

**2010-008823**

**Klamath County, Oregon**



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07/26/2010 09:04:33 AM

Fee: \$67.00

PLEASE RETURN WHEN RECORDED TO:

Mountain West Bank, N.A.

P O Box 5990

1821 South Ave. West

Missoula, MT 59806-5990

July 19, 2010 – COVER PAGE

Assignment of Timer and Net Proceeds from Timber Sales

Mountain West Bank, N.A. – Grantor

Robert E. Johnson, Guarantor

Member of Central Oregon Land Holdings, LLC

Ernest W. Johnson, Guarantor

Member of Central Oregon Land Holdings, LLC

Document Reference # 2010-008-172 - MORTGAGE

## **ASSIGNMENT OF TIMBER AND NET PROCEEDS FROM TIMBER SALES**

This Assignment is executed between MOUNTAIN WEST BANK, N.A. (hereinafter referred to as Lender), ROBERT E JOHNSON and ERNEST W JOHNSON (hereinafter collectively referred to as Borrowers), and CENTRAL OREGON LAND HOLDINGS, LLC (hereinafter referred to as Central Oregon).

WHEREAS, Central Oregon is the owner of timber and the beneficiary of proceeds that it will continually be due from the sale of timber located on real property owned by Central Oregon and located in Klamath County, Oregon, and described with specificity as:

**See Attached "Schedule A"**

WHEREAS, the timber owned by Central Oregon and located on the above described real property will be referred to hereinafter as the Timber;

WHEREAS, all stumpage proceeds that Central Oregon and Borrowers will receive from the sale of Timber located on the above described real property will be referred to hereinafter as the Net Timber Proceeds;

WHEREAS, Lender intends to make a new loan to Borrowers (hereinafter referred to as the New Loan);

WHEREAS, in order to secure the New Loan, Borrowers and Central Oregon will pledge the Timber and the Net Timber Proceeds to Lender as collateral for the New Loan;

WHEREAS, Lender, Borrowers, and Central Oregon intend that this Assignment will be a present and unconditional transfer to Lender of all of the Timber and the Net Timber Proceeds, up to a maximum aggregate amount of \$430,000.00 whether such Timber or Net Timber Proceeds come from those Oregon or Montana properties listed in Schedule A; and

WHEREAS, Lender and Borrowers acknowledge that they each will benefit from the New Loan and that Lender would not make the New Loan if Lender did not receive this Assignment.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. Borrowers and Central Oregon hereby unconditionally assign to Lender the Timber and the Net Timber Proceeds, up to a maximum aggregate amount of \$430,000.00 whether such Timber or Net Timber Proceeds come from those Oregon or Montana properties listed on Schedule A; and
2. During the existence of the New Loan, all Net Timber Proceeds will be delivered by Central Oregon and the Borrowers to Lender within 10 days of their receipt of such proceeds. All Net Timber Proceeds will be applied to the balance of the New Loan, the specifics of which will be at Lender's discretion.

3. Lender will be accountable to Borrowers only for monies actually received by Lender and the acceptance of this Assignment shall not constitute a satisfaction of any of the obligations of Borrowers under the New Loan, except to the extent of amounts actually received and applied by Lender as stated above.

4. In the event Borrowers default on the Loan, Lender will be entitled to exercise its assignment of the Timber and the net Timber Proceeds to the fullest extent permitted by law, to the extent of Borrowers' indebtedness to Lender under the New Loan.

5. This Assignment may be assigned by Lender.

6. This Assignment shall extend to and bind the respective heirs, personal representatives, successors, and assigns of the parties to this Assignment, and all covenants of Lender, Borrowers, and Central Oregon stated in this Assignment are enforceable by any party to whom Lender may have transferred this Assignment;

7. This Assignment is effective when received by Lender, without the necessity of any acceptance by Lender in writing or otherwise, and this Assignment will remain in full force and effect until the \$430,000.00 is paid in full.

8. Borrowers and Central Oregon warrant that they have not sold, assigned, transferred, mortgaged, or pledged the Timber or the Net Timber Proceeds, whether now or hereafter to become due, to any person or entity other than Lender. Borrowers and Central Oregon warrant that they will not further assign, pledge, or otherwise encumber the Timber or the Net Timber Proceeds without the prior written consent of Lender. Borrowers and Central Oregon warrant that they will not directly or indirectly amend, modify, cancel, terminate, or accept any surrender of the Timber or the Net Timber Proceeds without the prior written consent of Lender.

9. Lender authorizes Borrowers' and Central Oregon to sell the timber (stumpage) in order for this Assignment and net proceeds thereof, to be transferred to the Lender.

10. Lender will release its interest in the **ASSIGNMENT OF TIMBER AND NET PROCEEDS FROM TIMBER SALES** when anyone of the three following conditions are met:

1. Lender receives \$430,000.00 as defined in this Assignment;
2. Lender receives \$759,058.00 in principal payments on the New Loan and the Lender is in a first lien position on the 16-acre parcel of real property known as the LARIVÉE EDITION.
3. Lender receives \$1,051,558.00 in principal payments on the New Loan. Upon the receipts totaling \$1,051,558.00, Lender will release its interest in the 16-acre parcel of real property known as the LARIVÉE EDITION.

11. The regular monthly payments due on the New Loan will not be calculated as part of the balance referenced to in Section 10.

12. Borrowers and Central Oregon will indemnify and hold Lender harmless from all claims, demands, actions, and damages that might arise as a result of Borrowers' and Central Oregon's ownership of the Timber and the Net Timber Proceeds.

