NO. 13 & 14	BLK	TRACT <input type="checkbox"/> SEE ATTACHED SHEET
OWNER 2	MAIL ADDRESS	ZIP	PHONE
Westates Carbon Arizona, Inc. 2130 Leo Ave, Los Angeles, CA 90040 213-727-7500			
CONTRACTOR 3	MAIL ADDRESS	PHONE	LICENSE NO.
Don O. Hoffman Const. Co. 509 11th St., Parker, AZ 85344 669-3406 B-30631			
ARCHITECT OR DESIGNER 4	MAIL ADDRESS	PHONE	LICENSE NO.
Don O. Hoffman Same as above			
ENGINEER 5	MAIL ADDRESS	PHONE	LICENSE NO.
E. Keith Patterson, P.E. P.O. Box 1324, Turlock, CA 95331 209-667-4951 17749			
LENDER 6	MAIL ADDRESS	BRANCH	
To be determined			
USE OF BUILDING 7			
Warehousing and Processing of Activated Carbon			
8 Class of Work: <input checked="" type="checkbox"/> NEW <input type="checkbox"/> ADDITION <input type="checkbox"/> ALTERATION <input type="checkbox"/> REPAIR <input type="checkbox"/> MOVE <input type="checkbox"/> REMOVE			
9 Describe Work Installation of Pre-engineered metal building, warehouse type, 12,300 ft <sup>2</sup> on concrete slab			
10 Change of use from			
Change of use to			

11 Valuation of work: \$ 450,000 (Contractors price)		PLAN CHECK FEE -0-	PERMIT FEE \$1,864.50
SPECIAL CONDITIONS: The plumbing & electrical permit are included in the building permit cost.		TYPE OF CONST. III-1 hour	OCCUPANCY GROUP B
		SIZE OF BLDG. (Total) SQ. FT. 12,300	NO. OF STORIES 1
		FIRE ZONE	USE ZONE
APPLICATION ACCEPTED BY		PLANS CHECKED BY	APPROVED FOR ISSUANCE BY
			8/6/91
NOTICE SEPARATE PERMITS ARE REQUIRED FOR ELECTRICAL, PLUMBING, HEATING, VENTILATING OR AIR CONDITIONING. THIS PERMIT BECOMES NULL AND VOID IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED WITHIN 180 DAYS, OR IF CONSTRUCTION OR WORK IS SUSPENDED OR ABANDONED FOR A PERIOD OF 180 DAYS AT ANY TIME AFTER WORK IS COMMENCED. I HEREBY CERTIFY THAT I HAVE READ AND EXAMINED THIS APPLICATION AND KNOW THE SAME TO BE TRUE AND CORRECT. ALL PROVISIONS OF LAWS AND ORDINANCES GOVERNING THIS TYPE OF WORK WILL BE COMPLIED WITH WHETHER SPECIFIED HEREIN OR NOT. THE GRANTING OF A PERMIT DOES NOT PRESUME TO GIVE AUTHORITY TO VIOLATE OR CANCEL THE PROVISIONS OF ANY OTHER STATE OR LOCAL LAW REGULATING CONSTRUCTION OR THE PERFORMANCE OF CONSTRUCTION.		SPECIAL APPROVALS	REQUIRED RECEIVED NOT REQUIRED
		ZONING	
		HEALTH DEPT.	
		FIRE DEPT.	
		SOIL REPORT	
		OTHER (Specify)	
SIGNATURE OF CONTRACTOR OR AUTHORIZED AGENT		(DATE)	
Robert J. Bobbitt		8/5/91	
SIGNATURE OF OWNER (IF OWNER BUILDER)		(DATE)	

WHEN PROPERLY VALIDATED (IN THIS SPACE) THIS IS YOUR PERMIT

PLAN CHECK VALIDATION	CK.	M.O.	CASH	PERMIT VALIDATION	CK.	M.O.	CASH
WHITE - INSPECTOR	CANARY - ACCOUNTING	PINK - TEMPORARY	GOLDENROD - APPLICANT				

PARKER OFFICE SUPPLY # 2802



000984



COLORADO RIVER INDIAN TRIBES  
Route 1, Box 23-B • Parker, Arizona 85344 • (602) 669-9211

# ELECTRICAL PERMIT APPLICATION

Applicant to complete numbered spaces only.

