

66864

CONTRACT—REAL ESTATE

Vol. ^m 79 Page 10475

THIS CONTRACT, Made this 7th day of May, 1979, between
Walton J. DuPont and S. Millie DuPont

and Larry Cheyne and Sandra Cheyne, husband and wife; and Terry Cheyne and Mary E. Cheyne, 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 described lands and premises situated in Klamath County, State of Oregon, to-wit:

(See attached Exhibit "A")

for the sum of Eighty Thousand and no/100 Dollars (\$80,000.00)
(hereinafter called the purchase price) on account of which Twenty Thousand and no/100 Dollars (\$20,000.00) is paid on the execution hereof (the receipt of which is hereby acknowledged by the seller), and the remainder to be paid to the order of the seller at the times and in amounts as follows, to-wit: The remaining balance of Sixty Thousand and no/100 Dollars (\$60,000.00) together with interest at the rate of Ten (10) percent per annum from the date hereof shall be paid as follows: 1) The remaining balance of Sixty Thousand and no/100 Dollars (\$60,000.00) shall be payable in annual installments of Ten Thousand and no/100 Dollars (\$10,000.00), including interest as aforesaid, the first of such installments to be paid on or before the 10th day of May, 1980, said Ten Thousand and no/100 Dollar installments to be paid for the first nine (9) years of this Contract. Thereafter the balance of the purchase price remaining shall be paid in a final installment of Six Thousand Two Hundred Seventy-one (\$6,271.00). (See Reverse side for other special provisions)

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 (even if buyer is a natural person) is for business or commercial purposes other than agricultural purposes.

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 10 per cent per annum from this date until paid, interest to be paid with principal and (in addition to the minimum regular 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.

At the time of the execution hereof, the sellers herein (who are husband and wife) own said described real estate as tenants by entireties; wherefore, the sellers intend and declare that their interest in this contract and in the unpaid purchase price of said described real estate hereafter shall be that of joint tenants with the right of survivorship and not that of tenants in common; in the event of the death of one of the sellers, the title to the sellers' interest in this contract and in and to the then unpaid balance of said purchase price, principal and interest, immediately shall vest solely in the survivor of the sellers.

The buyer shall be entitled to possession of said lands on May 7, 1979, 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 other liens and save the sellers harmless therefrom and reimburse sellers for all costs and attorney's fees incurred by them 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 \$ in a company or companies satisfactory to the sellers, with loss payable to the sellers as their interest may appear and all policies of insurance to be delivered to the sellers 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 sellers 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 sellers for buyer's breach of contract.

The sellers agree that at their expense and within ten days from the date hereof, or they will furnish unto buyer a title insurance policy insuring (in an amount equal to said purchase price) marketable title in and to said premises and the sellers on or subsequent to the date of this agreement, save and except the usual printed exceptions and the building and other restrictions agreement they 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 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.

*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; for this purpose, use Stevens-ness 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-ness Form No. 1307 or similar.

Walton J. and S. Millie DuPont

P. O. Box 243

Merrill, Oregon 97633

SELLER'S NAME AND ADDRESS

Larry & Sandra Cheyne, Box 74, Midland, Or
Terry & Mary E. Cheyne, Box 72, Midland, Or

BUYER'S NAME AND ADDRESS

After recording return to:

Enver Bozgoz- Attorney at Law

260 Main Street

Klamath Falls, Oregon 97601

NAME, ADDRESS, ZIP

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

Larry Cheyne

Box 74, Midland, Oregon 97634

NAME, ADDRESS, ZIP

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 affixed.

By

Recording Officer

Deputy

10476

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 sellers at their 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 sellers 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 vest in said sellers without any act of re-entry or any other act of said sellers 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 heretofore made on this contract are to be retained by and belong to said sellers as the agreed and reasonable rent of said premises up to the time of such default. And the said sellers, 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 sellers at any time to require performance by the buyer of any provision hereof shall in no way affect their right hereunder to enforce the same, nor shall any waiver by said sellers 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 \$ 80,000.00. However, the actual consideration consists of or includes other property or value given or promised which is part of the consideration (indicate which):

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 buyer may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine shall include 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; also, in the event of the demise of one of said sellers, that the word "sellers" shall mean only the survivor of them and the heirs and assigns of such survivor.

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.

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

STATE OF OREGON,

County of Klamath

May 7, 1979

STATE OF OREGON, County of _____

Personally appeared _____

and

Personally appeared the above named Walton J. & S. Millie DuPont, Larry & Sandra Cheyne & Perry and Mary E. Cheyne

each for himself and not one for the other, did say that the former is the _____ who, being duly sworn, president and that the latter is the _____ secretary of _____

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

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 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.

