

17003

## CONTRACT OF SALE

11698

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38-11020

1 THIS CONTRACT is made this 20 day of July, 1976, by and  
2 between ROBERT P. TRACY and IRIS L. TRACY, husband and wife, herein  
3 called "Sellers", and whose address is 5170 South Pacific Highway,  
4 Medford, Oregon, and JOHN NIKOLA and CLYDE GILLAM,  
5  
6 herein called "Buyers", whose address is 823 Towne Street, Costa  
7 Mesa, California,

## W I T N E S S E T H:

8  
9 Sellers agree to sell to Buyers and Buyers agree to purchase  
10 from Sellers, for the price and on the terms and conditions set  
11 forth below, that certain real property and all improvements there-  
12 on, situated in Klamath County, State of Oregon, described as  
13 follows:

14 All in Township 39 South, Range 11 East of the Willamette  
Meridian:

15 Section 3: Lot 4; SW 1/4 of NW 1/4; NW 1/4 of SW 1/4

16 Section 4: Lot 1; SE 1/4 of NE 1/4; NE 1/4 of SE 1/4

17  
18 SUBJECT TO: All future real property taxes and assess-  
19 ments, and, if the land becomes disqualified for  
20 special farm use assessment under the statutes, an  
21 additional tax, plus interest and penalty, will be  
22 levied for the number of years in which this special  
23 assessment was in effect for the land; rights of the  
24 public in and to any portion lying within the limits  
25 of roads or highways; reservations, restrictions,  
26 easements and rights of way of record, and those  
apparent on the land, and, liens and assessments of  
Klamath Project and Horsefly Irrigation District and  
regulations, contracts, easements and water and irriga-  
tion rights in connection therewith.

24 Together with the following irrigation pipe and pump:

25 14 pieces of 30' x 6" main line;  
26 65 pieces of 40' x 4" laterals;

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Return: T/A Kathy

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- 1 16 pieces of 40' x 3" laterals;  
2 2 pieces of 20' x 4" laterals;  
3 1 25 hp pump

4 located upon the above real property.

5 Until a change is requested, all tax statements shall be  
6 sent to the following address:

7 Clyde Gillam  
8 823 Towne Street  
9 Costa Mesa, California

10 PURCHASE PRICE

11 1.

12 Buyers promise and agree to pay as the total purchase price  
13 for the above property the sum of \$188,000.00. Such sum shall be  
14 paid as follows:

- 15 a. The sum of \$35,000.00 has previously been paid by  
16 Buyers as earnest money;
- 17 b. The remaining balance of \$153,000.00 and interest shall  
18 be paid as follows:
- 19 (1) The sum of \$7,500.00, including accrued interest  
20 on November 1, 1976;
- 21 (2) The then remaining balance and interest shall be  
22 payable in annual installments of \$16,185.72 each,  
23 including interest, the first such annual in-  
24 stallment to be paid on the 1st day of November,  
25 1977, and subsequent and like payments to be paid  
26 on or before the 1st day of each November there-  
after until the entire purchase price, including  
both principal and interest, is paid in full.

Each payment shall be applied first to interest to the date  
of payment and the balance to principal.

INTEREST

1.

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1 Interest on all unpaid or deferred balances shall commence  
2 on the date this agreement is fully executed and shall be computed  
3 at the rate of 7 1/2% per annum.

4 POSSESSION

5 1.

6 Buyers shall be entitled to the possession of the above land  
7 and improvements on the date this agreement is fully executed,  
8 provided, however, that Sellers may enter upon the property at  
9 reasonable times during the term hereof for the purpose of inspect-  
10 ing the property, and, provided, further, that Sellers shall retain  
11 possession of the hay storage barn until August 15, 1976, or until  
12 their hay is removed, whichever occurs first, together with the  
13 right to enter upon the said premises from time to time to remove  
14 said hay.

15 PRE-PAYMENT

16 1.

17 After August 1, 1977, but not before, Buyers shall have the  
18 right and privilege of increasing any annual payment or prepaying  
19 the entire balance and interest at any time, all, without penalty,  
20 provided, however, that additional payments shall not excuse Buyers  
21 from making the regular annual payments provided for in this con-  
22 tract until the remaining balance has been paid in full.

23 BILL OF SALE

24 1.

25 Sellers shall execute and deliver a Bill of Sale to the above  
26 irrigation pipe and motor to Buyers on the date this agreement is

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1 fully executed.

2 ESCROW

3 1.

4 Sellers agree that upon the execution hereof they shall make  
5 and execute in favor of Buyer a good and sufficient deed conveying  
6 said land free and clear of all liens and encumbrances except as  
7 hereinabove set forth, and will place said deed, together with one  
8 of these agreements in escrow at the United States National Bank  
9 of Oregon, South Medford Branch, Medford, Oregon, and the parties  
10 hereto agree to enter into written escrow instructions in form  
11 satisfactory to said escrow holder and the parties hereto whereby  
12 the escrow holder is instructed that at such time as Buyers shall  
13 have paid the purchase price in accordance with the terms and condi-  
14 tions of this agreement, said escrow holder shall deliver said deed  
15 to Buyers, but in case of default by Buyers said escrow holder  
16 shall, on demand, surrender said deed to Sellers, or either of them.