JOB ADDRESS Parker Industrial Park - 2523 Mutahar Street			
LEGAL DESCR.	LOT NO.	BLK	TRACT
1	13 & 14		
OWNER		MAIL ADDRESS	ZIP
2		Westates Carbon Aricoona, Inc. 2130 Leo Ave, Los Angeles, CA 90040	213-722-7500
CONTRACTOR		MAIL ADDRESS	PHONE
3		Don O. Hoffman Const. Co., 509 11th St., Parker, AZ 85344	669-3406
ARCHITECT OR DESIGNER		MAIL ADDRESS	PHONE
4		Wesley A. Bush, P.E. 1901 N. Solar Dr, Ste. 265, Oxnard, CA 93030	805-989-4949
ENGINEER		MAIL ADDRESS	PHONE
5		Wesley A. Bush, P.E. Same as above	E-5348
LENDER		MAIL ADDRESS	BRANCH
6		To be determined	
USE OF BUILDING			
7 Warehousing and Processing of Activated carbon			
8 Class of work: <input checked="" type="checkbox"/> NEW <input type="checkbox"/> ADDITION <input type="checkbox"/> ALTERATION <input type="checkbox"/> REPAIR			
9 Describe work: Installation of 1000KVA of 480V Power from BIA transformer to distribution panel, MCC, indoor-outdoor lighting and 120 Volt Power to restroom, trailer & recepticals			

SPECIAL CONDITIONS:

APPLICATION ACCEPTED BY: \_\_\_\_\_ PLANS CHECKED BY: \_\_\_\_\_ APPROVED FOR ISSUANCE BY: CEH/2  
8/6/91

**NOTICE**

THIS PERMIT BECOMES NULL AND VOID IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED WITHIN 180 DAYS, OR IF CONSTRUCTION OR WORK IS SUSPENDED OR ABANDONED FOR A PERIOD OF 180 DAYS AT ANY TIME AFTER WORK IS COMMENCED.

I HEREBY CERTIFY THAT I HAVE READ AND EXAMINED THIS APPLICATION AND KNOW THE SAME TO BE TRUE AND CORRECT. ALL PROVISIONS OF LAWS AND ORDINANCES GOVERNING THIS TYPE OF WORK WILL BE COMPLIED WITH WHETHER SPECIFIED HEREIN OR NOT. THE GRANTING OF A PERMIT DOES NOT PRESUME TO GIVE AUTHORITY TO VIOLATE OR CANCEL THE PROVISIONS OF ANY OTHER STATE OR LOCAL LAW REGULATING CONSTRUCTION OR THE PERFORMANCE OF CONSTRUCTION.

SIGNATURE OF CONTRACTOR OR AUTHORIZED AGENT (DATE)  
Robert J. Bubbitt 8/5/91

SIGNATURE OF OWNER (IF OWNER BUILDER) (DATE)

PERMIT FEES		No.	Each	Fee
RECEPTACLE LIGHT SWITCH	Total Outlets			
LIGHTING FIXTURES	Total Fixtures			
RANGES CLO. DRYER WTR. HTR.				
GARBAGE DISP. STA. COOK TOP				
DISH. WASH. CLOTHES. WASH.				
SPACE HTR. STA. APPL. 1 HP MAX.				
MOTORS:	HP			
SIGNS	NO. TRANS.			
	NO. LAMPS			
TEMP. POWER	<input type="checkbox"/> POLE <input type="checkbox"/> UNDGD.			
SERVICE	0-200A			
<input type="checkbox"/> NEW	201-1000A			
<input type="checkbox"/> CHANGE	OVER 1000A			
PERMIT ISSUING FEE		\$		
TOTAL FEE			\$	

