

2007-016940

Klamath County, Oregon



09/27/2007 03:31:00 PM

Fee: \$101.00

MTC80444-KR

RECORDING COVER SHEET

THIS COVER SHEET HAS BEEN PREPARED
BY THE PERSON REPRESENTING THE
ATTACHED INSTRUMENT FOR RECORDING.
ANY ERRORS IN THIS COVER SHEET DO NOT
AFFECT THE TRANSACTION(S) CONTAINED
IN THE INSTRUMENT ITSELF.

After Recording, Return To:

Stoel Rives, LLP
Attention: Mark Norby
200 S.W. Fifth Avenue, Suite 2600
Portland, OR 97204

1. Name(s) of the Transaction(s): First Amendment to Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing
2. Direct Party (Grantor): Jespersen-Edgewood, Inc., an Oregon corporation, Lawrence (a/k/a Larry) C. Jespersen and V. Maureen Jespersen, husband and wife; and Leonard K. Jespersen and Vicky L. Jespersen
3. Indirect Party (Grantee): Transamerica Life Insurance Company, an Iowa corporation
4. True and Actual Consideration Paid: \$3,756,967.66
5. Legal Description: See attached

10 AMT

**FIRST AMENDMENT TO MORTGAGE, ASSIGNMENT OF LEASES AND RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

THIS FIRST AMENDMENT TO MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (the "**First Amendment**") is made as of September 4, 2007, by JESPERSEN-EDGEWOOD, INC., an Oregon corporation, LAWRENCE (a/k/a Larry) C. JESPERSEN and V. MAUREEN JESPERSEN, husband and wife; and LEONARD K. JESPERSEN and VICKY L. JESPERSEN, husband and wife, whose address is 12944 Swan Lake Road, Klamath Falls, Oregon 97603 (collectively referred to as the "**Borrower**"), and TRANSAMERICA LIFE INSURANCE COMPANY, an Iowa corporation, successor by merger to Transamerica Life Insurance and Annuity Company ("**Lender**").

RECITALS

A. Borrower executed for the benefit of Lender that certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated December 5, 2003, and recorded December 12, 2003 in Volume No. M03, Page 90648 in the County Clerk's Office of Klamath County, Oregon (the "**Mortgage**"). Capitalized terms not otherwise defined herein shall have the meanings specified in the Mortgage.

B. The Mortgage secures a loan evidenced by that certain Promissory Note dated December 5, 2003 (the "**Note**"), executed by JESPERSEN-EDGEWOOD, INC., an Oregon corporation, LAWRENCE (a/k/a Larry) C. JESPERSEN and V. MAUREEN JESPERSEN, husband and wife; LEONARD K. JESPERSEN and VICKY L. JESPERSEN, husband and wife; and KENNETH L. JESPERSEN and LORNA C. JESPERSEN, husband and wife, in the original principal amount of \$4,000,000.00 payable to the order of Lender.

C. Lender and Borrower have agreed that Borrower shall pledge additional security for said Note which is located in Klamath County, Oregon (the "**Additional Land**"). The Additional Land is more particularly described in **Exhibit A** attached hereto and incorporated herein, and includes all Improvements and Fixtures, Personal Property and rights and entitlements relating thereto or situated thereon, as are further defined below.

D. Borrower and Lender desire to amend the Mortgage to add the Additional Land and related property to the lien thereof, and provide for such other matters as may be set forth herein.

