

60203

CONTRACT—REAL ESTATE

Vol. 1178 Page 28708

38-16999-D

THIS CONTRACT, Made this 21 day of December, 1978, between  
Lee R. McDaniel and Jaquetta L. McDaniel, husband and wife,  
 and Claude W. Duke and Norma Jean Duke, husband and wife,

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 de-  
 scribed lands and premises situated in Klamath County, State of Oregon, to-wit:

NE $\frac{1}{4}$ NW $\frac{1}{4}$ , and part of the N $\frac{1}{2}$ NE $\frac{1}{4}$  lying West of the Sycan River, in Section  
6, Township 35 South, Range 12 East of the Willamette Meridian, in the  
 County of Klamath, State of Oregon.

Subject, however, to the following:

1. Reservations, terms and provisions thereof, as set forth in deed from United States of America to Jonathan M. Crume, et al., dated April 3, 1959, recorded April 14, 1959, in Deed Volume 311 at page 515, Records of Klamath County, Oregon.
2. Rights of the public and of Governmental bodies in and to any portion of the herein described property lying below high water mark of the Sycan River.
3. No liability is assumed if a financing statement is filed in the office of the County Clerk covering growing crops of fixtures wherein the land is described other than by metes and bounds; the rectangular survey system, or by recorded lot and block.

(For continuation of this document, see reverse side of this contract.)

for the sum of Twenty thousand and no/100-----Dollars (\$20,000.00) (hereinafter called the purchase price), on account of which Six thousand and no/100-----Dollars (\$6,000.00) 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: \$14,000.00) to the order of the seller in monthly payments of not less than Two hundred and no/100-----Dollars (\$200.00) each, or more, prepayment without penalty; an additional lump sum payment of \$6,000.00 shall be paid on or before July 1, 1979, payable on the 10 day of each month hereafter beginning with the month of January, 1979, 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 9 per cent per annum from December 10, 1978 until paid, interest to be paid monthly and in addition to the minimum monthly payments above required. Taxes on said premises for the current tax year shall be pro-rated 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,  
 (B) for an organization or for an agricultural purpose in connection with a business or commercial purpose other than agricultural purposes.

The buyer shall be entitled to possession of said lands on December 10, 1978, 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 and all other liens and save the seller harmless therefrom and reimburse seller for all costs and attorney's fees incurred by him in defending against any such 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, as 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: Stevens-Nease Form No. 1306 or similar unless the contract will become a first lien to finance the purchase of a dwelling in which event use Stevens-Nease Form No. 1307 or similar.

SELLER'S NAME AND ADDRESS

BUYER'S NAME AND ADDRESS

After recording return to:

NAME, ADDRESS, ZIP

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

NAME, ADDRESS, ZIP

STATE OF OREGON,

County of

I certify that the within instru-  
ment was received for record on the  
day of \_\_\_\_\_, 19\_\_\_\_,at \_\_\_\_\_ o'clock \_\_\_\_\_ M., and recorded  
in book \_\_\_\_\_ on page \_\_\_\_\_ or asfile/reel number \_\_\_\_\_  
Record of Deeds of said county.Witness my hand and seal of  
County affixed.

By

Recording Officer

Deputy

80735

30

28709

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 30 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, (3) to withdraw said deed and other documents from escrow, and/or (4) 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 remain 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 therein 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 \$ 20,000.00 (However, the actual consideration comprised of or includes other property or value given or promised which is the whole consideration indicated which is).

In case suit or action is instituted to foreclose this contract or to enforce any provision hereof, the losing party in said suit or action agrees to pay such sum as the trial court may adjudge reasonable as attorney's fees to be allowed the prevailing party in said suit or action and if an appeal is taken from any judgment or decree of such trial court, the losing party further promises to pay such sum as the appellate court shall adjudge reasonable as the prevailing party'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 or a corporation; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine and the feminine, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

This agreement shall bind and inure to the benefit of, as the circumstances may require, not only the immediate parties hereto but their respective heirs, executors, administrators, personal representatives, successors in interest and assigns as well.

IN WITNESS WHEREOF, said parties have executed this instrument in triplicate; 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.

Lee R. McDaniel  
Jaquetta L. McDaniel

Claude W. Duke  
Norma Jean Duke

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

STATE OF OREGON,

County of Klamath } ss.  
December 27, 1978

Personally appeared the above named Lee R. McDaniel and Jaquetta L. McDaniel, husband and wife,

and acknowledged the foregoing instrument to be their voluntary act and deed.

(OFFICIAL SEAL)

Before me:  
DONNA K. RICK  
NOTARY PUBLIC-OREGON  
My Commission Expires 7/21/79

STATE OF OREGON, County of \_\_\_\_\_ ) ss.