WHEN PROPERLY VALIDATED (IN THIS SPACE) THIS IS YOUR PERMIT

PLAN CHECK VALIDATION CK. M.O. CASH PERMIT VALIDATION CK. M.O. CASH

APPENDIX B

CAPITAL EXPENDITURES

Capital Cost Expenditure Details  
Financial Work Sheet

WESTATES CARBON, INC.  
 DEFERRED COSTS - REGEN PLANT  
 DETAIL RECORDS - FY'S 87/88 & 88/89 & 89/90 & 90/91

	MONTH YEAR	PERMITTING		EQUIP MAINT & MOVING	OTHER	CONSTRUCT'N	TOTAL C-I-P	ADDITIONS BY YEAR
		ARIZONA	ENGINEERING					
R. BABBITT PAY TAXES	11/88	297.28					297.28	
R. BABBITT MED INSUR	11/88	116.63					116.63	
INSUR. ON EQUIPMENT	11/88			208.17			208.17	
R & M DRAKE	12/88			650.00			650.00	
R. BABBITT EXPENSES		269.59					269.59	
R. BABBITT SALARY		3,002.36					3,002.36	
R. BABBITT PAY TAXES		372.36					372.36	
R. BABBITT MED INSUR		113.63					113.63	
STREICH, LANG, WEEKS, CAROON		36.50					36.50	
INSUR ON EQUIP				208.17			208.17	
BEN HOLT CO (20111)			8,532.83				8,532.83	
BEN HOLT CO (20111)	1/89		7,151.40				7,151.40	
INSUR ON EQUIP	1/89			208.17			208.17	
STREICH, LANG, WEEKS, CAROON	1/89	3,347.06					3,347.06	
K & M DRAKE	1/89			650.00			650.00	
INSUR ON EQUIP	2/89			208.17			208.17	
R & M DRAKE	2/89			650.00			650.00	
INSUR ON EQUIP	3/89			208.17			208.17	
R & M DRAKE	3/89			650.00			650.00	
BEN HOLT CO (20111)	3/89		2,216.97				2,216.97	
INSUR ON EQUIP	4/89			208.17			208.17	
R & M DRAKE	4/89			650.00			650.00	
BEN HOLT CO (20123)	4/89		2,671.10				2,671.10	
STREICH, LANG, WEEKS, CAROON	4/89	463.58					463.58	
INSUR ON EQUIP	5/89			208.17			208.17	
SIR SPEEDY PRINTING	5/89	30.67					30.67	
SIR SPEEDY PRINTING	5/89	19.17					19.17	
R & M DRAKE	5/89			650.00			650.00	
BEN HOLT CO (20111)	5/89		1,022.38				1,022.38	
STREICH, LANG, WEEKS, CAROON	5/89	1,112.06					1,112.06	
DEPT ENVIRONMENTAL	5/89	755.00					755.00	
INSUR ON EQUIP	6/89			208.17			208.17	
INSUR ON EQUIP	7/89			208.17			208.17	
FURNACE PURCHASE	7/89			223,000.00			223,000.00	
INSUR ON EQUIP	8/89			255.07			255.07	
INSUR ON EQUIP	9/89			80.51			80.51	
CORRY - LAND OPTION-UTAH	9/89				1,000.00		1,000.00	
STREICH, LANG, WEEKS, CAROON	9/89	1,138.23					1,138.23	
STREICH, LANG, WEEKS, CAROON	8/89	621.82					621.82	
STREICH, LANG, WEEKS, CAROON	4/89	458.53					458.53	
R. BABBITT EDUCATION	4/89				275.00		275.00	
R. BABBITT EDUCATION	7/89				262.00		262.00	
R. BABBITT EDUCATION	9/89				295.00		295.00	
BEN HOLT CO. (20111)	3/89		59.52				59.52	
BEN HOLT CO. (20123)	5/89		1,548.62				1,548.62	
R. BABBITT SALARY-4 WEEKS	7, 8, 9/89						0.00	
R. BABBITT PAY TAXES	7, 8, 9/89						0.00	
R. BABBITT MED INSUR	7, 8, 9/89						0.00	
R. BABBITT EXPENSES	7, 8, 9/89	1,381.49					1,381.49	
WRITE-OFF KINGMAN OPTION FY88							0.00	

