

2010-008190

Klamath County, Oregon



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07/08/2010 09:00:21 AM

Fee: \$52.00

## NON-MERGER ESTOPPEL DEED IN LIEU OF FORECLOSURE

THIS INDENTURE between MICHAEL D. DWYER, hereinafter called Grantor, and BARBARA L. OLIVER, hereinafter called Grantee;

### WITNESSETH:

WHEREAS, the title to the real property hereinafter described is vested in fee simply in Grantor, subject to the lien of a trust deed recorded in the Deed Records of Klamath County, State of Oregon, notes and indebtedness secured by the mortgage or trust deed are now owned by Grantee, on which notes and indebtedness there is now owing and unpaid the sum of \$11,116.02, the same being now in default and the trust deed being now subject to immediate foreclosure; and

WHEREAS, Grantor, being unable to pay the same, has requested Grantee to accept an absolute deed of conveyance of the property in satisfaction of the indebtedness secured by the mortgage or trust deed; and Grantee does not accede to the request;

NOW, THEREFORE, for the consideration of \$6,000.00 returned by Grantee to Grantor and other obligations hereinafter stated, Grantor does hereby grant, bargain, sell and convey unto Grantee and to Grantee's heirs, successors and assigns, all of the following described real property, with the tenements, hereditaments and appurtenances thereunto belonging or in any way appertaining, suited in Klamath County, State of Oregon, to-wit:

Lot 33, Block 11, Klamath Falls Forest Estates Highway 66 Plat No. 1,  
According to the official plat thereof on file in the office of the County Clerk,  
Klamath County, Oregon.

### SUBJECT TO:

Matters not disclosed by an examination of the public record.

Reservations and restrictions in deed from G.C. Lorenz and Kathryn C. Lorenz, to Crater Lake Lumber Company, a corporation, dated May 24, 1937, recorded May 25, 1937 in Volume 109, Page 541, Deed Records of Klamath County, Oregon, as follows: "The grantors reserve to themselves from this conveyance all oil and minerals in said lands, and they and their heirs and assigns shall have the right at

### AFTER RECORDING, RETURN TO AND SEND TAX STATEMENTS TO:

Barbara L. Oliver  
1257 S. 7<sup>th</sup> Street  
Independence OR 97351

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Martinis & Hill  
P. O. Box 3938  
110 Madrona Avenue SE  
Salem, Oregon 97302  
503-566-5800

all times to enter upon the above described premises to bore wells and make excavations on same for the purpose of discovering and to remove therefrom all oil and other minerals found thereon."

Restrictions shown on the recorded plat/partition of Klamath Falls Forest Estates Highway 66 Unit Plat No. 1, as follows: "...said plat being subject to a 16-foot easement centered on the back and side liens of all lots for future public utilities, and to all easements and reservations of record. Lot 1 Block 1 is hereby dedicated to Klamath County for refuse disposal."

Covenants, conditions, restrictions and/or easements; but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, family status, or national origin to the extent such covenants, conditions or restrictions violate Title 42, Section 3604(c), of the United States Codes:

Recording Information: July 12, 1963 in Volume 346 Page 473, Records of Klamath County, Oregon

Amended By-Laws, including the terms and provisions thereof of Klamath Road Association Inc.

Recorded: Volume M02 Page 23842, Records of Klamath County, Oregon

Modification and/or amendment by instrument:

Recording Information: October 10, 2008 in Volume 2008 Page 013999, Records of Klamath County, Oregon

Modification and/or amendment by instrument:

Recording Information: November 16, 2009 in Volume 2009 Page 014671, Records of Klamath County, Oregon

#### GRANTOR COVENANTS THAT:

This Deed is absolute in effect and conveys fee simple title of the premises described above to Grantee and does not operate as a mortgage trust conveyance, or security of any kind.

Grantor is the owner of the premises free of all encumbrances except the Trust Deed executed to Grantee, dated October 6, 2009 and recorded on October 6, 2009 at Volume 2009, Page 013114 of the Deed Records of Klamath County, Oregon.

This deed does not effect a merger of the fee ownership and the lien of the trust deed described above. The fee and lien shall hereafter remain separate and distinct.

In consideration of the forbearance of any foreclosure proceeding and Grantor's benefit from remaining in possession of the premises described above until relinquished at the time of this conveyance, Grantee may retain all payments previously made on the secured debt with no duty to account therefore.

By acceptance of this deed, Grantee covenants and Agrees that Grantee shall forever forbear taking any action whatsoever to collect against Grantor on the promissory note given to secure the trust deed described above, other than by foreclosure of that trust deed, and that in any proceeding to foreclose the trust deed, Grantee shall not seek, obtain or permit a deficiency judgment against Grantor, or Grantor's heirs or assigns, such rights and remedies being waived.

Grantor waives, surrenders, conveys and relinquishes any equity of redemption and statutory rights of redemption concerning the real property and mortgage described above.

Grantor is not acting under any misapprehension as to the legal effect of this deed, nor under any duress, undue influence, or misrepresentation of grantee, grantee's agent or attorney, or any other person.

IN WITNESS WHEREOF, Grantor has executed this instrument.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

GRANTOR:

  
Michael D. Dwyer

STATE OF Montana )  
 ) ss.  
County of Daniels )

On this 30<sup>th</sup> day of June, 2010, personally appeared the above-named MICHAEL D. DWYER who acknowledged the foregoing to be his voluntary act and deed.

Rozlynn C. Bowler  
Notary Public for \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

