

3-273A000

# FOLEY & LARDNER

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18432  
FIDELITY

September 30, 1993 SEP 30 1993 - 11 50 AM

INTERSTATE COMMERCE COMMISSION

RECEIVED  
SEP 30 11 11 AM '93

Mr. Sidney L. Strickland, Jr.  
Secretary  
Interstate Commerce Commission  
Washington, D.C. 20423

Dear Mr. Strickland:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11303(a) are two duly executed copies of the following primary document: Chattel Mortgage and Security Agreement dated as of August 30, 1993 between Besse Forest Products, Inc. and Firstar Bank Green Bay covering ten bulkhead railroad cars described below.

The names and addresses of the parties to the enclosed document are:

Secured Party:	Firstar Bank Green Bay Post Office Box 23089 Green Bay, WI 54305-3089
Debtor:	Besse Forest Products, Inc. Post Office Box 352 Gladstone, MI 49837

A description of the railroad equipment covered by the enclosed document is: 10 bulkhead railroad cars bearing carmarks and numbers SOU 114490, SOU 114472, SOU 114450, SOU 114456, SOU 114484, SOU 114496, SOU 114478, SOU 114454, SOU 114452, and SOU 114512.

Also enclosed is a check in the amount of \$16.00 payable to the order of the Interstate Commerce Commission covering the required recordation fee.

*Completed  
S. Strickland*

Mr. Sidney L. Strickland, Jr.  
September 30, 1993  
Page 2

Kindly return two stamped copies of the enclosed document to the undersigned.

Very truly yours,

*Edward J. Hammond*  
Edward J. Hammond /SNG.

Enclosures

Interstate Commerce Commission  
Washington, D.C. 20423

9/30/93

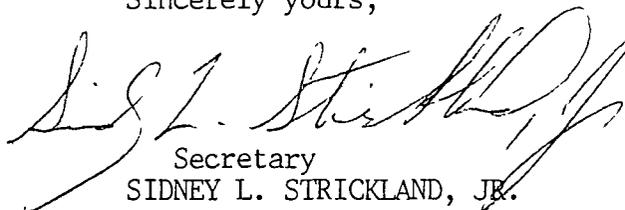
OFFICE OF THE SECRETARY

Edward J. Hammond  
Foley & Lardner  
777 East Wisconsin Avenue  
Milwaukee, Wisconsin 53202

Dear **Sir:**

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **9/30/93** at **11:50am**, and assigned recordation number(s). **18422**

Sincerely yours,



Secretary  
SIDNEY L. STRICKLAND, JR.

Enclosure(s)

MORTGAGE AND SECURITY AGREEMENT  
CHattel Security Agreement

Prepared and intended for use by commercial banks in transactions governed by Wisconsin Law

W.B.A. 410 (2/27/87)

© Wisconsin Bankers Association 1987

Business equipment and fixtures (and consumer goods and fixtures, and farm equipment and fixtures, if amount financed exceeds \$25,000), but NOT farm products

(Use only for loans (1) to organizations, or (2) primarily for a business purpose, or (3) when the amount financed exceeds \$25,000)

(Revised For Wisconsin Marital Property Act)

1. CREATION OF SECURITY INTEREST

The undersigned ("Debtor", whether one or more), grants to Firststar Bank Green Bay ("Secured Party") a security interest in the property, wherever located, described in Section 2 ("Collateral") to secure all debts, obligations and liabilities of any Debtor or Secured Party arising out of credit previously granted, credit contemporaneously granted or credit granted in the future by Secured Party to any Debtor, to any Debtor and another, or to another guaranteed or indorsed by any Debtor ("Obligations")

2 DESCRIPTION OF COLLATERAL

Make	Model	Year	Serial No or Identification No	Other Reasonable Identification	<input checked="" type="checkbox"/> If Checked here, description continues on attached sheet
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Ten (10) Bulkhead Railroad Cars  
(see attachment for description)

18432

SEP 30 1993 11 50 AM

INTERSTATE COMMERCE COMMISSION

and all accessions to, and spare and repair parts, special tools and equipment and replacements for, and all proceeds of the foregoing, and  if checked here, all equipment of the same type or kind hereafter acquired by Debtor, and its proceeds

If applicable, titled or to be titled in name of Besse Forest Products, Inc.