WESTATES CARBON, INC.  
 DEFERRED COSTS - REGEN PLANT  
 DETAIL RECORDS - FY'S 87/88 & 88/89 & 89/90 & 90/91

	MONTH YEAR	PERMITTING		EQUIP MAINT & MOVING	OTHER	CONSTRUCT'N	TOTAL C-I-P	ADDITIONS BY YEAR
		ARIZONA	ENGINEERING					
INSUR/GEN-REG PLANT	02/90			161.01			161.01	
INSUR/GRP MED-REGEN PLNT	02/90		287.85				287.85	
		56,694.66	89,805.83	258,295.83	4,266.25		409,061.77	
LEASE W/ISE-REG PLANT	03/90			650.00			650.00	
ENGR'NG LBR-REG PLANT	03/90		3828.01				3,828.01	
P/R TAXES/OTHR LBR-REG	03/90		267.53				267.53	
CONTRACT ENGR'NG-LABOR	03/90		5388.00				5,388.00	
ACCTNG & LEGAL FEES-AP	03/90	2712.50					2,712.50	
INSUR/GEN-REG PLANT	03/90			161.01			161.01	
REV DEC 89 ENTRY	03/90	5840.00					5,840.00	
W/O CARRY LAND OPTION	03/90				-1000.00		(1,000.00)	
W/O NON CAP ITEMS	03/90	-5536.11					(5,536.11)	
W/O NON CAP ITEMS	03/90	-5111.75					(5,111.75)	
W/O NON CAP ITEMS	03/90	-7166.00			-205.25		(7,371.25)	
INSUR/GRP MED-REGEN PLNT	03/90		278.95				278.95	
		47,433.30	99,488.32	259,106.84	3,061.00		409,089.46	
THE BEN HOLT COMPANY	04/90		5,780.00				5,780.00	
BEN HOLT REV. ACCRUAL	04/90		(3,898.18)				(3,898.18)	
INSUR/GEN-REG PLANT	04/90			161.01			161.01	
LEASE W/ISE-REG PLANT	04/90			650.00			650.00	
		47,433.30	101,370.22	259,917.85	3,061.00		411,782.37	
B. BABBITT-TRAV.	05/90	383.33					383.33	
B. BABBITT-SALARY	05/90	5086.51					5,086.51	
B. BABBITT-P/R TAXES	05/90	332.07					332.07	
THE BEN HOLT COMPANY	05/90		(1,381.90)				(1,381.90)	
B. BABBITT-GROUP MED	05/90	286.00					286.00	
B. BABBITT-WORKERS' COMP	05/90	35.00					35.00	
INSUR/GEN-REG PLANT	05/90			161.01			161.01	
LEASE W/ISE-REG PLANT	05/90			650.00			650.00	
		53,556.21	99,988.32	260,728.86	3,061.00		417,334.39	
LEASE W/ISE-REG PLANT	06/90			650.00			650.00	
B. BABBITT-TRAVEL	06/90	991.84					991.84	
B. BABBITT-SALARY & TAXES	06/90	2808.68					2,808.68	
LEGAL FEES-AP	06/90	1,126.00					1,126.00	
INSUR/GEN-REG PLANT	06/90			161.01			161.01	
LAND OPTIONS-REGEN PLANT	06/90				20,000.00		20,000.00	
		58,484.73	99,988.32	261,539.87	23,061.00		443,073.92	
LEASE W/ISE-REG PLANT	07/90			650.00			650.00	
INSUR/GEN-REG PLANT	07/90			161.01			161.01	
B. BABBITT-TRAVEL	07/90	315.28					315.28	
B. BABBITT-SALARY & TAXES	07/90	3,205.40					3,205.40	
L. ELLIOTT, ARCHITECT	07/90	997.00					997.00	
J. BRIAN JACKSON	07/90						0.00	
		63,002.49	99,988.32	262,350.88	23,061.00		448,402.69	
STREICH, LAND, WEEKS	08/90	4,463.70					4,463.70	
J. BRYAN JACKSON	08/90	1,652.50					1,652.50	
LEASE W/ISE-REG PLANT	08/90			650.00			650.00	
INSUR/GEN-REG PLANT	08/90			161.01			161.01	
STREICH, LAND, WEEKS	09/90	4,746.40					4,746.40	
LEASE W/ISE-REG PLANT	09/90			650.00			650.00	



WESTATES CARBON, INC.  
 DEFERRED COSTS - REGEN PLANT  
 DETAIL RECORDS - FY'S 87/88 & 88/89 & 89/90 & 90/91

	MONTH YEAR	PERMITTING		EQUIP MAINT & MOVING	OTHER	CONSTRUCT'N	TOTAL C-I-P	ADDITIONS BY YEAR
		ARIZONA	ENGINEERING					
IN-HOUSE ENGINEERING	7/91		12,753.00				12,753.00	
LEASE WARE-REG PLANT	7/91			1,000.00			1,000.00	
		148,198.51	130,668.14	273,476.22	23,061.00	6,700.00	582,103.87	
LEASE WARE-REG PLANT	8/91			1,000.00			1,000.00	
		148,198.51	130,668.14	274,476.22	23,061.00	6,700.00	583,103.87	
IPC SYSTEMS	9/91		19,151.50				19,151.50	
LUMAR ENGINEERING	9/91		7,122.00				7,122.00	
LEASE WARE-REG PLANT	9/91			1000.00			1,000.00	
		148,198.51	156,941.64	275,476.22	23,061.00	6,700.00	610,377.37	169,498.06

