

38-11129

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CONTRACT OF SALE

1 THIS CONTRACT is made as of this 10th day of August, 1976,
2 by LEE S. HOPPER and MELINDA J. HOPPER, husband and wife, and TED
3 L. GLIDWELL and JUDY A. GLIDWELL, husband and wife, whose address
4 is Chiloquin, Oregon, herein called "Sellers", and, JAMES LIVIE,
5 MICHAEL A. O'KEEFE and LYMAN GATES MASON, whose address is 3901 Las
6 Posas Road, Camarillo, California, herein called "Buyers",

7 WITNESSETH:

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

13 The S 1/2 NW 1/4, NW 1/4 SW 1/4, E 1/2 SW 1/4, W 1/2
14 SE 1/4, SW 1/4 NE 1/4, Section 12, Township 35 South,
Range 9 E.W.M., Klamath County, Oregon.

15 SUBJECT TO: 1976-77 real property taxes which are now a
16 lien, but not yet payable, and all future real property
17 taxes and assessments. The premises herein have been
18 specially assessed for farm use. If the land becomes
19 disqualified for this special assessment under the
20 statutes, an additional tax, plus interest and penalty,
21 will be levied for the number of years in which this
22 special assessment was in effect for the land; rights of
23 the public in and to any portion of said premises lying
24 within the limits of roads and highways, and particularly
25 Indian Service Roads; reservations, restrictions, ease-
26 ments and rights of way of record, and those apparent on
the land; Mortgage, including the terms and provisions
thereof, with interest thereon and such future advances
as may be provided therein, dated October 24, 1968, recorded
October 28, 1968, in Book M-68, page 9625, executed by
John S. Kronenberger and Noreen H. Kronenberger, husband
and wife, as Mortgagors, to Fred Kenneth Clark and Irma
Clark, husband and wife, as Mortgagees, which said mort-
gage is not being assumed; Contract of Sale dated May 15,
1974, wherein Walter H. Kronenberger and John S. Kronenberger
were Sellers and Lee S. Hopper and Melinda J. Hopper, hus-
band and wife, and Ted L. Glidwell and Judy A. Glidwell,
husband and wife, were Buyers, which said Contract the

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1 Buyers herein assume and agree to pay according to the
2 terms thereof, and hold Sellers harmless therefrom.

3 Together with the following personal property:

4 1972 Hesston Swather Model # 520, Serial # Hs31-4452
5 1969 International Wire Baler, Model # 57, Serial # 4138N
6 1965 International Deisel Tractor Model 460, Serial # 8162S-Z
7 Farmall Tractor Model H, Serial # 3586DC
8 1951 Chevrolet 2 ton truck, Serial 9VW1-3218
9 (1) 550 gallon fuel tank (gas)
(1) 285 gallon fuel tank (deisel)
(1) Two bottom plow
(1) Bale loader
(1) Baughman Fertilizer Spreader Model BA21032
(1) Cattle squeeze chute
(15) Irrigation syphons

10 located upon said real property.

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

13 *MAD* Michael A. O'Keefe
14 3901 Las Posas Road
Camarillo, California 93030

15 PURCHASE PRICE

16 1.

17 Buyers promise and agree to pay as the total purchase price
18 for the above real and personal property the sum of \$266,500.00,
19 which sum shall be paid as follows:

- 20 a. The sum of \$35,750.00 has previously been paid by
21 Buyers as earnest money;
22 b. The further and additional sum of \$35,750.00 shall
be paid on January 30, 1977;
23 c. The further and additional sum of \$136,827.02 by Buyers
24 assuming and agreeing to pay that certain Contract of
25 Sale dated 5/15/74 wherein Walter H. Kronenberger and
26 John S. Kronenberger were Vendors and the above named
"Sellers" were Vendees on which the current balance is
\$134,451.07 plus accrued interest to 8/10/76, said
contract being recorded 6/3/74 in Book M-74 at page

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1 6744, Microfilm Records of Klamath County, Oregon, and
2 being in escrow at the United States National Bank of
3 Oregon, Chiloquin Branch, Chiloquin, Oregon, escrow
4 number 83-1062, providing for payments of \$13,930.20
5 annually;

- 6 d. The remaining balance and interest shall be payable in
7 annual payments of \$8,400.00 each, including interest,
8 the first such annual installment to be paid on the
9 10th day of August, 1977, and subsequent and like pay-
10 ments to be paid on or before the 10th day of each
11 August thereafter until the said balance and interest
12 is paid in full.