NOW, THEREFORE, the parties hereby agree as follows:

1. GRANT OF SECURITY INTEREST

1.1 Additional Property. Borrower hereby grants, bargains, sells, conveys, mortgages, assigns, transfers, pledges and sets over unto Lender, its successors and assigns, as security for the Secured Obligations, all of the following (the "**Additional Property**"):

(a) the real property located in Klamath County, Oregon as more particularly described in **Exhibit A** attached hereto and incorporated herein by reference (hereafter referred to as the "**Additional Land**");

(b) all Improvements and Fixtures now or hereafter situated on the Additional Land, including without limitation the items described on attached **Exhibit B**;

(c) all easements, rights-of-way, strips and gores of land, vaults, streets, ways, alleys, passages, sewer rights, railroad spurs and rights, waters, water courses, water rights, claims and powers, now or hereafter located on the Additional Land or under or above the same or any part or parcel thereof, and all estates, rights, titles, interests, minerals, royalties, easements, privileges, liberties, tenements, hereditaments and appurtenances, reversion and reversions, remainder and remainders whatsoever, in any way belonging, relating or appertaining to the Additional Land or any part thereof, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Borrower;

(d) all present and future income, rents, issues, profits and revenues of the Additional Property from time to time accruing (including, without limitation, all payments under leases or tenancies, chattel paper, investment property, instruments, documents, letter of credit rights, unearned premiums on any insurance policy carried by Borrower for the benefit of Lender and/or the Additional Property, tenant security deposits, deposit accounts, escrow funds and all awards or payments, including interest thereon and the right to receive same, growing out of or as a result of any exercise of the right of eminent domain, including the taking of any part or all of the Additional Property or payment for alteration of the grade of any road upon which said Additional Property abuts, or any other injury to, taking of or decrease in the value of said Additional Property to the extent of all amounts which may be owing on the Secured Obligations at the date of receipt of any such award or payment by Borrower, and the reasonable attorneys' fees, costs and disbursements incurred by Lender in connection with the collection of such award or payment), and all the estate, right, title, interest, property, possession, claim and demand whatsoever at law or in equity, of Borrower of, in and to the same;

(e) all insurance policies and proceeds thereof, contracts, permits, licenses, plans or intangibles now or hereafter dealing with, affecting or concerning the Additional Property, including, without limitation, all rights accruing to Borrower from any and all contracts with all contractors, architects, engineers or subcontractors relating to the construction of improvements on or upon the Additional Land, including payment, performance and/or materialmen's bonds and any other related causes of action;

(f) all Water Rights of the Borrower with respect to the Additional Land, including without limitation the water rights described on attached **Exhibit C**;

(g) all rights to drain the Additional Land including rights in drainage districts (and the right to vote for and elect representatives in such drainage districts) together with all rights of Borrower in agricultural cooperatives for milling, ginning, grinding, storage and marketing of crops harvested from the Additional Land;

(h) all crops now or hereafter growing, grown or produced on the Additional Land;

(i) all rights to receive, participate in, or otherwise secure the benefits of any and all government programs, including but not limited to set aside programs, including but not limited to set aside programs, payment in kind programs, and governmental loans which are available for use in connection with the Additional Land; and

(j) all grazing leases, permits, allotments, licenses and privileges (the "**Permits**") covering state or federally owned lands used or operated in connection with the Additional Land, together

with all renewals of such Permits and any such Permits acquired in the future, including, but not limited to, the Permits described on attached **Exhibit D**.

1.2 **Definition of Property.** The term "**Property**," as used in the Mortgage, is hereby amended to include the Additional Property.

2. **PERMITS.** Borrower covenants and agrees to renew the Permits upon or prior to their expiration date, to execute any instrument deemed necessary by Lender to effect a collateral assignment or waiver of such renewals to the Lender, and to pay all fees and charges, and to perform all acts and things necessary to preserve and keep in good standing all of such Permits and all renewals thereof. Borrower shall take no action which would adversely affect any of such Permits or Borrower's preference status thereunder, and that in the event of foreclosure of the Mortgage, Borrower will waive all claims for preference under any such Permits upon demand from the purchaser at foreclosure sale of the Additional Land, or any successor to such purchaser. Borrower further agrees that the lands covered by any lease, permit or privilege which Borrower, with the consent of Lender, shall substitute for the Permits, shall be subject to the provisions of the Mortgage. Upon foreclosure and sale of the Additional Land, title to the improvements held by Borrower on any federal or state lands covered by the Permits, together with Borrower's right to be paid the reasonable value thereof, shall pass free of all encumbrances other than those of the United States to the purchaser at such sale, and the Lender is hereby authorized to execute, at its option, on behalf of the Borrower, a bill of sale for such improvements.

