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25980

CONTRACT—REAL ESTATE

Vol. 77 Page 3387

38-12027 THIS CONTRACT, Made this 25 day of February, 1977, between Sarah J. Donart also known as Sarah J. Peterson

and Frederick W. Dassler and Bertie L. Dassler, husband and wife

hereinafter called the seller, hereinafter called the buyer, WITNESSETH: That in consideration of the mutual covenants and agreements herein contained, the seller agrees to sell unto the buyer and the buyer agrees to purchase from the seller all of the following described lands and premises situated in Klamath County, State of Oregon, to-wit:

See attached legal description marked Exhibit "A" and by this reference incorporated herein as if fully set forth;

for the sum of Forty-seven thousand five hundred & no/100 Dollars (\$47,500.00) (hereinafter called the purchase price), on account of which thirteen thousand seven hundred Dollars (\$13,775.00) is paid on the execution hereof (the receipt of which is hereby acknowledged by the seller); the buyer agrees to pay the remainder of said purchase price (to-wit: \$33,725.00) to the order of the seller in monthly payments of not less than Four hundred & no/100 - - - - - Dollars (\$400.00) each, no less than the full payment in the year 1977, prepayment without penalty,

payable on the 10th day of each month hereafter beginning with the month of January, 1978, and continuing until said purchase price is fully paid. All of said purchase price may be paid at any time; all deferred balances of said purchase price shall bear interest at the rate of 8 per cent per annum from date of contract

until paid, interest to be paid monthly and \* being included in the minimum monthly payments above required. Taxes on said premises for the current tax year shall be prorated between the parties hereto as of the date of this contract.

The buyer warrants to and covenants with the seller that the real property described in this contract is (A) primarily for buyer's personal, family, household or agricultural purposes.

The buyer shall be entitled to possession of said land or closing plus 15 days 1977, and may retain such possession so long as he is not in default under the terms of this contract. The buyer agrees that at all times he will keep the buildings on said premises, now or hereafter erected, in good condition and repair and will not suffer or permit any waste or strip thereof; that he will keep said premises free from mechanic's liens; that he will pay all taxes hereafter levied against said property, as well as all water rents, public charges and municipal liens which hereafter lawfully may be imposed upon said premises, all promptly before the same or any part thereof become past due; that at buyer's expense, he will insure and keep insured all buildings now or hereafter erected on said premises against loss or damage by fire (with extended coverage) in an amount not less than \$ full insurable value

in a company or companies satisfactory to the seller, with loss payable first to the seller and then to the buyer as their respective interests may appear and all policies of insurance to be delivered to the seller as soon as insured. Now if the buyer shall fail to pay any such liens, costs, water rents, taxes, or charges or to procure and pay for such insurance, the seller may do so and any payment so made shall be added to and become a part of the debt secured by this contract and shall bear interest at the rate aforesaid, without waiver, however, of any right arising to the seller for buyer's breach of contract.

The seller agrees that at his expense and within 30 days from the date hereof, he will furnish unto buyer a title insurance policy insuring (in an amount equal to said purchase price) marketable title in and to said premises in the seller on or subsequent to the date of this agreement, save and except the usual printed exceptions and the building and other restrictions and easements now of record, if any. Seller also agrees that when said purchase price is fully paid and upon request and upon surrender of this agreement, he will deliver a good and sufficient deed conveying said premises in fee simple unto the buyer, his heirs and assigns, free and clear of encumbrances as of the date hereof and free and clear of all encumbrances since said date placed, permitted or arising by, through or under seller, excepting, however, the said easements and restrictions and the taxes, municipal liens, water rents and public charges so assumed by the buyer and further excepting all liens and encumbrances created by the buyer or his assigns.

(Continued on reverse)

IMPORTANT NOTICE: Delete, by lining out, whichever phrase and whichever warranty (A) or (B) is not applicable. If warranty (A) is applicable and if the seller is a creditor, at such word is defined in the Truth-in-Lending Act and Regulation Z, the seller MUST comply with the Act and Regulation by making required disclosures; for this purpose, use Stevens-Neiss Form No. 1308 or similar unless the contract will become a first lien to finance the purchase of a dwelling in which event use Stevens-Neiss Form No. 1307 or similar.

## STATE OF OREGON,

County of \_\_\_\_\_

I certify that the within instrument was received for record on the day of \_\_\_\_\_, 19\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M., and recorded in book \_\_\_\_\_ on page \_\_\_\_\_ or as file/reel number \_\_\_\_\_, Record of Deeds of said county.

Witness my hand and seal of County attested.

