

THIS CONTRACT OF SALE OF REAL PROPERTY made this 4th day of April, 1975, between ROBERT E. BARTELL and DARLA BARTELL, husband and wife, hereinafter called "Vendor", and LELSIE W. DEES, hereinafter called "Purchaser";

W I T N E S S E T H:

Vendor agrees to sell to Purchaser and Purchaser hereby agrees to buy from Vendor, at the price and on the terms, covenants, conditions and provisions hereinafter contained, all of the following described property situated in the County of Klamath, State of Oregon, more particularly described as follows:

The Southeast quarter and Southeast quarter of Southwest quarter of Section 14; the Northeast quarter of Section 23; all in Township 40 South, Range 13 East of the Willamette Meridian, EXCEPTING THEREFROM that portion conveyed to United States of America by deed recorded November 23, 1922, in Volume 59, page 334, Deed Records of Klamath County, Oregon.

SUBJECT TO: regulations, including levies, assessments, water and irrigation rights and easements for ditches and canals, of Langell Valley Irrigation District; reservations, including the terms and provisions thereof, of one-half (1/2) of the oil, gas and mineral rights contained in a deed from John S. Orr and Iva E. Orr to James F. Myers and Hazel M. Myers, dated March 12, 1937, recorded March 12, 1937, in Deed Volume 108, page 223; easement, including the terms and provisions thereof, from James F. Myers, et ux, to the California Oregon Power Company, a California corporation, by instrument recorded August 9, 1941, in Book 140, page 243, Deed Records; easement created by instrument, including the terms and provisions thereof, dated March 15, 1972, recorded March 21, 1972, in Book M-72 at page 3056, Microfilm Records, in favor of Langell Valley Irrigation District, a municipal corporation, for a perpetual easement and right of way upon and across the subject property; lease, including the terms and provisions thereof, dated July 2, 1973, recorded August 17, 1973, in Book M-73, page 11181, Microfilm Records, between Robert E. Bartell and Darla Bartell, husband and wife, and Dowdle Oil Corporation; as disclosed by the assessment and tax roll, the premises herein have been specially assessed for farm use and if the land becomes disqualified for this special assessment under the statutes, an additional tax, plus interest and penalty, will be levied for the number of years in which this special assessment was in effect for the land; contract of sale dated December 12, 1972, wherein Joseph Gerken and Yalanda Gerken are Seller and Robert E. Bartell and Darla Bartell are Purchaser, which said contract purchaser hereby assumes and agrees to pay and to indemnify Vendor herein and to hold Vendor harmless against according to the terms and provisions more specifically set forth in this contract; and easements and rights of way of record and apparent thereon.

SPECIAL TERMS, COVENANTS, CONDITIONS AND PROVISIONS

1. The purchase price of the property, which Purchaser agrees to pay, is the sum of \$157,700.00 payable as follows:
 - a. \$37,700.00 down payment, receipt of which is hereby acknowledged.
 - b. \$78,979.35 by assumption by Purchaser of the contract of sale wherein Vendor herein is Purchaser and Joseph Gerken and Yalanda Gerken are Sellers, which assumption is subject to the agreement more specifically set forth hereafter, and which sum includes interest on the principal amount to March 1, 1975.
 - c. \$41,020.65 deferred balance payable as follows: in annual installments of \$5,840.42, including interest at the rate of seven (7%) percent per annum from April 4, 1975, the first such installment

1 to be paid on the first day of January, 1976, and a like installment
2 on the first day of each January thereafter until the full sum of
3 principal and interest secured by this Contract has been paid in
4 full; provided, however, that the entire balance shall be due and
5 payable on or before January 1, 1985.

6 2. All installments due Vendor from Purchaser under this Contract
7 shall be paid without demand to the Escrow Holder hereinafter named. All
8 such installments received shall be applied first to interest accrued to
9 the date of receipt and then applied to reduce principal.

10 3. At any time after January 1, 1976, Purchaser may increase any
11 installment or prepay all or any part of the whole consideration together
12 with interest thereon to the date of any such payment. No partial pay-
13 ment, increased installment or payment for a partial conveyance by reason
14 of the eminent domain provisions of this Contract shall be credited in
15 lieu of any regular future installment, nor excuse Purchaser from making
16 the regular installments specified in this Contract.

