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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
UNITED STATES COURTHOUSE
40 FOLEY SQUARE
NEW YORK, NEW YORK 10007

IN RE: PENN DIXIE INC.

DOCKET NO: 80 B 10472

I, Bernice Ward. , Deputy Clerk,
do hereby certify that the within papers are xeroxed copies of the originals as filed in the Bankruptcy Court in ~~and for the Southern District of New York~~.

In witness whereof, I hereunto set my hand this
10th day of March, 19 81.

Bernice Ward

LTR: ____
RB: ____
JJG: ____
JL: ____
BRL: ____
HS: ____
JB: ____

FILED NO. 1333
BOOK 33 PAGE 412
1981 MAR 11 PM 4:29
MARY E. WELTY
RECORDER
MADISON COUNTY, IOWA
Fee 18.00

Return to
Duncan Law Firm, 404 Equitable Building, Des Moines, IA 50309

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	
PENN-DIXIE INDUSTRIES, INC.,	:	Nos. 80B-10472-73
Debtor.	:	(Chapter 11)
In re	:	
PENN-DIXIE STEEL CORPORATION,	:	
Debtor.	:	

APPLICATION FOR AN ORDER AUTHORIZING PENN-DIXIE INDUSTRIES, INC. TO SELL PROPERTY

The application of Penn-Dixie Industries, Inc., the debtor herein, respectfully represents as follows:

1. Penn-Dixie Industries, Inc. ("Industries") filed a voluntary petition for reorganization under Chapter 11 of the Bankruptcy Code on April 7, 1980.

2. Industries, as debtor-in-possession, has continued in the possession of its property and the management of its business.

3. Industries has entered into an Asset Purchase Agreement (the "Agreement"), dated as of January 21, 1981 with Martin Marietta Corporation, a Maryland corporation, with respect to the purchase by Martin Marietta of the assets of Industries' West Des Moines, Iowa cement plant. The proposed sale includes Industries' West Des Moines cement manu-

facturing assets, the real estate on which such assets are located, the machinery and equipment and spare parts therefor and the quarry located in Winterset, Iowa (collectively, the "Cement Assets").

4. The Agreement provides for the sale by Industries to Martin Marietta, of the Cement Assets for a cash purchase price of $5,800,000 (subject to certain adjustments as set forth in the Agreement), plus the value (as defined in the Agreement) of Industries' inventory of clinker, cement, gypsum and coal located at the West Des Moines facility, all on the terms and conditions contained in the Agreement. The Agreement provides for the sale of such Assets to be free and clear of all liens, encumbrances, security interests, debt obligations of the seller, and other matters except as otherwise provided in the Agreement. A copy of the Agreement (including schedules setting forth a detailed description of the assets being sold) has been filed with the Court as Exhibit "A" to this Application and is available for inspection during regular Court hours.

5. Pursuant to the Agreement, this Application also seeks authorization to assume and assign certain executory contracts relating to the assets being sold, which contracts are set forth in Schedule "C" of the Agreement.

6. Industries submits that the proposed sale is in the best interests of the estate and its creditors. Despite substantial selling efforts on Industries' part, as set forth below, Industries has received no other cash offer for its West Des Moines plant. The steps taken by Industries since the latter part of 1978 to develop offers for all or part of its Cement Division (including the Cement Assets) include the public announcement of its desire to sell the plants, distribution of a sales brochure to potential purchasers and to brokers, and direct contact with numerous cement companies.

7. In connection with the sale of the Cement Assets, Martin Marietta has agreed to pay a fee to Ferris & Company, Inc. The fee is based on the aggregate dollar amount of the transaction including plant, equipment, spare parts, inventory and any other assets purchased by Martin Marietta and is calculating by the following formula: 1-1/4% of the first $1,000,000; 1% on the second $1,000,000; 3/4 of 1% on the third $1,000,000; 1/4 of 1% on the fifth $1,000,000; 1/4 of 1% on each additional $1,000,000 or any part thereof. George Ferris, the president and chief executive officer of Ferris & Company, Inc., is a member of the Board of Directors of Industries. Industries has no responsibility to pay any such fee.

WHEREFORE, Penn-Dixie Industries, Inc. respectfully requests the entry of an order authorizing it (a) to sell, free and clear of all liens, encumbrances, debt obligations, and other matters, except as otherwise provided in the Agreement, the aforementioned Cement Assets and other assets to Martin

Marietta Corporation and (b) to assume and assign the contracts identified in Schedule "C" of the Agreement.

Dated: New York, New York
January 22, 1981

FRIED, FRANK, HARRIS, SHRIVER
& JACOBSON

By: Arva J Diamant
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Clerk's File No. 80B-10472-73

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re

PENN-DIXIE INDUSTRIES, INC.,

Debtor.

In re

PENN-DIXIE STEEL CORPORATION,

Debtor.

COPY

APPLICATION FOR AN ORDER AUTHORIZING
PENN-DIXIE INDUSTRIES, INC. TO SELL PROPERTY

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