By \_\_\_\_\_

Recording Officer  
Deputy

SELLER'S NAME AND ADDRESS

BUYER'S NAME AND ADDRESS

After recording return to:

T/S Kathy

NAME ADDRESS, ZIP

Until a change is requested all tax statements shall be sent to the following address.

NAME, ADDRESS, ZIP



And it is understood and agreed between said parties that time is of the essence of this contract, and in case the buyer shall fail to make the payments above required, or any of them, punctually within ten days of the time limited therefor, or fail to keep any agreement herein contained, then the seller at his option shall have the following rights: (1) to declare this contract null and void; (2) to declare the whole unpaid principal balance of said purchase price with the interest thereon at once due and payable and/or (3) to foreclose this contract by suit in equity, and in any of such cases, all rights and interest created or then existing in favor of the buyer as against the seller hereunder shall utterly cease and determine and the right to the possession of the premises above described and all other rights acquired by the buyer hereunder shall revert to and rest in said seller without any act of re-entry, or any other act of said seller to be performed and without any right of the buyer of return, reclamation or compensation for moneys paid on account of the purchase of said property as absolutely, fully and perfectly as if this contract and such payments had never been made; and in case of such default all payments theretofore made on this contract are to be retained by and belong to said seller as the agreed and reasonable rent of said premises up to the time of such default. And the said seller, in case of such default, shall have the right immediately, or at any time thereafter, to enter upon the land aforesaid, without any process of law, and take immediate possession thereof, together with all the improvements and appurtenances thereon or thereto belonging.

The buyer further agrees that failure by the seller at any time to require performance by the buyer of any provision hereof shall in no way affect his right hereunder to enforce the same, nor shall any waiver by said seller of any breach of any provision hereof be held to be a waiver of any succeeding breach of any such provision, or as a waiver of the provision itself.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$47,500.00

In case suit or action is instituted to foreclose this contract or to enforce any of the provisions hereof, the buyer agrees to pay such sum as the court may adjudge reasonable as attorney's fees to be allowed plaintiff in said suit or action and if an appeal is taken from any judgment or decree of the trial court, the buyer further promises to pay such sum as the appellate court shall adjudge reasonable as plaintiff's attorney's fees on such appeal.

In construing this contract, it is understood that the seller or the buyer may be more than one person; that if the contract so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF, said parties have executed this instrument in duplicate; if either of the undersigned is a corporation, it has caused its corporate name to be signed and its corporate seal affixed hereto by its officers duly authorized thereunto by order of its board of directors.

*Sarah J. Peterson Donart Frederick W. Dassler*  
 Sarah J. Donart also known as Frederick W. Dassler  
 Sarah J. Peterson Bertie L. Dassler

NOTE—The sentence between the symbols ( ), if not applicable, should be deleted. See ORS 93.030.

STATE OF OREGON, }  
 County of Klamath } ss.  
 February 23, 1977

STATE OF OREGON, County of } ss.  
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Personally appeared \_\_\_\_\_ and  
 \_\_\_\_\_, who, being duly sworn,  
 each for himself and not one for the other, did say that the former is the  
 \_\_\_\_\_ president and that the latter is the  
 \_\_\_\_\_ secretary of

Personally appeared the above named Sarah J.  
 Donart aka Sarah J. Peterson,

and acknowledged the foregoing instru-  
 ment to be \_\_\_\_\_ her \_\_\_\_\_ voluntary act and deed.

Before me:  
 (OFFICIAL SEAL) *Kathy R. Mallama*  
 Notary Public for Oregon  
 My commission expires 6-13-80

\_\_\_\_\_ a corporation,  
 and that the seal affixed to the foregoing instrument is the corporate seal  
 of said corporation and that said instrument was signed and sealed in be-  
 half of said corporation by authority of its board of directors; and each of  
 them acknowledged said instrument to be its voluntary act and deed.  
 Before me:  
 (OFFICIAL SEAL)  
 Notary Public for Oregon  
 My commission expires:

Section 4 of Chapter 618, Oregon Laws 1975, provides:

"(1) All instruments contracting to convey fee title to any real property, at a time more than 12 months from the date that the instrument is executed and the parties are bound, shall be acknowledged, in the manner provided for acknowledgment of deeds, by the owner of the title being conveyed. Such instruments, or a memorandum thereof, shall be recorded by the conveyor not later than 15 days after the instrument is executed and the parties are bound thereby.

"(2) Violation of subsection (1) of this section is a Class B misdemeanor."

(DESCRIPTION CONTINUED)

It is further agreed by and between the parties hereto that Buyer agrees to make a balloon payment for the balance of the contract at the end of 5 years from date of contract, said contract to be paid in full at the end of 5 years.

STATE OF OREGON, }  
 County of San Diego Klamath } ss.