Total  
 ↓  
 thru 8/1/91

EXHIBIT B

GENERAL PLAN

RESOLUTION

COLORADO RIVER TRIBAL COUNCIL  
Support for Development of Westates Carbon-Arizona, Inc.'s  
A Resolution to Parker Reactivation Plant to the Limits Described in the RCRA  
Part A Application/Environmental Assessment  
Be it resolved by the Tribal Council of the Colorado River Indian Tribes, in ~~an~~ Special meeting assembled  
on February 18, 1994

WHEREAS, the Colorado River Indian Tribes (Lessor) has entered into a Business Lease with Westates Carbon-Arizona, Inc. (Lessee) under Lease No. B-1122-CR and approved on March 4, 1991; and

WHEREAS, Westates Carbon-Arizona, Inc. completed an Environmental Assessment for a two furnace expanded facility dated March 1990 (Revised July 01, 1990), and such Environmental Assessment has been reviewed by the Tribal Council and the Environmental Officer; and

WHEREAS, Westates Carbon-Arizona, Inc. has filed a RCRA Part A Application with the United States Environmental Protection Agency describing a two furnace operation and requesting interim status for such operation; and

WHEREAS, Westates Carbon-Arizona, Inc. has completed construction of the first of the two furnaces and the complete infrastructure to support both furnaces, and has successfully operated the first furnace in accordance with the Lease since August 23, 1992; and

WHEREAS, Westates Carbon-Arizona, Inc. has been engaged in discussions with the United States Environmental Protection Agency regarding the granting of interim status for the second carbon reactivation furnace, and desires to construct such furnace:

The foregoing resolution was on February 18, 1994 duly approved by a vote of  
5 for, 1 against and 0 abstaining, by the  
Tribal Council of the Colorado River Indian Tribes, pursuant to authority vested in it by Section  
1.c. Article VI of the Constitution and By laws of the Tribes,  
ratified by the Tribes on March 1, 1975 and approved by the Secretary of the Interior on May 29, 1975,  
pursuant to Section 16 of the Act of June 18, 1934, (48 Stat. 984). This resolution is effective as of the  
date of its adoption.

COLORADO RIVER TRIBAL COUNCIL

By

*Dennis G. [Signature]*  
Chairman  
*Louwanda [Signature]*  
Secretary

EXHIBIT C

CORPORATE FILING

224463

AZ CURR. COMMISSION  
FOR THE STATE OF AZ.  
FILED

JUN 19 3 28 PM '90

APPROVED *Easter Thomas*  
DATE AT P.M. 6-20-90  
TERM \_\_\_\_\_  
DATE \_\_\_\_\_ TIME \_\_\_\_

ARTICLES OF INCORPORATION  
OF  
WESTATES CARBON-ARIZONA, INC.

The undersigned incorporators, desiring to form a corporation pursuant to the laws of the State of Arizona, adopt the following Articles of Incorporation for such corporation:

ARTICLE I

NAME

The name of the Corporation is WESTATES CARBON-ARIZONA, INC.

ARTICLE II

PURPOSE

The purpose for which the Corporation is organized is the transaction of any and all lawful business for which corporations may be incorporated under the laws of the State of Arizona, as the same may be amended from time to time.

ARTICLE III

INITIAL BUSINESS

The character of business that the Corporation initially intends to actually conduct in this state is the operations of a facility for the recycling and reactivation of granular activated carbon.

ARTICLE IV

AUTHORIZED CAPITAL

The Corporation shall have authority to issue one thousand (1,000) shares of \$1.00 par value common stock.

ARTICLE V

STOCK RIGHTS AND OPTIONS

The Corporation shall have authority, as provided under the laws of the State of Arizona, to create and issue rights and options entitling the holders thereof to purchase shares of stock of the Corporation. The issuance of such rights and options, whether or not to directors, officers or employees of the Corporation or of any affiliate thereof and not to the shareholders generally, need not be approved or ratified by the shareholders of the Corporation or be authorized by or be consistent with a plan approved or ratified by the shareholders of the Corporation.