3. **LENDER RELEASE OF KENNETH L. JESPERSEN AND LORNA C. JESPERSEN.** Lender hereby agrees to release Kenneth L. Jespersen and Lorna C. Jespersen from any and all liability of said Note as of the date of this First Amendment.

4. **COVENANTS, REPRESENTATIONS AND WARRANTIES.** Borrower hereby agrees that the Additional Property shall be subject to each and every covenant, representation, warranty, term and condition of the Mortgage, as amended by this First Amendment, as if the Additional Property were originally part of the Property.

Borrower represents and warrants to Lender that as of the date hereof each and every representation stated in the Mortgage, as amended by this First Amendment, as well as the covenants, representations, warranties, terms and conditions stated in the Mortgage remains true, accurate and complete.

5. **NO SUBORDINATION.** This First Amendment does not constitute nor is it intended to be or create a subordination of the lien of the Mortgage to any other lien on or interest in the property encumbered thereby whether created or recorded before or after the Mortgage.

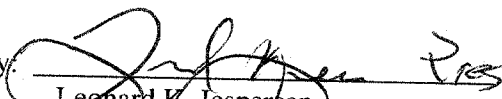
6. **NO OTHER MODIFICATION.** Except as expressly set forth herein, the Mortgage shall remain unmodified and in full force and effect, and Borrower reaffirms each and every term of the Mortgage as originally set forth therein as to the Property encumbered by the lien of the Mortgage as amended hereby.


7. **COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same agreement.

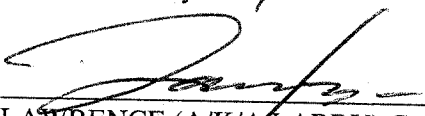
IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the date first written above.

BORROWER

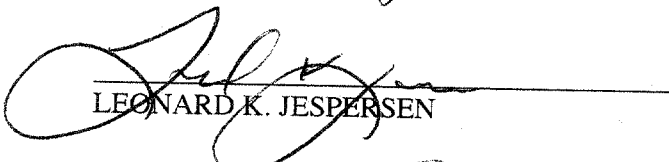
JESPERSEN-EDGEWOOD, INC.,
an Oregon corporation

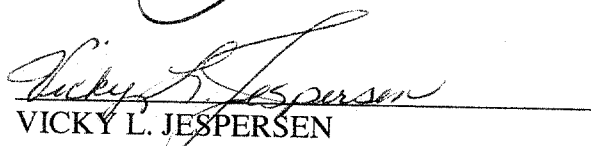
By: 
Leonard K. Jespersen
President

By: 
Lawrence C. Jespersen
Secretary


LAWRENCE (A/K/A LARRY) C. JESPERSEN



V. MAUREEN JESPERSEN


LEONARD K. JESPERSEN


VICKY L. JESPERSEN

LENDER

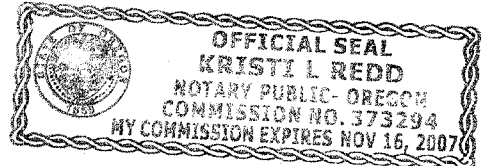
TRANSAMERICA LIFE INSURANCE
COMPANY, an Iowa corporation

By: 

Name: Thomas L. Nordstrom

Title: Vice-President

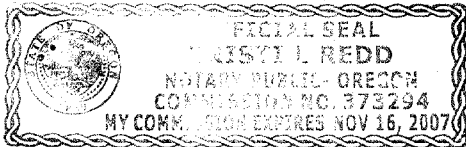
ACKNOWLEDGEMENT



STATE OF OREGON

COUNTY OF Klamath) ss.