17 4. As set forth above, the real property is subject to unrecorded
18 contract wherein Vendor herein is Buyer and Joseph Gerken and Yalanda
19 Gerken, husband and wife, are Seller, which contract is dated December 12,
20 1972, which secures an original debt in the amount of \$85,200.00, which
21 said contract is being held in escrow at First Federal Savings & Loan
22 Association. Purchaser covenants that he has examined the aforesaid con-
23 tract and accepts the same. Purchaser does hereby assume and agree to
24 pay said contract lien and obligation. Purchaser, therefore, covenants
25 and agrees with Vendor with regard to said contract lien to:

26 a. Pay and perform the terms thereof as provided in said con-
27 tract and the obligation secured thereby. This covenant shall in-
28 clude, but not be limited to, payment by Purchaser of any prepayment
29 penalties imposed by Joseph Gerken and Yalanda Gerken.

30 b. Not to increase the amount of the contract lien by incur-
31 ring any further indebtedness.

32 c. To hold Vendor harmless from and indemnify Vendor against
33 any and all liability, loss or damage Vendor might otherwise suffer
34 by reason of said contract lien, including, but not limited to,
35 claims, costs, demands, attorney fees or judgments, and to defend
36 Vendor from any claims brought or suits or actions filed against
37 Vendor by reason of the aforesaid contract.

38 If Purchaser neglects or fails to pay the sums due or to become due under
39 the note secured by said contract, or fails to perform any of the terms,
40 covenants and conditions of said contract or his covenants contained in
41 this portion of this Contract, and said failure is not occasioned by rea-
42 son of any default on the part of Vendor, Purchaser agrees to pay to Ven-
43 dor all sums paid or incurred by Vendor in protecting Vendor's rights
44 acquired by this Contract, including, but not limited to, costs, charges
45 and expenses, including costs of evidence of title or validity of Vendor's
46 interest in said real property, and reasonable attorney fees, with or
47 without trial, and if trial, both at trial or on appeal, incurred by
48 Vendor; which sums shall bear interest at the rate of ten (10%) percent
49 per annum from the date of demand therefor. If Purchaser fails to pay
50 the sums due Vendor under this provision of this Contract within ten (10)
51 days from date of demand therefor, or otherwise is in breach of the pro-
52 visions of this paragraph, Purchaser shall be considered to be in default
53 under the terms of this Contract and Vendor shall be entitled to pursue
54 any remedies that may be available by law or by equity under the premises.

55 5. Purchaser has made an independent investigation and inspection of
56 the real property herein described and has entered into this Contract with-
57 out relying on any statement, representation or covenant not specifically
58 embodied in this Contract, and accepts the property described in this Con-
59 tract as is, in its present condition, and requires no work of any kind
60 to be done on said property by Vendor.

61 GENERAL TERMS, COVENANTS, CONDITIONS AND PROVISIONS

62 1. The real property above described, hereby sold to Purchaser, in-
63 cludes, all and singular, the tenements, hereditaments, rights, easements,
64 privileges and appurtenances thereunto belonging or in anywise appertaining,
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66

1 improvements thereon, including, but not limited to, stationary pumps,
 2 pumping stations, pumping motors, pumping engines, reservoirs, nonportable
 3 pipes and flumes or other nonportable equipment now used for the produc-
 4 tion of water thereon or for the irrigation or drainage thereof, and the
 5 reversions, remainders, rents, issues and profits thereof, together with
 6 all the rights of the use of water for irrigating said premises and for
 7 domestic use thereon to which Vendor is now entitled, or which are now
 8 used on said premises, however the same may be evidenced, and together
 9 with all shares of stock or shares of water in any ditch or irrigation
 10 company which, in any manner, entitles the Vendor to water for irrigating
 11 or domestic purposes upon said real property. The Vendor's lien created
 12 by this Contract shall and does hereby include the real property above
 13 described, together with, all and singular, the tenements, hereditaments,
 14 rights, easements, privileges and appurtenances thereunto belonging or in
 15 anywise appertaining, and all improvements now or hereafter thereon, in-
 16 cluding, but not limited to, stationary pumps, pumping stations, pumping
 17 motors, pumping engines, reservoirs, nonportable pipes and flumes or other
 18 nonportable equipment now or hereafter used for the production of water
 19 thereon for the irrigation or drainage thereof, and the reversions, re-
 20 mainders, rents, issues and profits thereof, and together with all the
 21 rights to use of water for irrigating said premises and for domestic use
 22 thereon to which said real property is now or may hereafter become entitled,
 23 or which now are or may hereafter be used on said premises, however the
 24 same may be evidenced, and together with all shares of stock or shares of
 25 water in any ditch or irrigation company which, in any manner, entitles
 26 the legal or equitable owner thereof to water for irrigating or domestic
 27 purposes upon said real property. In addition, Purchaser hereby agrees
 28 that Vendor's lien is superior to any and all rights of Purchaser under
 29 and by virtue of any homestead, stay or exemption laws now in force, or
 30 which may hereafter become laws.