ARTICLE VI

ACQUISITION AND DISPOSITION OF STOCK BY THE CORPORATION

The Corporation shall have authority to purchase, take, receive or otherwise acquire, hold, pledge, transfer or otherwise dispose of shares of its own stock. The Corporation's purchase of shares of its own stock may be made from, and to the extent of, the unreserved and unrestricted earned and capital surplus of the Corporation, as provided under the laws of the State of Arizona.

ARTICLE VII

DISTRIBUTIONS FROM CAPITAL SURPLUS

The Board of Directors may from time to time, without shareholder approval, distribute on a pro rata basis to the shareholders, from and to the extent of the capital surplus of the Corporation, a portion of the Corporation's assets, in cash or property.

ARTICLE VIII  
STATUTORY AGENT

The name and address of the Corporation's initial statutory agent is CT CORPORATION SYSTEM, 3225 North Central Avenue, Suite 1601, Phoenix, Arizona 85012.

ARTICLE IX  
KNOWN PLACE OF BUSINESS

The address of the Corporation's known place of business is 3225 North Central Avenue, Suite 1601, Phoenix, Arizona 85012.

ARTICLE X  
INITIAL BOARD OF DIRECTORS

The initial Board of Directors shall consist of three (3) Directors, and the names and addresses of the persons who shall serve as Directors until the first annual meeting of shareholders, or until their successors are elected and qualified, are:

<u>Name</u>	<u>Address</u>
Allan Sass	2130 Leo Avenue Los Angeles, CA 90040-1634
Lawrence E. Davis	2130 Leo Avenue Los Angeles, CA 90040-1634
Alexander C. McGilvray, Jr.	800 Wilshire Blvd., Suite 1300 Los Angeles, CA 90017

The number of Directors may be increased or decreased from time to time in the manner provided in the Bylaws of the Corporation.

The officers of the Corporation shall be a President, Vice President, Secretary and Treasurer, and such other officers as the Board of Directors may

appoint. The above-specified officers shall be elected annually by the Board of Directors. The initial officers and their respective positions shall be:

President: Allan Sass

Secretary: Lawrence E. Davis

ARTICLE XI  
INDEMNIFICATION

The Corporation shall indemnify any person against expenses, including without limitation, attorneys' fees, judgments, fines and amounts paid in settlement, actually and reasonably incurred by reason of the fact that he or she is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, in all circumstances in which, and to the extent that, such indemnification is permitted and provided for by the laws of the State of Arizona as then in effect.

ARTICLE XII  
LIMITATION OF DIRECTOR LIABILITY

No director of the Corporation shall be personally liable to the Corporation or its shareholders for monetary damages for breach of fiduciary duty as a director; provided, however, that this Article XII shall not eliminate or limit the liability of a director to the extent provided by applicable law for (i) any breach of the director's duty of loyalty to the Corporation or its Shareholders; (ii) acts or omissions not in good faith or which involve intentional misconduct or knowing violation of law; (iii) authorizing the unlawful payment of any dividend or other distribution on the Corporation's capital stock or the unlawful purchase of stock; (iv) any transaction from which



the director derived an improper personal benefit; or (v) a violation of Section 10-041 of the Arizona Revised Statutes. The limitation of liability provided herein shall continue after a director has ceased to occupy such position as to acts or omissions occurring during such director's term or terms of office, and no amendment or repeal of this Article XII shall apply to or have any effect on the liability or alleged liability of any director of the Corporation for or with respect to any acts or omissions of such director occurring prior to such amendment or repeal.

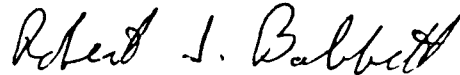
ARTICLE XIII  
INCORPORATORS

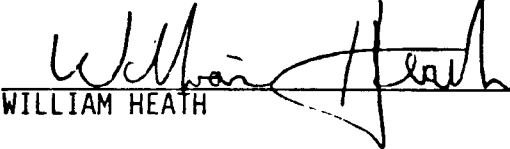
The name and address of each incorporator is:

<u>Name</u>	<u>Address</u>
Robert J. Babbitt	2130 Leo Avenue Los Angeles, CA 90040-1634
William Heath	2130 Leo Avenue Los Angeles, CA 90040-1634

All powers, duties and responsibilities of the incorporators shall cease upon filing of these Articles of Incorporation by the Arizona Corporation Commission.

DATED: June 14, 1990.