This instrument was acknowledged before me this 21st day of September ~~August~~, 2007, by Leonard K. Jespersen, President of Jespersen-Edgewood, Inc., an Oregon corporation.



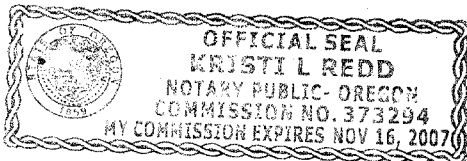
Kristi L. Redd
Notary Public

My commission expires: 11/16/2007
Commission No.: 373294

STATE OF OREGON

COUNTY OF Klamath) ss.

This instrument was acknowledged before me this 21st day of September ~~August~~, 2007, by Lawrence C. Jespersen, Secretary of Jespersen-Edgewood, Inc., an Oregon corporation.



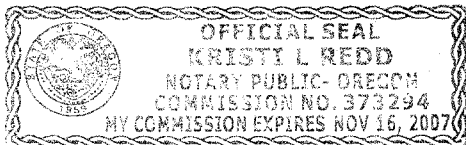
Kristi L. Redd
Notary Public

My commission expires: 11/16/2007
Commission No.: 373294

STATE OF OREGON

COUNTY OF Klamath) ss.

This instrument was acknowledged before me this 21st day of September ~~August~~, 2007, by Lawrence (aka Larry) C. Jespersen.

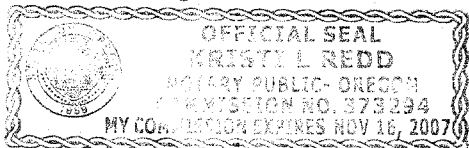


Kristi L. Redd
Notary Public

My commission expires: 11/16/2007
Commission No.: 373294

STATE OF OREGON)
COUNTY OF Klamath)ss.

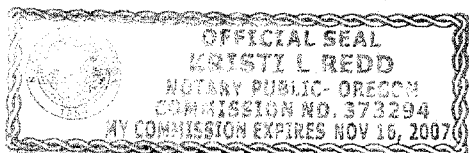
This instrument was acknowledged before me this 21st day of September ^(KR)~~August~~, 2007, by V. Maureen Jespersen.



Kristi L. Redd
Notary Public
My commission expires: 11/16/2007
Commission No.: 373294

STATE OF OREGON)
COUNTY OF Klamath)ss.

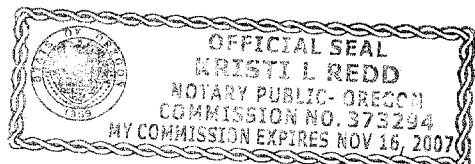
This instrument was acknowledged before me this 21st day of September ^(KR)~~August~~, 2007, by Leonard K. Jespersen.



Kristi L. Redd
Notary Public
My commission expires: 11/16/2007
Commission No.: 373294

STATE OF OREGON)
COUNTY OF Klamath)ss.

This instrument was acknowledged before me this 21st day of September ^(KR)~~August~~, 2007, by Vicky L. Jespersen.



Kristi L. Redd
Notary Public
My commission expires: 11/16/2007
Commission No.: 373294

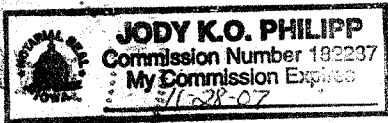
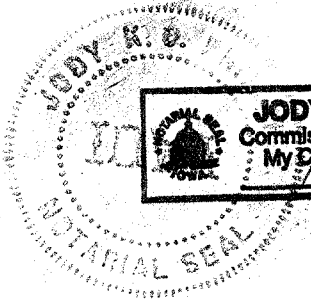
ACKNOWLEDGEMENT

STATE OF IOWA

COUNTY OF LINN

)
)ss.
)

This instrument was acknowledged before me on September 5th, 2007, by
Thomas L. Nordstrom as Vice-President of Transamerica Life Insurance
Company, an Iowa corporation.