31 2. Vendor hereby warrants that he has good and merchantable title
 32 to the real property above described, subject to the exceptions above set
 33 forth. Vendor will, upon execution hereof, make and execute in favor of
 34 Purchaser, a good and sufficient warranty deed conveying said premises
 35 free and clear, as of this date, of all encumbrances, subject to the above
 36 set forth exceptions. Vendor will, within a reasonable time after the
 37 execution hereof, place said deed and the original of this Contract, to-
 38 gether with any other conveyances of title or security instruments re-
 39 quired hereby, in escrow at First Federal Savings & Loan Association of
 40 Klamath Falls, with instructions to said Escrow Holder that, when and if
 41 the Purchaser shall have paid the balances of the purchase money and in-
 42 terest as above specified and shall have complied with all other terms
 43 and conditions of this Contract, to deliver the same to Purchaser subject
 44 to the usual printed conditions and provisions of the standard form of
 45 escrow instructions provided by said Escrow Holder.

46 3. Vendor shall furnish, at his own expense, a Purchaser's Title
 47 Insurance Policy issued by Transamerica Title Insurance Company under its
 48 Order No. 28-8547 insuring Purchaser's title in the above described real
 49 property in the amount of \$157,700.00, subject to the above set forth
 50 exceptions and printed conditions and exceptions contained in the usual
 51 form of title policy issued by said title insurance company.

52 4. Purchaser shall be entitled to possession of the above described
 53 real property on the date this Contract is recorded. As above provided in
 54 the Special Terms, Covenants, Conditions and Provisions, Purchaser shall
 55 remain in possession so long as Purchaser is not in default hereunder.
 56 Purchaser shall and hereby agrees to keep said real property in clean,
 57 sanitary, sightly and attractive condition; to commit no waste or otherwise
 58 damage or injure said real property; to maintain said real property in
 59 accordance with the laws and ordinances and regulations of any constituted
 60 authority applying to said real property and to make no unlawful use there-
 61 of; to pay regularly and seasonably, and before the same shall become de-
 62 linquent, all taxes, assessments and charges of whatever nature (including
 63 additional charges by reason of change of use) levied and assessed against
 64 said real property and to pay and discharge all encumbrances thereafter
 65 placed thereon by Purchaser; to permit no lien or other encumbrances to be
 66 filed upon or placed against said real property without the written consent

1 of Vendor; and it is further understood and agreed, for the purposes of
 2 this provision, that if Purchaser fails to pay or discharge any taxes,
 3 assessments, liens, encumbrances or charges, Vendor, at his option and
 4 without waiver of default or breach of Purchaser, and without being obliged
 5 to do so, may pay or discharge all or any part thereof, all of which said
 6 sums so paid by Vendor shall become repayable by Purchaser, together with
 7 interest at the rate of ten (10%) percent per annum, upon demand, payment
 8 of which is part of the performance of this Contract by Purchaser and a
 9 condition precedent to delivery of the warranty deed and other documents
 10 by the Escrow Holder.

11 5. Purchaser agrees to keep the buildings and improvements now on or
 12 hereafter placed upon the above described real property insured against
 13 loss by fire or other casualty in an amount not less than maximum insur-
 14 able value as determined by the insurance carrier and shall obtain, at his
 15 own expense, said insurance in the name of Vendor as the primary insured
 16 with an endorsement thereon providing for loss payable to Vendor and Pur-
 17 chaser as their respective interests may appear. The policy or policies
 18 of insurance shall be delivered to Vendor or, in lieu thereof, a certificate
 19 of such insurance may be provided by Purchaser and delivered to Vendor.
 20 If a loss should occur for which insurance proceeds shall become payable,
 21 the Purchaser may elect to either rebuild or repair the portion of the
 22 building so destroyed, or apply the proceeds to payment of the then unpaid
 23 balance of the purchase money. If the Purchaser elects to rebuild, he
 24 shall sign such documents as may be required by Vendor to guarantee the
 25 application of the insurance proceeds to the cost of such rebuilding or
 26 repair.