17 TAXES AND INSURANCE

18 1.

19 Buyers shall pay promptly all indebtedness incurred by their  
20 acts which may become a lien or purported lien, upon said property,  
21 and shall regularly and before the same shall become delinquent,  
22 pay all taxes, including adjustment of same for any reason, assess-  
23 ments, liens, purported liens, and encumbrances of whatsoever kind  
24 affecting said property after this date, provided, all such taxes,  
25 assessments and "charges" for the current year shall be pro-rated  
26 as of the date hereof and in the event Buyers shall fail to so pay,

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1 when due, any such matters or amounts required by Buyers to be paid  
2 hereunder, or to procure and pay seasonably for insurance, Sellers  
3 may pay any or all such amounts and any such payment shall be added  
4 to the purchase price of said property on the date such payments  
5 are made by Sellers and such amount shall bear interest at the rate  
6 herein provided, without waiver, however, of any right arising to  
7 Sellers for Buyers' breach of contract, and, in such event or  
8 events, the escrow holder is hereby directed and authorized to so  
9 add such amounts to the contract balance upon being tendered a  
10 proper receipt therefor. "Charges" shall include irrigation charges  
11 and assessments and power charges.

12 2.

13 Commencing with the possession date and thereafter at all  
14 times during the term of this contract, Buyers shall with respect  
15 to the property, keep all improvements now existing or which shall  
16 hereafter be placed on the property insured against fire and other  
17 casualties covered by a standard policy of fire insurance with ex-  
18 tended coverage endorsements. The policy shall be written to the  
19 full replacement value with loss payable to Sellers and Buyers as  
20 their respective interests may appear, and certificates evidencing  
21 the policies shall be delivered to Sellers and shall contain a  
22 stipulation providing that coverage will not be cancelled or dimin-  
23 ished without a minimum of 10 days written notice to Sellers. In  
24 the event of loss, Buyers shall give immediate notice to Sellers.  
25 Sellers may make proof of loss if Buyers fail to do so within 15  
26 days of the casualty.

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ALTERATIONS AND IMPROVEMENTS

1.

Buyers agree that all improvements now located or which shall hereafter be placed on the property, shall remain a part of the real property and shall not be removed at any time prior to the expiration of this agreement without the written consent of Sellers. Buyers shall not commit or suffer any waste of the property, or any improvements thereon, or alteration thereof, and shall maintain the property, improvements and alterations thereof, in good condition and repair, provided, Buyers shall not make or cause to be made any major improvement or alteration to the property without first obtaining the written consent of Sellers.

FARM PRACTICES

1.

Buyers shall at all times during the term hereof operate, manage, ranch and farm the subject property in the manner and custom as is practiced by good ranch operators in the Bonanza, Oregon, area, it being understood that such management shall include like practices with respect to water holding and irrigating.

INDEMNIFICATION AND LIABILITY INSURANCE

1.

Buyers shall during the term hereof indemnify and defend Sellers from any claim, loss or liability arising out of or related to any activity of Buyers on the subject property or any condition of the property and shall maintain public liability and property damage insurance in a responsible company with limits of not less

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1 than \$100,000 for injury to one person and \$300,000 for injury to  
2 two or more persons in one occurrence, and \$50,000 for damage to  
3 property.

4 ALLOCATION

5 1.

6 The parties do hereby agree that the sum of \$2,000.00 shall  
7 be allocated to the above irrigation pipe and pump.

8 TITLE INSURANCE

9 1.

10 Sellers shall furnish at Sellers' expense a Purchasers Policy  
11 of Title Insurance in the amount of \$186,000.00 within thirty days  
12 from the date of closing, insuring Buyers against loss or damage  
13 sustained by Buyers by reason of the unmarketability of Sellers'  
14 title, or liens or encumbrances thereon, excepting matters herein  
15 expressly covered and further excepting matters contained in the  
16 usual printed exceptions in such title insurance policies. It is  
17 expressly agreed that Item 2 of the Preliminary Report for Title  
18 Insurance will be eliminated by Sellers within thirty days after  
19 closing in escrow.

20 CONDITION OF PROPERTY

21 1.

22 Buyers accept the land, buildings, improvements, and all  
23 other aspects of the property in their present condition, as is,  
24 including latent defects, without any representations or warranties,  
25 expressed or implied, unless they are in writing signed by Sellers.  
26 Buyers agree that they have ascertained, from sources other than



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1 Sellers the applicable zoning, building, housing, and other regul-  
2 atory ordinances and laws and that they accept the property with  
3 full awareness of these ordinances and laws as they may affect the  
4 present use or any intended future use of the property, and Sellers  
5 have made no representations with respect thereto.

6 ASSIGNABILITY

7 1.

8 Buyers agree that they will not assign, sell, transfer or  
9 dispose of their interest in this agreement or the said land or  
10 improvements covered herein without first obtaining the written  
11 consent of Sellers to so do, provided, however, that Sellers agree  
12 that they will not unreasonably withhold such consent.