Jody K.O. Philipp
Notary Public
My commission expires: 11-28-07
Commission No.: 182287

**EXHIBIT A
ADDITIONAL LAND**

IN TOWNSHIP 37 SOUTH, RANGE 10 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON:

Section 14: W1/2 SW1/4
Section 15: NW1/4 NW1/4, S1/2 N1/2, NE1/4 SE1/4
Section 23: W1/2 NE1/4, SE1/4 NE1/4, E1/2 SE1/4
Section 24: SW1/4 SW1/4
Section 25: W1/2, W1/2 SE1/4
Section 26: E1/2 E1/2
Section 35: NE1/4 NE1/4
Section 36: All

IN TOWNSHIP 38 SOUTH RANGE 10 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON:

Section 12: NE1/4, E1/2 NW1/4, NE1/4 SE1/4

IN TOWNSHIP 38 SOUTH, RANGE 11 1/2 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON:

Section 6: Government Lots 4, 5, 6 and 7; SE1/4 NW1/4, E1/2 SW1/4, SW1/4 SE1/4
Section 7: Government Lots 1, 2, 3 and 4; W1/2 E1/2, SE1/4 NE1/4, E1/2 W1/2, E1/2 SE1/4, NE1/4
Section 8: W1/2 SW1/4
Section 17: W1/2
Section 18: Government Lots 1 and 2; NE1/4, E1/2 NW1/4
Section 20: SW1/4 NE1/4, NW1/4, N1/2 SW1/4, W1/2 SE1/4, SE1/4 SE1/4
Section 21: S1/2 SW1/4, SW1/4 SE1/4
Section 27: W1/2 SW1/4, SE1/4 SW1/4, EXCEPTING THEREFROM that portion of the SE1/4 SW1/4 conveyed to Oregon – California and Eastern Railway Company by deed recorded May 26, 1917 in Book 47 at page 592, Deed Records of Klamath County, Oregon. AND EXCEPTING from the SE1/4 SW1/4 that portion thereof lying Easterly of the Easterly line of the Oregon – California and Eastern Railway Company right of way.
Section 28: N1/2, NE1/4 SW1/4, SE1/4
Section 29: NE1/4, SE1/4 NW1/4, E1/2 SW1/4
Section 32: NE1/4 NW1/4, EXCEPTING THEREFROM all that portion lying within the Klamath Falls – Lakeview Highway (Highway 140)

Exhibit A

EXHIBIT B
EQUIPMENT

Name Jespersen et al / Swan Lake Ranch

Klamath
County

PUMP SITE	POWER UNIT			PUMP UNIT		
	MANUFACT.	HP	ID NUMBER	MANUFACT.	TYPE	MODEL # SERIAL #
<i>Lone Rock Well</i> <i>(3 Electrical Panels)</i>	US Elect. Motor	100	S# 879630	Peerless	Turbine	Unknown Unknown
			F# 504-5			
-----	US Elect. Motor	50	S# 1013748	Unknown	Centrifugal	Unknown Unknown
	Century	75	P# 6-339172-01	Berkeley	Centrifical	Unknown 912
<i>Schnore Well</i> <i>(4 Electrical Panels)</i>	General Elect.	100	M#5N6267X43A	Unknown	Turbine	Unknown Unknown
			S# 8M1204143			
-----	Century	50	P# 6-323060-01	Berkley	Centrifugal	88G R811CW 7673776
			F#326TCZ			
<i>Hamaker Well</i> <i>(5 Electrical Panels)</i>	US Elect. Motor	100	S# 854613	Johnston	Turbine	Unknown Unknown
	Century	30	M# SC-324VY-PCA	Unknown	Centrifugal	Unknown Unknown
-----	Century	25	M# SC286UCZ-FCA	Berkley	Centrifugal	EMI9-313200-02 571
	High Thrust	150	ID# R-6375-07-191 R2149827 M F# 444TPWPI	Aurora	Turbine	Unknown ID# V82-71655