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

15 INTEREST

16 1.

17 Interest on all unpaid or deferred balances shall commence
18 on the 10th day of August, 1976, and shall be computed at the rate
19 of 7 1/2% per annum., excluding, however, said amount so assumed.

20 PRE-PAYMENT

21 1.

22 After August 10, 1978, but not before, Buyers shall have the
23 right and privilege of increasing any annual payment or prepaying
24 the entire balance at any time.

25 POSSESSION

26 1.

Buyers shall be entitled to possession of said real and per-
sonal property on September 10, 1976, provided, however, that Buyers
shall have the right to irrigate the subject property and harvest
the crops thereon prior to said above date, including the right of
ingress and egress for said purposes; Sellers, however, may enter

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1 upon the property at reasonable times during the term hereof for the
2 purpose of inspecting the property.

3 BILL OF SALE

4 1.

5 Sellers covenant and agree to cause to be paid in full any
6 and all encumbrances on said above described personal property forth-
7 with after execution of this agreement and to thereafter execute and
8 place in escrow as herein provided a Bill of Sale thereto with in-
9 structions to the escrow holder to deliver said Bill of Sale upon
10 the above payment of \$35,750.00 being paid in January, 1977, pro-
11 vided Buyers shall have the right to use said personal property from
12 the date hereof until said latter above mentioned date.

13 ESCROW

14 1.

15 Sellers agree that upon the execution hereof they shall
16 make and execute in favor of Buyers a good and sufficient deed con-
17 veying said land free and clear of all liens and encumbrances ex-
18 cept as hereinabove set forth and will place said deed, together with
19 one of these agreements in escrow at the United States National Bank
20 of Oregon, Chiloquin Branch, Chiloquin, Oregon, and the parties
21 hereto agree to enter into written escrow instructions in form
22 satisfactory to said escrow holder and the parties hereto whereby
23 the escrow holder is instructed that at such time as the Buyers
24 have paid the purchase price in accordance with the terms and condi-
25 tions of this agreement, said escrow holder shall deliver said deed
26 to Buyers, but in case of default by Buyers said escrow holder shall

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1 on demand, surrender said deed to Sellers, or any of them.

2 TAXES AND INSURANCE

3 1.

4 Buyers shall pay promptly all indebtedness incurred by their
5 acts which may become a lien or purported lien, upon said property,
6 and shall regularly and before the same shall become delinquent, pay
7 all taxes, including adjustment of same for any reason, assessments,
8 liens, purported liens, and encumbrances of whatsoever kind affecting
9 said property after this date, provided, all such taxes, assessments
10 and charges for the current year shall be pro-rated as of the date
11 hereof and in the event Buyers shall fail to so pay, when due, any
12 such matters or amounts required by Buyers to be paid hereunder, or
13 to procure and pay seasonably for insurance, Sellers may pay any or
14 all such amounts and any such payment shall be added to the purchase
15 price of said property on the date such payments are made by Sellers
16 and such amount shall bear interest at the rate herein provided,
17 without waiver, however, of any right arising to Sellers for Buyers'
18 breach of contract, and, in such event or events, the escrow holder
19 is hereby directed and authorized to so add such amounts to the con-
20 tract balance upon being tendered a proper receipt therefor.

21 2.

22 Buyers shall keep the buildings on said property insured
23 against lost or damage by fire or other casualty in an amount not
24 less than the insurable value thereof with loss payable to the
25 parties hereto and the interests herein reflected, all, as their
26 interests appear at the time of loss, all uninsured losses shall be

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1 borne by Buyers on or after the date Buyers become entitled to
2 possession.

3 ALTERATIONS AND IMPROVEMENTS

4 1.