3. WARRANTIES

Debtor warrants

- (a) **OWNERSHIP** — Debtor owns (or with spouse owns) the Collateral, the Collateral is free of all liens, encumbrances and security interests (except Secured Party's security interest), and acting alone Debtor may grant a security interest in the Collateral.
- (b) **USE AND ADDRESS** — The Collateral is used or bought for use *primarily* for the purpose checked below
  - Personal, family or household purposes, or farming operations, and the address of Debtor's residence is shown opposite Debtor's signature.
  - Business, and the address of Debtor's residence, or if Debtor is a corporation or partnership, Debtor's place of business (or if Debtor has more than one place of business, the address of Debtor's chief executive office) is shown opposite Debtor's signature
- (c) **LOCATION OF COLLATERAL** — The Collateral will be kept at the address opposite Debtor's signature or, if not, at

(NO AND STREET) (CITY OR TOWN) (COUNTY) (STATE)

and such location shall not be changed without the prior written consent of Secured Party, but the parties intend that the Collateral, wherever located, is covered by this Agreement

(d) **FIXTURES** — If the Collateral is to be attached to real estate, the legal description of such real estate is

(e) **CHANGE OF NAME OR ADDRESS** — Debtor shall immediately advise Secured Party in writing of any change in name or address

4. PERSONS BOUND

The obligations of all Debtors under this Agreement are joint and several This Agreement benefits Secured Party, its successors and assigns, and binds Debtor(s) and their respective heirs, personal representatives, successors and assigns

5. OTHER PROVISIONS

The Secured Party shall have the absolute unilateral right to deem its lien on any collateral released, before or after surrender, without notice to the Debtor or without further action.

THIS AGREEMENT INCLUDES ALL THE PROVISIONS ON THE REVERSE SIDE.

Signed and Sealed on August 30, 19 93  
BESSE FOREST PRODUCTS, INC.

Address: P.O. Box 352  
SEE SECTIONS 3 (d) and (e)

Gladstone, MI 49837

County: \_\_\_\_\_

John D. Besse (SEAL)  
DEBTOR

\* John D. Besse, President

Gregory Besse (SEAL)  
DEBTOR

\* Gregory Besse, Secretary

## 6. ADDITIONAL PROVISIONS

**(a) Maintenance of Collateral.** Debtor shall maintain the Collateral in good condition and repair and not permit its value to be impaired; keep it free from all liens, encumbrances and security interests (other than those created or expressly permitted by this Agreement), defend it against all claims and legal proceedings by persons other than Secured Party, pay and discharge when due all taxes, license fees, levies and other charges upon it, not sell, lease or otherwise dispose of it or permit it to become a fixture or accession to other goods except as specifically authorized in this Agreement or in writing by the Secured Party; not permit it to be used in violation of any applicable law, regulation or policy of insurance. Loss of or damage to the Collateral shall not release Debtor from any of the Obligations

**(b) Insurance.** Debtor shall keep the Collateral, and Secured Party's interest in it, insured under policies with such provisions, for such amounts and by such insurers as shall be satisfactory to Secured Party from time to time, and shall furnish satisfactory evidence of such insurance to Secured Party. Debtor assigns (and directs any insurer to pay) to Secured Party the proceeds of all such insurance and any premium refund and authorizes Secured Party to indorse in the name of Debtor any instrument for such proceeds or refunds and, at the option of Secured Party, to apply such proceeds and refunds to any unpaid balance of the Obligations, whether or not due, and/or to restoration of the Collateral, returning any excess to Debtor. Secured Party is authorized, in the name of Debtor or otherwise, to make, adjust and/or settle claims under any credit insurance financed by Secured Party or any insurance on the Collateral or cancel the same after the occurrence of an event of default

**(c) Inspection of Collateral.** Secured Party is authorized to examine the Collateral wherever located at any reasonable time or times, and Debtor shall assist Secured Party in making any such inspection

**(d) Maintenance of Security Interest.** Debtor shall pay all expenses and, upon request, take any action reasonably deemed advisable by Secured Party to preserve the Collateral or to establish, determine priority of, perfect, continue perfected, terminate and/or enforce Secured Party's interest in it or rights under this Agreement

**(e) Authority of Secured Party to Perform for Debtor.** If Debtor fails to perform any of Debtor's duties set forth in this Agreement or in any evidence of or document relating to the Obligations, Secured Party is authorized, in Debtor's name or otherwise, to take any such action including without limitation signing Debtor's name or paying any amount so required, and the cost shall be one of the Obligations secured by this Agreement and shall be payable by Debtor upon demand with interest from the date of payment by Secured Party at the highest rate stated in any evidence of any Obligation but not in excess of the maximum rate permitted by law

**(f) Default** Upon the occurrence of one or more of the following events of default

**(1) Nonperformance** Debtor fails to pay when due any of the Obligations, or to perform, or rectify breach of, any warranty or other undertaking by Debtor in this Agreement or in any evidence of or document relating to the Obligations,

**(2) Inability to Perform.** Debtor, Debtor's spouse or a surety for any of the Obligations dies, ceases to exist, becomes insolvent or the subject to bankruptcy or insolvency proceedings,

**(3) Misrepresentation.** Any warranty or representation made to induce Secured Party to extend credit to Debtor, under this Agreement or otherwise, is false in any material respect when made, or