27 6. In the event any governmental agency or entity having the power
 28 of eminent domain acquires by eminent domain or by negotiated sale in lieu
 29 of eminent domain all, or any portion, of the real property described in
 30 this Contract, Vendor may require Purchaser to apply all proceeds received
 31 by Purchaser from such acquisition (remaining after payment by Purchaser
 32 of attorney fees, appraiser fees and related necessary and reasonable costs
 33 in connection with securing said proceeds), which proceeds are hereinafter
 34 called "net proceeds", toward the payment of the sums secured by this Con-
 35 tract. Upon receipt of said net proceeds, Purchaser shall notify Vendor
 36 of the amount of said net proceeds and Vendor shall, within fifteen (15)
 37 days after such notification, notify Purchaser in writing if Vendor elects
 38 to have said net proceeds applied toward payment of the sums secured by
 39 this Contract. If Vendor fails to so notify Purchaser of such election,
 40 Vendor shall conclusively be deemed to have elected not to require Pur-
 41 chaser apply said net proceeds toward the sums secured by this Contract.
 42 If Vendor elects to have said net proceeds applied toward payment of the
 43 sums secured by this Contract, the amount to be received by Vendor shall
 44 not exceed the total of the principal plus accrued interest to the date
 45 of receipt thereof by Vendor, and all such sums shall be paid to the Escrow
 46 Holder named herein. Regardless of whether Vendor elects to have said net
 47 proceeds applied to the sums secured by this Contract, Vendor will join in
 48 any conveyance required by the governmental agency or entity acquiring a
 49 portion or all of the real property described herein by eminent domain,
 50 but Vendor shall not be required to partially convey more property than
 51 that which is acquired by such governmental agency or entity. Vendor
 52 shall not be obligated to participate in any negotiations with such govern-
 53 mental agency or entity. Any notice or notices required to be given by
 54 Purchaser to Vendor pursuant hereto shall be in writing, and shall be
 55 deemed given when the same is deposited in the United States Mail as
 56 registered mail, postage prepaid, addressed to Vendor at the last address
 57 of Vendor shown on the records of the Escrow Holder.

58 7. If Purchaser shall sell said real property described herein and
 59 securing the unpaid balance of this Contract, Vendor may elect to permit
 60 the subsequent Purchaser to assume the balance of Purchaser's obligation
 61 secured hereby or to demand payment from Purchaser or the transferee of
 62 said Purchaser, or both (at the option of the Vendor), of such portion
 63 of the deferred balance as Vendor may consider satisfactory, or declare
 64 the entire balance of the deferred balance due and payable. This clause
 65 cannot be waived unless Purchaser gives Vendor notice of such sale in
 66 writing and Vendor, after receipt of such written notice, accepts a payment

1 from the subsequent Purchaser. The written notice provided for herein
2 shall be deemed given when the same is deposited in the United States Mail
3 as registered mail, addressed to the last address of Vendor shown on the
4 records of the Escrow Holder.

5 8. Vendor may appear in or defend any action or proceeding at law,
6 in equity or in bankruptcy affecting, in any way, the security hereof and,
7 in such event, Vendor shall be allowed and paid, and Purchaser hereby
8 agrees to pay, all costs, charges and expenses, including costs of evi-
9 dence of title or validity and priority of the security and attorney fees
10 in a reasonable sum, incurred in any such action or proceeding in which
11 Vendor may appear, which shall bear interest at ten (10%) percent from
12 date of demand therefor. Failure of Purchaser to pay Vendor for such
13 costs, charges and expenses within ten (10) days from date of demand
14 therefor shall constitute a breach of this Contract.

15 9. If Purchaser shall fail to perform any of the terms of this Con-
16 tract, time of payment and performance being of the essence, Vendor shall,
17 at his option, subject to the requirements of notice as herein provided,
18 have the following rights:

- 19 a. To foreclose this Contract by strict foreclosure in equity;
- 20 b. To declare the full unpaid balance of the purchase price
- 21 immediately due and payable; and,
- 22 c. To specifically enforce the terms of this Contract by suit

23 in equity.

24 All remedies of Vendor shall, at the election of Vendor, be cumulative.
25 10. Purchaser shall not be deemed in default for failure to perform
26 any covenant or condition of this Contract, (other than the failure to
27 make payments as provided for herein,) until notice of said default has
28 been given by Vendor to Purchaser and Purchaser shall have failed to remedy
29 said default within thirty (30) days after the giving of the notice.