  
\_\_\_\_\_  
ROBERT J. BABBITT

  
\_\_\_\_\_  
WILLIAM HEATH

INCORPORATORS

DI-1040  
Revised  
(Aug. 1973)

# OFFICIAL RECEIPT

Bill No. 0E51-01BC0953

Make Remittance Payable To: Bureau of Indian Affairs H51 Date July 25, 1990  
(Bureau or Office)

Mail Payment To: Rt. 1, Box 9-C Parker, AZ 85344 H51/1288/90  
(Address)

PAYER:

Westates Carbon Inc.  
Attn: Mr. Bill Babbitt  
2130 Leo Avenue  
Los Angeles, CA 90048-1634

To be issued as official receipt for all cash remittances and for all other remittances when required by applicable procedures.

Amount of Payment \$ \_\_\_\_\_

Date	DESCRIPTION	Quantity	Unit Price		Amount
			Cost	Per	
	<del>KX</del> STATUTORY FEE for Lease #B-1122-CR (Business) Credit: 603S100080-CRIT LAND SERVICE ENTERPRISE				510.00

16-4. ck# 08540270. dtd: 7/23/90. Brea, CA

AMOUNT DUE THIS BILL, \$ 510.00

RECEIVED as payment on above bill.

Tracy Alcaida

Teller (Typing)

Date \_\_\_\_\_ Signature \_\_\_\_\_ Title \_\_\_\_\_



United States Department of the Interior  
BUREAU OF INDIAN AFFAIRS  
COLORADO RIVER AGENCY  
Route 1, Box 9-C  
Parker, Arizona 85344

IN REPLY REFER TO:

Real Estate Services  
(602) 669-6121, Ext. 252

JUL 19 1990

Westates Carbon, Inc.  
Attn: Mr. Bill Babbitt  
2130 Lee Avenue  
Los Angeles, California 90048-1634

Dear Mr. Babbitt:

Enclosed is the original and four copies of your business lease negotiated with the Colorado River Indian Tribes. The Bureau of Indian Affairs received the lease on July 17, 1990, and we have not had an opportunity to review the lease.

Please comply as follows:

1. Sign the original and all copies of the lease in the presence of a Notary Public.
2. Remit to the Bureau of Indian Affairs, the Statutory Fee in the amount of \$510.00 per enclosed bill.

Return the original and all copies of the lease within 15 days, an approved copy of the lease will be mailed to you following execution by Tribal Officials and the Superintendent.

Should you have any questions, please call Mrs. Barbara Nightpipe, Secretary.

Sincerely,

  
Realty Officer

Enclosure

Rec'd

X I X X

Colorado River Agency  
Parber, Arizona 85344

BILL NO. R-90-578

DATE: July 18, 1990

Westates Carbon, Inc.  
Attn: Mr. Bill Babbitt  
2130 Leo Avenue  
Los Angeles, CA 90048-1634

THIS BILL IS DUE ON OR BEFORE

APPROVAL

<u>Lease (Permit) No.</u>	<u>Acres</u>	<u>Amount Due</u>	<u>Payment for Period</u>
B-1122-CR (BUSINESS)	10.00	\$510.00	STATUTORY FEE

<u>CHECKS TO BE DRAWN AND MAILED TO:</u>	<u>CHECK NO.</u>	<u>DATE</u>	<u>AMOUNT</u>
Bureau of Indian Affairs Colorado River Agency Route 1, Box 9-C Parber, Arizona 85344			\$510.00

NOTICE: All checks payable to the BUREAU OF INDIAN AFFAIRS must be either a "CASHIER'S CHECK" or a "CERTIFIED CHECK".

BUREAU OF INDIAN AFFAIRS USE ONLY:

CREDIT: COLORADO RIVER INDIAN TRIBES LAND SERVICE ENTERPRISE -----\$510.00

INSTRUCTIONS: It is important this office be notified that payment has been made in accordance with this schedule in order for your lease to be properly credited. The following statement should be completed on duplicate copy of bill and returned to this office.

"I certify that all payments listed above were made on 7/23/90."