5 Buyers agree that all improvements now located or which shall
6 hereafter be placed on the property, shall remain a part of the real
7 property and shall not be removed at any time prior to the expira-
8 tion of this agreement without the written consent of Sellers.
9 Buyers shall not commit or suffer any waste of the property, or any
10 improvements thereon, or alteration thereof, and shall maintain the
11 property, improvements and alterations thereof in good condition and
12 repair, provided, Buyers shall not make or cause to be made any
13 major improvement or alteration to the property without first ob-
14 taining the written consent of Sellers.

15 FARM USE

16 1.

17 The subject real property is presently assessed for farm use
18 and Buyers shall be responsible for any additional tax, penalty
19 and/or interest resulting from any disqualification of the property
20 from such classification.

21 FARM PRACTICES

22 1.

23 Buyers shall at all times during the term hereof operate,
24 manage, ranch and farm the subject property in the manner and cus-
25 tom as is practiced by good ranch operators in the Klamath County,
26 Oregon area, it being understood that such management shall include

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1 like practices with respect to water holding and irrigating.

2 INDEMNIFICATION AND LIABILITY INSURANCE

3 1.

4 Buyers shall during the term hereof indemnify and defend
5 Sellers from any claim, loss or liability arising out of or related
6 to any activity of Buyers on the subject property or any condition
7 of the property and shall maintain public liability and property
8 damage insurance in a responsible company with limits of not less
9 than \$100,000 for injury to one person and \$300,000 for injury to
10 two or more persons in one occurrence, and \$50,000 for damage to
11 property.

12 ALLOCATION

13 1.

14 The parties do hereby agree that the sum of \$15,000.00
15 shall be allocated to the above farm and irrigation equipment.

16 TITLE INSURANCE

17 1.

18 Sellers shall furnish, at Sellers' expense, a Purchasers'
19 Policy of Title Insurance in the amount of \$266,500.00 within thirty
20 days from the date of closing, insuring Buyers against loss or dam-
21 age sustained by Buyers by reason of the unmarketability of Sellers'
22 title, or liens or encumbrances thereon, excepting matters herein
23 expressly covered and further excepting matters contained in the
24 usual printed exceptions in such title insurance policies.

25 CONDITION OF PROPERTY

26 1.

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1 Buyers accept the land, buildings, improvements, and all
2 other aspects of the property in their present condition, as is,
3 including latent defects, without any representations or warranties,
4 expressed or implied, unless they are in writing signed by Sellers.
5 Buyers agree that they have ascertained, from sources other than
6 Sellers the applicable zoning, building, housing, and other regula-
7 tory ordinances and laws and that they accept the property with full
8 awareness of these ordinances and laws as they may affect the pre-
9 sent use or any intended future use of the property, and Sellers have
10 made no representations with respect thereto.

11 ASSIGNABILITY

12 1.

13 Buyers agree that they will not assign, sell, transfer or
14 dispose of their interest in this agreement or the said land or
15 improvements covered herein without first obtaining the written con-
16 sent of Sellers to so do, provided, however, that Sellers agree
17 that they will not unreasonably withhold such consent.

18 CROPS

19 1.

20 Buyers shall be entitled to all alfalfa and grass hay on
21 the above subject property for the farm year 1976 and thereafter
22 during the term hereof so long as Buyers shall not be in default.

23 Sellers covenant that the hay yield for 1976 shall be 450
24 ton but in the event said yield is less than 450 ton, then and in
25 such case, Sellers shall pay Buyers at the close of the harvest
26 season for the difference based on \$55.00 per

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1 ton, provided, however, that Buyers shall at all times farm, irrig-
2 ate and harvest said hay with proper farm management and recommended
3 farm practices.

4 ~~In the event said yield is less than 450 ton the parties~~
5 ~~agree to amend said escrow and agreement of sale to reflect the~~
6 ~~adjustment.~~ *WHP*

7 MISCELLANEOUS

8 1.

9 This document is the entire, final, and complete agreement
10 of the parties pertaining to the sale and purchase of the property,
11 and supercedes and replaces all written and oral agreements hereto-
12 fore made or existing by and between the parties or their represent-
13 atives insofar as the property is concerned.