30 11. If Purchaser shall fail to make payments as herein provided and
31 said failure shall continue for more than ten (10) days after the payment
32 becomes due, Purchaser shall be deemed to be in default and Vendor shall
33 not be obligated to give notice to Purchaser of a declaration of said
34 default.

35 12. Where notice in writing is required by Vendor to the Purchaser,
36 such notice shall be deemed given when the same is deposited in the United
37 States Mail as registered mail, addressed to the last address of Purchaser
38 shown on the records of the Escrow Holder.

39 13. No waiver by Vendor of any breach of any covenant of this Con-
40 tract shall be construed as a continuing waiver of any subsequent breach
41 of such covenant, nor as a waiver of any breach of any other covenant, nor
42 as a waiver of the covenant itself.

43 14. In the event any suit or action is commenced to foreclose this
44 Contract, the court having jurisdiction of the case may, upon motion by
45 Vendor, appoint a receiver to collect the rents and profits arising out
46 of the above described real property and to take possession, management
47 and control of the same during pendency of such foreclosure proceeding
48 or until payment of the obligations hereby secured and apply said rents
49 and profits to the payment of the amount due hereunder, first deducting
50 all proper charges and expenses attending the execution of said receiver-
51 ship.

52 15. Upon the commencement of any suit or action to collect the indebt-
53 edness or disbursements secured hereby, or any part thereof, or to enforce
54 any provision of this Contract by specific performance, foreclosure, or
55 otherwise, there shall become due, and Purchaser agrees to pay to Vendor,
56 in addition to all statutory costs and disbursements, any amount Vendor
57 may incur or pay for any title report, title search, insurance of title
58 or other evidence of title subsequent to the date of this Contract on
59 any of the real property above described and this Contract shall be security
60 for the payment thereof.

61 16. In the event any suit or action is instituted to collect the
62 indebtedness or disbursements secured hereby, or any part thereof, or to
63 enforce any provision of this Contract by specific performance, or foreclo-
64 sure, or otherwise, the prevailing party, at trial or on appeal, shall be
65 entitled to such reasonable attorney fees as shall be fixed by the court
66 having jurisdiction of the case, in addition to statutory costs and

1 disbursements.

2 17. This Contract contains the full understanding of the parties
3 with respect to the subject hereof and no modification hereof shall be
4 given effect unless the same be in writing subscribed by the parties
5 hereto or their successors in interest.

6 18. This Contract shall bind and inure to the benefit of, as the
7 circumstances may require, the parties hereto and their respective suc-
8 cessors, heirs, executors, administrators and assigns.

9 19. In construing this Contract, the singular shall include both
10 the singular and the plural and the masculine both the masculine and
11 feminine.

12 WITNESS the hands and seals of the parties hereto the day and year
13 first above written.

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15
16
17 Robert E. Bartell (SEAL)
18 Robert E. Bartell

19
20
21
22 Darla Bartell (SEAL)
23 Darla Bartell

24
25 Reb +
26 Mail Tax Statements To:

Vendor

27
28
29 Leslie W Dees
30 Box 537
31 Merrill, Oregon 97633

32
33
34 Leslie W Dees (SEAL)
35 Leslie W. Dees

Purchaser

36 STATE OF OREGON)
37) ss.
38 County of Klamath)

39 On the 4th day of April, 1975, personally appeared the above named
40 Robert E. Bartell and Darla Bartell, husband and wife, and acknowledged
41 the foregoing instrument to be their voluntary act and deed.

Before me:

(SEAL)

44
45
46 Marlene T. Addington
47 Notary Public for Oregon
48 My commission expires: 3-21-77

49
50
51 Marlene T. Addington
52 Notary Public for Oregon
53 My Commission expires: 3-21-77

54 STATE OF OREGON)
55) ss.
56 County of Klamath)

57 On the 4th day of April, 1975, personally appeared the above named
58 Leslie W. Dees and acknowledged the foregoing instrument to be his volun-
59 tary act and deed.

Before me:

(SEAL)

60
61
62 Marlene T. Addington
63 Notary Public for Oregon
64 My commission expires: 3-21-77

65
66 Marlene T. Addington
Notary Public for Oregon
My Commission expires: 3-21-77

Contract
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STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of TRANSAMERICA TITLE INS. CO.

this 7th day of APRIL A. D., 1975 at 10:30 o'clock A. M., and duly recorded in

Vol. M 75 of DEEDS on Page 3677

FEE \$ 12.00

Return To: TIA
Attn: Marlene
WM. D. MILNE, County Clerk
By Hazel D. Dees Deputy