SIGNATURE OF PAYER

POST

Resolution No. 145-90

RESOLUTION  
COLORADO RIVER TRIBAL COUNCIL

A Resolution to Modify Resolution Nos. R-72-90 and R-101-90 and to Amend a Lease with Westates Carbon-Arizona, Inc.  
Be it resolved by the Tribal Council of the Colorado River Indian Tribes, in regular meeting assembled on July 14, 1990

WHEREAS, by Resolution No. R-72-90 and R-101-90, the Tribe approved a business lease with "Westates-Arizona, Inc."; and

WHEREAS, the actual incorporated name of the proposed lessee is "Westates Carbon-Arizona, Inc."; and

WHEREAS, Westates has proposed an amendment to the lease which would change the provisions pertaining to termination for failure to obtain financing:

NOW, THEREFORE, BE IT RESOLVED that the Tribal Council hereby modifies Resolution Nos. R-72-90 and R-101-90 to indicate that the proposed lessee is Westates Carbon-Arizona, Inc.; and

BE IT FURTHER RESOLVED that the proposed lease approved by Resolution Nos. R-72-90 and R-101-90 should be modified by:

1. Changing all references of "Westates-Arizona, Inc." to "Westates Carbon-Arizona, Inc.";
2. Changing the address for "Westates-Arizona, Inc." to the address for "Westates Carbon-Arizona, Inc.";
3. In Paragraph 19.11, replacing the words:

The foregoing resolution was on July 14, 1990 duly approved by a vote of 5 for, 0 against and 1 abstaining, by the Tribal Council of the Colorado River Indian Tribes, pursuant to authority vested in it by Section 1.c., Article VI of the Constitution and By laws of the Tribes, ratified by the Tribes on March 1, 1975 and approved by the Secretary of the Interior on May 29, 1975, pursuant to Section 16 of the Act of June 18, 1934, (48 Stat. 984). This resolution is effective as of the date of its adoption.

COLORADO RIVER TRIBAL COUNCIL

By Ronald E. [Signature]  
Chairman  
Laverda [Signature]  
Secretary

"If Lease is terminated because of this subparagraph, LESSEE agrees to pay to LESSOR an amount equal to costs of the water filter as provided in Subparagraph 7.5.1, reasonable attorney fees, and other reasonable costs incurred by LESSOR to Termination Date less the then applicable rental rate multiplied by the prorated unexpired term of the first lease year."

With the words:

"If the Lease is terminated because of this subparagraph, LESSOR agrees to refund to LESSEE the first year lease payment less an amount equal to the then applicable rental rate multiplied by the prorated expired term of the first lease year. In addition, LESSEE shall pay an amount, prorated for the time period between the Effective Date and the date of termination, of \$1,000 per month for the first 120 day period and \$2,000 per month for the period after day 120."

BE IT FINALLY RESOLVED that the Tribal Council Chairman and Secretary, or their designated representatives, are hereby authorized to execute any documents necessary to implement this action.

**RESOLUTION**  
**COLORADO RIVER TRIBAL COUNCIL**

A Resolution to Approve a Business Lease to Westates Arizona, Inc., a Subsidiary of Westates Carbon, Inc. Special

Be it resolved by the Tribal Council of the Colorado River Indian Tribes, in regular meeting assembled on March 16, 1990

WHEREAS, Westates Arizona, Inc., has proposed to lease land in the Tribes Industrial Park to operate a carbon reactivation plant and to service and fabricate carbon reactivation pollution control devices and air strippers; and

WHEREAS, the Resources Development Committee has reviewed the proposed business lease and recommends approval to Tribal Council:

NOW, THEREFORE, BE IT RESOLVED that the Tribal Council hereby approves the attached business lease between the Tribe and Westates Arizona, Inc.; and

BE IT FURTHER RESOLVED that the Tribal Council hereby approves the form of the attached Guaranty by Westates Carbon, Inc.; and

BE IT FURTHER RESOLVED that execution of this lease is contingent upon completion of any information left blank in the lease, preparation of all Exhibits, execution of the Guaranty and review of same by the Legal Department; and

BE IT FINALLY RESOLVED that the Tribal Council Chairman and Secretary, or their designated representatives, are hereby authorized to sign any and all documents necessary to implement this action.

The foregoing resolution was on March 16, 1990 duly approved by a vote of 6 for, 0 against and 0 abstaining, by the

Tribal Council of the Colorado River Indian Tribes, pursuant to authority vested in it by Section 1.a. Article VI of the Constitution and By laws of the Tribes, ratified by the Tribes on March 1, 1975 and approved by the Secretary of the Interior on May 29, 1975, pursuant to Section 16 of the Act of June 18, 1934, (48 Stat. 984). This resolution is effective as of the date of its adoption.

COLORADO RIVER TRIBAL COUNCIL

By

Chairman