CENTRAL OREGON LAND HOLDINGS, LLC

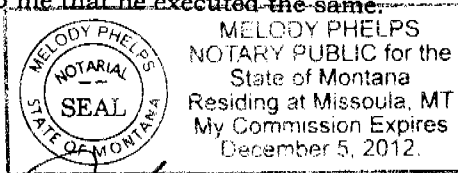
*Robert E Johnson*  
By: Robert E Johnson, Member

DATE: 6/28/10

*Ernest W Johnson*  
By: Ernest W Johnson, Member

State of Montana )  
County of Missoula ) ss

On this 28th day of June, 2010, before me, a notary public, personally appeared the above named representatives, Robert E Johnson, Member and Ernest W Johnson, Member of Central Oregon Land Holdings, LLC, known to me to be the persons whose names are subscribed to this instrument, and acknowledged to me that he executed the same.



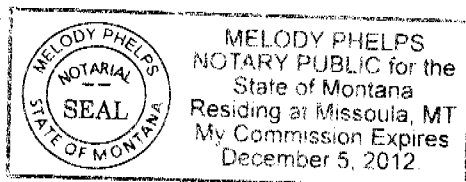
*Melody Phelps*  
Signature  
Melody Phelps  
Print Name  
Residing At:  
My Commission Expires:

*Robert E Johnson*  
Robert E Johnson

DATE: 6/28/10

State of Montana )  
County of Missoula ) ss

On this 28th day of June, 2010, before me, a notary public, personally appeared Robert Johnson, known to me to be the person whose name is subscribed to this instrument, and acknowledged to me that he executed the same.



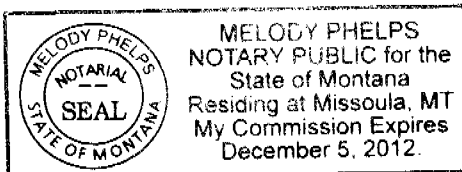
*Melody Phelps*  
Signature  
Melody Phelps  
Print Name  
Residing At:  
My Commission Expires:

Ernest W Johnson  
Ernest W Johnson

DATE: 6-28-10

State of Montana )  
County of Missoula )  
SS

On this 28th day of June, 2010, before me, a notary public, personally appeared Ernest Johnson, known to me to be the person whose name is subscribed to this instrument, and acknowledged to me that he executed the same.



Melody Phelps  
Signature  
Melody Phelps  
Print Name  
Residing At:  
My Commission Expires:

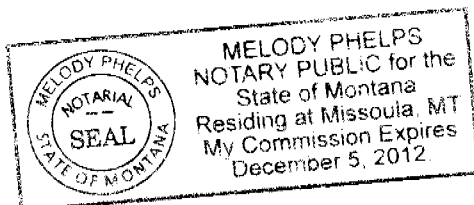
MOUNTAIN WEST BANK, N.A.

Jack Svendsen V.P.  
By: Jack Svendsen, VP/Commercial Loan Officer

DATE: 6-28-10

State of Montana )  
County of Missoula )  
SS

On this 28th day of June, 2010, before me, a notary public, personally appeared Jack Svendsen, Vice President/ Commercial Loan Officer of Mountain West Bank, N.A. known to me to be the person whose name is subscribed to this instrument, and acknowledged to me that he executed the same.



Melody Phelps  
Signature  
Melody Phelps  
Print Name  
Residing At:  
My Commission Expires:

"SCHEDULE A" (CONTINUED)

TRACT 1:

Township 25 South Range 9 East of the Willamette Meridian, Klamath County, Oregon.

Parcel 2, Partition Plat 52-04, recorded in the records of Klamath County on March 7, 2005 (Section 6: Government Lots 6 and 7; S 1/2 NE 1/4 SE 1/4 NW 1/4; E 1/2 SW 1/4; NW 1/4 SE 1/4; Section 7: Government Lot 1; NE 1/4 NW 1/4)

TRACT 2:

Township 25 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon.

Parcel 2, Partition Plat 53-04, recorded in the records of Klamath County on March 7, 2005 (Section 10: SE1/4 SE1/4; SE1/4 SW1/4; NE1/4 SE1/4. Section 11: SW1/4 SW1/4; SE1/4 SW1/4. Section 14: N1/2 NW1/4. Section 15: N 1/2 NE1/4; N1/2 NW1/4)

TRACT 3:

Township 25 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon.

Section 13: The SW1/4; W1/2 SE1/4  
Section 14: S1/2 SE1/4  
Section 15: S1/2 SE1/4

TRACT 4:

The SE1/4 of Section 7, Township 25 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon.

TRACT 5:

Township 25, Range 10 East of the Willamette Meridian, Klamath County, Oregon.

Parcel 2, Partition Plat 54-04, recorded in the records of Klamath County on March 7, 2005 (Section 1: S1/2. Section 12: SE1/4; NE1/4; NW1/4 NW1/4)

TRACT 6:

Township 25 South, Range 11 East of the Willamette Meridian, Klamath County, Oregon.

Parcel 2, Partition Plat 55-04, recorded in the records of Klamath County on March 7, 2005 (Section 6: Government Lots 15 to 19, inclusive. Section 7: Government Lots 1 to 7, inclusive; Government Lots 11 to 14, inclusive)

TRACT 7:

Township 25 South, Range 11 East of the Willamette Meridian, Klamath County, Oregon.

Parcel 2, Partition Plat 56-04, recorded in the records of Klamath County On March 7, 2005 (Section 5: SW1/4 NW1/4; SW1/4. Section 6: Government Lots 22; S1/2 NE1/4)