----- <i>Thomas Well</i> (4 Electrical Panels)	Marathon	75	M# KD365TTD57354BBW S# 9386	Cornell	Centrifugal	5H75-4	30758
	US Elect. Motor	75	S# 895574 F# 445-14	Peerless	Turbine	Unknown	J37005
	General Elect.	50	M# 5K4364XA1Y1 S# SSJ529100	Rainflow	Centrifugal	Unknown	10879
	General Elect.	30	M# 5K1364GF1 S# 6619141VB	Rainflow	Centrifugal	Unknown	11101

	Lake Sump Pump	US Elect. Motor	20	ID# Z05Z04yR265F M# 416A	Unknown	Unknown	Unknown

PIVOTS						
	Type	Power	Serial	Hours	Manufacturer	
7 Tower Linear Linear Mover Motor	Valley 6000 F3L1011	Diesel Deutz Corp. KHD	A6B5C1D1E5F10IH3 827276	12912	Valmont Irrigation, Valley, NE, USA	
6 Tower Center Pivot	Valley 6000	Electric	71912	8495	Valmont Irrigation, Valley, NE, USA	
11 Tower Center Pivot	Valley 6000	Electric	70219	16279	Valmont Irrigation, Valley, NE, USA	
8 Tower Center Pivot	Valley 6000	Electric	70580	15451	Valmont Irrigation, Valley, NE, USA	

ADDITIONAL IRRIGATION EQUIPMENT			
14 Wheel mover sprinkler systems - Approx 15,500 total linear feet of wheel pipe.		Sufficient hand moveable sprinkler pipe to irrigate corners	
Mainline			
U/G 6"	1241 feet	A/G 6"	3832 feet
U/G 8"	1022 feet	A/G 8"	8628 feet
U/G 10"	27047 feet	A/G 10"	5222 feet
A/G 4"	634 feet		

MANUFACTURED HOMES			
<u>Make/Model</u>	<u>Year Built</u>	<u>Home Id No.</u>	<u>Manufacturer Id No.</u>
Howard Manor	1977	210747	0S0567UX
Starcraft	1967	216395	60CK3TU59I
Magnolia	1961	169291	1061245
Flamingo	1974	185398	11805622

EXHIBIT C

WATER RIGHT SUMMARY

Jespersen et al
Swan Lake Ranch
Klamath County

Section	Source	Amount (CFS)	Primary Water Right Acres	Priority Date	Application Number	Permit		Certificate		Permittee Name
						Number	Number	Number	Number	
T38S,R11.5E-29,32	Well	2.87	229.70	7/19/1949	U-318	U-402		29619		Lloyd L. and L.M. Hankins
T38S,R11.5E-29	Thomas Well	0.76	60.60	11/6/1968	G-4673	G-4401		38246		Nevin Cattle Company
T37S,R10E-36	Swan Lake Waste Water	6.01	240.40	7/29/1965	S-41159	S-30684		44402		Biaggi-Venable
T37S, R10E,	Lone Rock Well	5.98	1,518.60	7/19/1949						Nevin Cattle Company
T38S, R11.5E,	Hamaker Well	2.19								
T38S, R10E	Liskey Well	3.80								
	Mitchell Well	3.50								
	Swan Lake Well	3.51								
T38S,R11.5E-7, 8	Schmore Well	3.43	274.30	9/30/1976	G-7396	G-6835		66457		Biaggi-Venable
Total Acres			2,323.60							

EXHIBIT D

Grazing Permit Summary

Jespersen et al / Swan Lake Ranch
Klamath County

BLM Permits						
Bureau Of Land Management Klamath Falls RA 2795 Anderson Bld 25 Klamath Falls, OR 97603						
Allotment Name	Allot. #	Pasture Name	# of Hd.	Type	Grazing Period	AUM's
- Swan Lake Rim	00858		150	Cattle	May 1 to June 30	301