14 2.

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

18 DEFAULT

19 1.

20 PROVIDED, FURTHER, that in case Buyers shall fail to make
21 the payments aforesaid, or any of them, punctually and upon the
22 strict terms and at the times above specified, or fail to keep any
23 of the other terms or conditions of this agreement, time of payment
24 and strict performance being declared to be the essence of this
25 agreement, then Sellers shall have the following rights: (1) To
26 foreclose this contract by strict foreclosure in equity; (2) To

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1 declare the full unpaid balance immediately due and payable; (3) To
2 specifically enforce the terms of this agreement by suit in equity;
3 (4) To declare this contract null and void, and in any of such cases,
4 except exercise of the right to specifically enforce this agreement
5 by suit in equity, all the right and interest hereby created or
6 then existing in favor of Buyers derived under this agreement shall
7 utterly cease and determine, and the premises aforesaid shall revert
8 and revert in Sellers without any declaration of forfeiture or act
9 of re-entry, and without any other act by Sellers to be performed
10 and without any right of Buyers of reclamation or compensation for
11 money paid or for improvements made, as absolutely, fully and per-
12 fectly as if this agreement had never been made.

13 Should Buyers, while in default, permit the premises to be-
14 come vacant, Sellers may take possession of same for the purpose of
15 protecting and preserving the property and their security interest
16 herein, and in the event possession is so taken by Sellers they
17 shall not be deemed to have waived their right to exercise any of
18 the foregoing rights.

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

24 Buyers further agree that failure by Sellers at any time to
25 require performance by Buyers of any provision hereof shall in no
26 way affect Sellers' right hereunder to enforce the same, nor shall

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1 any waiver by Sellers of any breach of any provision hereof be held
2 to be a waiver of any succeeding breach of any such provision, or
3 as a waiver of the provision itself.

4 This agreement shall bind and inure to the benefit of, as
5 the circumstances may require, the parties hereto and their respect-
6 ive heirs, executors, administrators, successors and assigns, sub-
7 ject to the foregoing.

8 WITNESS the hands of the parties the day and year first
9 herein written.

10 SELLERS:

Lee S. Hopper
Lee S. Hopper

Melinda J. Hopper
Melinda J. Hopper

Ted L. Glidwell
Ted L. Glidwell

Judy A. Glidwell
Judy A. Glidwell

16 BUYERS:

James Livie
James Livie

Michael A. O'Keefe
Michael A. O'Keefe

Lyman Gates Mason
Lyman Gates Mason

21 STATE OF OREGON)
22 County of Klamath) ss.

July
August 30, 1976

23 Personally appeared the within named LEE S. HOPPER and
24 MELINDA J. HOPPER, husband and wife, and TED L. GLIDWELL and JUDY
25 A. GLIDWELL, husband and wife, and acknowledged the foregoing
instrument to be their voluntary act and deed.

26 BEFORE ME:

Kathy R. Mellams
Notary Public for Oregon
My Commission expires: 6-13-80

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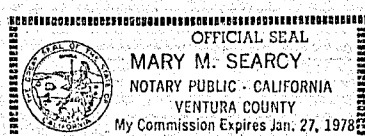
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1 STATE OF California)
 2 County of Ventura) ss. August 11, 1976

3 Personally appeared the within named JAMES LIVIE, MICHAEL
 4 A. O'KEEFE and LYMAN GATES MASON and acknowledged the foregoing
 instrument to be their voluntary act and deed.

5 BEFORE ME:

6 Mary M. Searcy
 7 Notary Public for
 My Commission expires: _____



11 After recording, return to:
 12 Transamerica Title
 13 K-11129

14 STATE OF OREGON; COUNTY OF KLAMATH; ss.

15 filed for record at request of TRANSAMERICA TITLE INS. CO
 16 this 13th day of AUGUST A. D. 1976 at 11:06 A.
 17 duly recorded in Vol. M 76, of DEEDS on Page 12553

Wm D. MILNE, County Clerk

18 FEE \$ 36.00

19 By Hazel Dwyer

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