13 CROPS

14 1.

15 Sellers shall be entitled to the 1976 first cutting of grass  
16 and/or alfalfa hay, exclusive of any interest of Buyers thereto,  
17 and, Buyers shall be entitled to all hay and pasture thereafter.

18 IRRIGATION

19 1.

20 Buyers assume the responsibility of irrigating said real  
21 property after the date hereof.

22 MISCELLANEOUS

23 1.

24 This document is the entire, final, and complete agreement of  
25 the parties pertaining to the sale and purchase of the property,  
26 and supercedes and replaces all written and oral agreements here-

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1 tofore made or existing by and between the parties or their repre-  
2 sentatives insofar as the property is concerned.

3 2.

4 That all current charges for electrical power to the subject  
5 property shall be pro-rated by the parties hereto as of the date  
6 hereof.

7 DEFAULT

8 1.

9 PROVIDED, FURTHER, that in case Buyers shall fail to make  
10 the payments aforesaid, or any of them, punctually and upon the  
11 strict terms and at the times above specified, or fail to keep any  
12 of the other terms or conditions of this agreement, time of payment  
13 and strict performance being declared to be the essence of this  
14 agreement, then Sellers shall have the following rights: (1) To  
15 foreclose this contract by strict foreclosure in equity; (2) To  
16 declare the full unpaid balance immediately due and payable; (3) To  
17 specifically enforce the terms of this agreement by suit in equity;  
18 (4) To declare this contract null and void, and in any of such cases,  
19 except exercise of the right to specifically enforce this agree-  
20 ment by suit in equity, all the right and interest hereby created  
21 or then existing in favor of Buyers derived under this agreement  
22 shall utterly cease and determine, and the premises aforesaid shall  
23 revert and revest in Sellers without any declaration of forfeiture  
24 or act of re-entry, and without any other act by Sellers to be per-  
25 formed and without any right of Buyers of reclamation or compensa-  
26 tion for money paid or for improvements made, as absolutely, fully

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1 and perfectly as if this agreement had never been made.

2 Should Buyers, while in default, permit the premises to be-  
3 come vacant, Sellers may take possession of same for the purpose  
4 of protecting and preserving the property and their security inter-  
5 est herein, and in the event possession is so taken by Sellers they  
6 shall not be deemed to have waived their right to exercise any of  
7 the foregoing rights.

8 In the event suit or action is instituted to enforce any of  
9 the terms of this contract, the prevailing party shall be entitled  
10 to recover from the other party such sum as the court may adjudge  
11 reasonable as attorney's fees at trial or on appeal of such suit  
12 or action, in addition to all other sums provided by law.

13 Buyers further agree that failure by Sellers at any time to  
14 require performance by Buyers of any provision hereof shall in no  
15 way affect Sellers' right hereunder to enforce the same, nor shall  
16 any waiver by Sellers of any breach of any provision hereof be held  
17 to be a waiver of any succeeding breach of any such provision, or  
18 as a waiver of the provision itself.

19 This agreement shall bind and inure to the benefit of, as the  
20 circumstances may require, the parties hereto and their respective  
21 heirs, executors, administrators, successors and assigns, subject  
22 to the foregoing.

23 WITNESS the hands of the parties the day and year first  
24 herein written.

25 SELLERS:

*Robert P. Tracy*  
Robert P. Tracy

*Iris L. Tracy*  
Iris L. Tracy

26  
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BUYERS:

John Nikola  
John Nikola

Clyde Gillam  
Clyde Gillam

STATE OF OREGON )  
County of Klamath ) ss.

July 9, 1976

Personally appeared the within named ROBERT P. TRACY and IRIS L. TRACY, husband and wife, and acknowledged the foregoing instrument to be their voluntary act and deed.

BEFORE ME:

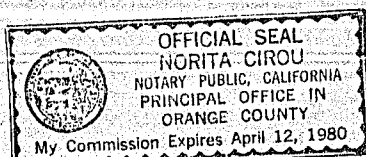
Notary Public for Oregon  
My Commission expires: 9-26-77

STATE OF California )  
County of Orange )

July 20, 1976

Personally appeared the within named JOHN NIKOLA and CLYDE GILLAM and acknowledged the foregoing instrument to be their voluntary act and deed.

BEFORE ME:



Notary Public for  
My Commission expires:

FORM NO. 23 — ACKNOWLEDGMENT  
STEVENS-NESS LAW PUB. CO., PORTLAND, ORE.

STATE OF OREGON,

County of Klamath

BE IT REMEMBERED, That on this 29 day of July, 1976, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Clyde Gillam

known to me to be the identical individual described in and who executed the within instrument and acknowledged to me that he executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public for Oregon  
My Commission expires: 12-25-76

STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 30th day of JULY A.D., 1976 at 3:38 o'clock P.M., and duly recorded in Vol. 11698 of DEEDS on Page 11698

FEE \$ 33.00

WM. D. MILNE, County Clerk

By Hazel Drazie Deputy