**(4) Insecurity.** Any other event which causes Secured Party, in good faith, to deem itself insecure, all of the Obligations shall, at the option of Secured Party and without any notice or demand, become immediately payable, and Secured Party shall have all rights and remedies for default provided by the Wisconsin Uniform Commercial Code, as well as any other applicable law and any evidence of or document relating to the Obligations. With respect to such rights and remedies,

**(5) Repossession.** Secured Party may take possession of the Collateral without notice or hearing, which Debtor waives

**(6) Assembling Collateral** Secured Party may require Debtor to assemble the Collateral and to make it available to Secured Party at any convenient place designated by Secured Party

**(7) Notice of Disposition** Written notice, when required by law, sent to any address of Debtor in this Agreement at least 10 calendar days (counting the day of sending) before the date of proposed disposition of the Collateral is reasonable notice

**(8) Expenses and Application of Proceeds.** Debtor shall reimburse Secured Party for any expense incurred by Secured Party in protecting or enforcing its rights under this Agreement, including without limitation reasonable attorneys' fees and legal expenses and all expenses of taking possession, holding, preparing for disposition, and disposing of the Collateral. After deduction of such expenses, Secured Party may apply the proceeds of disposition to the Obligations in such order and amounts as it elects

**(9) Waiver.** Secured Party may waive any default without waiving any other subsequent or prior default by Debtor

**(g) Consumer Debt.** Even though the Collateral may at any time secure a consumer transaction as defined in the Wisconsin Consumer Act ("Consumer Debt") by reason of this or any other agreement, Secured Party may exercise the rights and remedies in the Collateral provided by this agreement and the Uniform Commercial Code while any Obligation which is not Consumer Debt remains outstanding. If Secured Party disposes of Collateral pursuant to such rights, Secured Party shall hold, as possessory Collateral to secure any unpaid Consumer Debt, subject to the terms of the Wisconsin Consumer Act and any separate consumer security agreement relating to the Collateral, any proceeds in excess of the amount required to satisfy the non-Consumer Debt and the expenses referred to in section 6(f)(8) above

**(h) Non-Liability of Secured Party.** Secured Party has no duty to protect, insure or realize upon the Collateral. Debtor releases Secured Party from any liability for any act or omission relating to the Obligations, the Collateral or this Agreement, except Secured Party's wilful misconduct

**(i) Waiver of Defenses Against Assignee.** Debtor shall not assert against any assignee of Secured Party's rights under this Agreement or any evidence of the Obligations any claim or defense Debtor may have against Secured Party

**(j) Charging Debtor's Credit Balance.** Debtor grants Secured Party, as further security for the Obligations, a security interest and lien in any demand, savings or time account Debtor may at any time have with Secured Party (except accounts, the interest on which is exempt from federal income tax) and other money now or hereafter owed Debtor by Secured Party and, in addition, agrees that Secured Party may, at any time after the occurrence of an event of default, without prior notice or demand, set-off all or any part of the unpaid balance of the Obligations against any deposit balances Debtor may at any time have with Secured Party or other money now or hereafter owed Debtor by Secured Party

**(k) Interpretation.** The validity, construction and enforcement of this Agreement are governed by the internal laws of Wisconsin. All terms not otherwise defined have the meanings assigned to them by the Wisconsin Uniform Commercial Code. Invalidity of any provision of this Agreement shall not affect the validity of any other provision.

Attachment to Chattel Mortgage and Security Agreement between Besse Forest Products, Inc. and Firststar Bank of Green Bay dated August 30, 1993.

<u>Car Mark &amp; Nos.</u>	<u>Date Built</u>	<u>AAR Car Type Code</u>
SOU 114490	1971	FS46
SOU 114472	1971	FS46
SOU 114450	1971	FS46
SOU 114456	1971	FS46
SOU 114484	1971	FS46
SOU 114496	1971	FS46
SOU 114478	1971	FS46
SOU 114454	1971	FS46
SOU 114452	1971	FS46
SOU 114512	1968	FS47

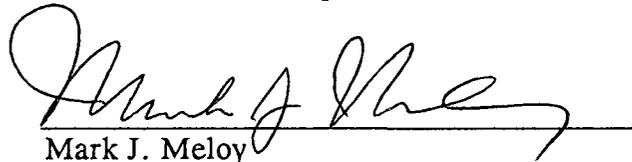
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**CORPORATE FORM OF ACKNOWLEDGEMENT**

State of Wisconsin     )  
  ) ss.  
County of Brown        )

On this 30th day of August, 1993, before me personally appeared John D. Besse and Gregory Besse, to me personally known, who being by me duly sworn, said that they are the President and Secretary of Besse Forest Products, Inc., that said instrument was signed on behalf of said corporation by authority of its Board of Directors and they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(SEAL)



Mark J. Meloy

Notary Public

My Commission Expires 11/28/93