(OFFICIAL SEAL)

Notary Public for Oregon

My commission expires 1-18-80

Notary Public for Oregon

My commission expires: _____

(OFFICIAL SEAL)

Special Provisions

(DESCRIPTION CONTINUED)

Sellers and Buyers agree that the cost of the title insurance policy (in an amount equal to the purchase price) shall be shared equally between them.

A Warranty Deed to the property shall be executed by the Sellers with the Purchasers as Grantees and shall be placed in escrow at First National Bank of Oregon, Main Branch, until this Contract is paid.

Sellers have a Lease Agreement on said property with Geothermal Resources International, Inc. a Delaware corporation.

It is agreed between the parties that Seller shall retain said lease payments and does not assign said payments to the Buyer so long as the lease is in existence. But if said lease is terminated and Buyer does enter into another lease with the Leasee or any other party Sellers right to lease payments shall terminate. It is understood that Lease payments by Geothermal Resources International Inc., a Delaware corporation, are not to be considered and not to be credited toward the purchase price of said property but is a separate consideration to be retained by Seller.

Seller retains 75% of all mineral rights and geothermal of 250°F or higher. Provided Seller or his assignees shall not damage any crops of the Buyer and in the event any explorations are undertaken by the Seller to search for minerals, consent of Buyers to enter the premises shall be obtained, which consent shall not be unreasonably withheld.

Exhibit "A" Legal Description for Contract between Walton J. DuPont and S. Millie DuPont, Sellers and Larry Cheyne & Sandra Cheyne; and Terry Cheyne and Mary E. Cheyne:

A parcel of land situate in Section 27, T.40 S., R.9 E., W. M., being more particularly described as follows:

Beginning at the 1/4 Section corner common to Sections 22 and 27, T.40 S., R.9 E., W. M.; thence S. 0° 31' 15" E along the north-south centerline of said Section 27 3421.73 feet to a point; thence S 38° 01' W 431.2 feet to a point on the northerly right-of-way line of the Lower Klamath Lake Road, as the same is presently located and constructed, thence northwesterly along said northerly right-of-way line 1830 feet, more or less, to a point on the east-west centerline of said Section 27; thence N 89° 32' 50" E along said east-west centerline 414.50 feet to the center west 1/16 corner of said Section 27; thence N 0° 21' 10" W 2634.13 feet to the west 1/16 corner common to Sections 22 and 27; containing 103.7 acres, more or less, and being subject to all rights-of-way and/or easements of record or apparent on the premises.

SUBJECT TO: Reservations as contained in Deeds recorded in Volume 50, page 125 and Volume 54, page 200, Records of Klamath County, Oregon as follows:

"rights to ditches and reservoirs used in connection with such water rights may be recognized and acknowledged by local customs, laws and decisions of courts; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States."

Grant of Right of Way, including the terms and provisions thereof, dated November 26, 1965, recorded December 8, 1965, Volume M65, page 4412, Microfilm Records of Klamath County, Oregon, in favor of Pacific Power and Light Company for one anchor and one guy.

The assessment roll and the tax roll disclose that the premises herein described have been specially assessed as Farm Use Land. If the land becomes disqualified for the special assessment under the statute, an additional tax may be levied for the last ten (10) or lesser number of years in which the farm use assessment was in effect for the land and in addition thereto a penalty may be levied if notice of disqualification is not timely given.

Geothermal Lease and Agreement, including the terms and provisions thereof, by and between Walton J. DuPont and S. Millie DuPont, husband and wife, and Geothermal Resources International, Inc., recorded September 7, 1971 in Volume M71, page 9501, Microfilm Records of Klamath County, Oregon.

Geothermal Lease and Agreement, including the terms and provisions thereof, by and between Walton J. DuPont and S. Millie DuPont, his wife, and Geothermal Resources International, Inc., recorded July 14, 1976 in Volume M76, page 10677, Microfilm Records of Klamath County, Oregon.

Correction Amendment to said Geothermal Lease and Agreement, recorded December 27, 1977 in Volume M77, page 24913, Microfilm Records of Klamath County, Oregon.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Enver Bozgoz, Attorney

this 31st day of May, A. D. 1977 at 2:27 o'clock P. M.

and duly recorded in Vol. 1179, of Deeds on Page 10477

Wm D. MILNE, County Clerk

By Bernard H. Hetch

Fee \$2.00