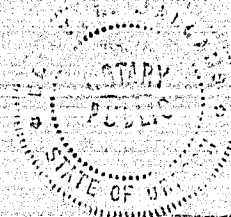
FORM NO. 23 — ACKNOWLEDGMENT  
 STEVENS-NESS LAW PUB. CO., PORTLAND, ORE.

BE IT REMEMBERED, That on this 25 day of February, 1977,  
 before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within  
 named Frederick W. Dassler and Bertie L. Dassler, husband and wife,

known to me to be the identical individuals described in and who executed the within instrument and  
 acknowledged to me that they 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.

*Kathy R. Mallama*  
 Notary Public for Oregon, California  
 My Commission expires 6-13-80





## EXHIBIT "A"

## PARCEL 1

Beginning at the Northeast corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 30, Township 39 South, Range 11 East of the Willamette Meridian; thence West along the section line 363 feet, more or less, to the Easterly right of way line of the Bonanza-Malin County Road; thence South 0°16' East 1320 feet, more or less, along said right of way line, to the South line of said NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; thence East along the South line of said NW $\frac{1}{4}$ NE $\frac{1}{4}$  355 feet, more or less, to the Southeast corner of said NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; thence North along the East line of said NW $\frac{1}{4}$ NE $\frac{1}{4}$ , 1320 feet, more or less, to the point of beginning, being that portion of the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 30, Township 39 South, Range 11 East of the Willamette Meridian, lying East of the Bonanza-Malin County Road.

## PARCEL 2

All that portion of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ , Section 30, Township 39 South, Range 11 East of the Willamette Meridian, lying Easterly from the center line of Lost River, more particularly described as follows:  
Beginning at the Northeast corner of said SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 30; thence along the Easterly boundary of said SW $\frac{1}{4}$ NE $\frac{1}{4}$ , 20.15 chains to the Southeast corner thereof; thence Westerly along the Southerly line of said SW $\frac{1}{4}$ NE $\frac{1}{4}$ , 11.00 chains, more or less to the centerline of Lost River; thence Northerly along the centerline of Lost River to its intersection with the North line of said SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; thence Easterly along the said North line 10.35 chains to the point of beginning, SAVING AND EXCEPTING a strip of land 80 feet wide deeded by Ernest Alfred Higham to the State Highway Commission and recorded in Klamath County Deed Records, Volume 210 at page 145.

Subject, however, to the following:

1. Rights of the public in and to any portion of said premises lying within the limits of roads and highways.
2. Rights of the public and of governmental bodies in that portion of the above described property lying below the high water mark of Lost River and the ownership of the State of Oregon in that portion lying below the high water mark thereof.
3. Regulations, including levies, assessments, water and irrigation rights and easements for ditches and canals, of Poe Valley Improvement District. (Parcel 1)
4. An easement created by instrument, including the terms and provisions thereof,

Dated : July 27, 1951  
Recorded : August 22, 1951 Book: 249 Page 263  
In favor of : The California Oregon Power Company, a California corporation

For : Installation of down guy and down guy anchor.  
(Affects portion NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$  Sec. 30, Twp 39 S., R 11 EWM. East of B-MMRoad.) (Affects Parcel 1)

5. Contract for Water Supply pursuant to the Warren Act, including the terms and provisions thereof, between the United States of America and C. V. Barton, a single man, dated January 24, 1949, recorded October 17, 1950 in Book 242 at page 558, Deed Records of Klamath County, Oregon. (Parcel 2)
6. An easement created by instrument, including the terms and provisions thereof,

Dated : October 11, 1952  
Recorded : October 27, 1952 Book: 257 Page: 411  
In favor of : California Oregon Power Company  
For : Transmission and distribution of electricity

## Parcel 2

7. Trust Deed and Assignment of Rents, including the terms and provisions thereof, with interest thereon and such future advances as may be provided therein, given to secure the payment of \$5,184.00

Contract



3390

Dated : February 15, 1967  
 Recorded : October 3, 1967 Book: M-67 Page 7723  
 Trustor : Sarah J. Donart  
 Trustee : Title Insurance and Trust Company, a California Corporation

Beneficiary : Regenia O. Brown

which Vendees do not assume and agree to pay and Seller further covenants to and with Buyers that the said prior Trust Deed shall be paid in full prior to, or at the time this contract is fully paid and that said above described real property will be released from the lien of said mortgage upon payment in full of this contract.

8. As disclosed by the assessment and tax roll, the premises herein have been specially assessed for farm use. 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.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 25th day of FEBRUARY A.D., 1977 at 3:39 o'clock P.M., and duly recorded in Vol M 77 of DEEDS on Page 3387.

FEE \$ 12.00

WM. D. MILNE, County Clerk

By *Hazel Dugan* Deputy