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 \_\_\_\_\_

\_\_\_\_\_ a corporation, of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.

(SEAL)

ORS 93.625 (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 conveyor of the title to be 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.

ORS 93.990(3) Violation of ORS 93.625 is punishable, upon conviction, by a fine of not more than \$100.

(DESCRIPTION CONTINUED)

4. The rights of the public in and to any portion of the herein described property lying within the limits of roads and highways.

5. Subject to a 60 foot wide easement for road along the Southerly boundary of the N $\frac{1}{2}$ N $\frac{1}{2}$  West of the Sycan River as set forth in Warranty Deed recorded August 18, 1964, in Deed Volume 355 at page 398.

6. An unrecorded Contract of Sale dated October 8, 1972, by and between Edwin B. MacDonald and Georgia R. MacDonald, husband and wife, and Stephen A. MacDonald, as Sellers and Lee R. McDaniel and Jaquetta L. McDaniel, as Buyers, which Buyers herein do not assume and agree to pay, and Sellers further covenant to and with Buyers that the said prior contract 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 contract upon payment of this contract.

STATE OF OREGON,

County of Klamath } ss.

BE IT REMEMBERED, That on this 21 day of December, 1978 before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Claude W. Duke and Norma Jean Duke, 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.

Donna K. Rick  
NOTARY PUBLIC-OREGON  
My Commission Expires 7/21/79

Notary Public for Oregon.  
My Commission expires

STATE OF OREGON; COUNTY OF KLAMATH; ss.  
I hereby certify that the within instrument was received and filed for record on the 27th day of December, A.D., 1978 at 11:11 o'clock A.M., and duly recorded in Vol. 11-78 of Deeds on Page 28708.  
WM. D. MILNE, County Clerk  
By Jacqueline Milne Deputy  
FEE \$2.00

60204 WARRANTY DEED (INDIVIDUAL) Vol. 1178 Page 28711  
38-16396-D  
MAURICE N. MECHAM, en estate in fee simple  
KENNETH A. DOBBERPUHL AND DEXTER J. DOBBERPUHL, husband and wife  
of Klamath, State of Oregon, described as:  
See attached exhibit A  
and covenant(s) that grantor is the owner of the above described property free of all encumbrances except as set forth in the exhibit A  
and will warrant and defend the same against all persons who may lawfully claim the same, except as shown above.  
The true and actual consideration for this transfer is \$57,700.00.  
Dated this 26th day of December, 1978.  
Maurice N. Mecham  
STATE OF OREGON, County of Klamath ) ss.  
December, 1978 personally appeared the above named  
Maurice N. Mecham and acknowledged the foregoing  
instrument to be his voluntary act and deed.  
Before me: Julie J. J. J.  
Notary Public for Oregon  
My commission expires: 2/1/81

Exhibit A

28712

A parcel of land in Lot 10, Section 17, Township 40 South, Range 10 East of the Willamette Meridian, in the County of Klamath, State of Oregon, situated Westerly from the Great Northern Railway right of way and Easterly from the right of way of the "G" canal, more particularly described as follows:

Beginning at a point on the Westerly right of way line of the Burlington Northern Railway, which point bears North 89° 49' West along the South line of said Lot 10, a distance of 864.7 feet more or less, from the Southeast corner of said Lot 10; thence continuing along the South line of said Lot 10, North 89° 49' West 104.0 feet more or less, to the Easterly right of way line of the "G" canal; thence Northerly along said right of way line the following bearings and distances; North 24° 05' West, 160.0 feet; thence on a curve to the right with a radius of 237.9 feet, a distance of 58.1 feet; thence North 10° 05' West, 167.0 feet; thence on a curve to the left with a radius of 623.7 feet, a distance of 103.4 feet; thence North 19° 35' West, 423.7 feet; thence on a curve to the right with a radius of 269.6 feet, a distance of 187.4 feet; thence North 20° 15' East 181.3 feet, more or less to the Westerly right of way line of the Burlington Northern Railway; thence South 14° 43' East, 1260.4 feet, more or less, to the point of beginning.

Subject to:

1. Regulations of the Klamath Irrigation District
2. Regulations of the Klamath Basin Improvement District
3. Rights of the public to any portion of the premises lying with the roads and highways
4. Easement recorded March 15, 1966 in book M-66 page 2204

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at ~~Clatsop~~

this 27th day of December A. D. 1978 at 11:11 o'clock AM, and

fully recorded in Vol. M-78, of Deeds on Page 28711

Fee \$6.00

Wm D. MILNE, County Clerk

By *Jacqueline J. Mettler*