

70357

ASSIGNMENT

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IN CONSIDERATION OF LOAN # 300263 at South Valley State Bank, the undersigned assigns all of their rights under the certain LEASE OPTION AGREEMENT dated the 24th day of August 1984 wherein the undersigned or lessors and BASIN PRODUCE CORP., a California corporation is Lessee, a copy of which is attached hereto and marked as Exhibit "A" to South Valley State Bank. This assignment is made for purposes of security for said loan # 300263, and the Lessee's will be authorized and directed to make any payments due hereunder to the undersigned Lessors, until and unless notified to make any further payments to South Valley State Bank, in writing, by either the undersigned or South Valley State Bank. The undersigned will not accept nor are the Lessee's under the LEASE OPTION AGREEMENT to exercise its option to purchase the equipment mentioned in the LEASE OPTION AGREEMENT without the prior written consent of South Valley State Bank.

LESSORS:

STATE OF OREGON }
COUNTY OF KLAMATH } SS

Tom A. Frey
Tom A. Frey

Tom W. Frey
Tom W. Frey
Norma Frey
Norma Frey

ON THIS 8th day of December, 1986, before me, the undersigned Notary Public in and for said State, personally appeared Bill C. Osborne known to me to be the person(s) S whose names ARE subscribed to the above assignment, and acknowledged to me that THEY executed the same.



Liana Killingsworth
Notary Public for Oregon
My Commission expires 9-15-90

THIS ASSIGNMENT ACCEPTED. We hereby acknowledge this assignment and agree to place the name of SOUTH VALLEY STATE BANK on any check made to above assigned proceeds.

DATE: 12-8-86

ACCEPTED BY: BASIN PRODUCE CORP.

Bernie R. Liskey Secretary
Bill C. Osborne President



SOUTH VALLEY STATE BANK

5215 SOUTH SIXTH — P. O. BOX 5210
KLAMATH FALLS, OREGON 97601
(503) 883-3366

GENTLEMEN;

PLEASE RECORD AND RETURN TO THE ABOVE ADDRESS.

ck
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LEASE OPTION AGREEMENT

THIS AGREEMENT is made and entered into this 24th day of August 1984, by and between FREY & SON, a California general partnership, and THOMAS A. FREY and NORMA FREY, husband and wife, hereinafter jointly, severally, and collectively referred to as "Lessor", and BASIN PRODUCE CORP., a California corporation, hereinafter referred to as "Lessee".

W I T N E S S E T H :

IN CONSIDERATION of the terms, covenants and conditions herein contained, the parties hereto do hereby agree as follows:

1. LEASE

Lessor hereby leases to Lessee, and Lessee hereby leases and hires from Lessor, all machinery, equipment and real property described in EXHIBIT A attached hereto and incorporated herein by reference.

2. PERIOD

The term of this lease shall be for a period of five years, commencing August 1, 1984, and terminating July 31, 1989.

3. RENT

The rent for any and every item of equipment and property set forth in Exhibit A shall be a minimum of SEVENTY FOUR THOUSAND FOUR HUNDRED DOLLARS (\$74,400.00) per year, payable in advance, the first year due January 1, 1985, and the second and later years on

EXHIBIT "A"

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each August 1 thereafter. Notwithstanding the foregoing, on August 1, 1985 and of each subsequent year during this lease, Lessor shall determine the average interest rate for five (5) year secured loans charged over the prior twelve (12) months by Klamath Production Credit Association, together with stock requirements of its principal borrowers, and said average interest rate shall be multiplied by the sum of \$744,000.00. In the event the computed sum is greater than \$74,400.00 then, in such event, upon demand of Lessor, Lessee shall pay to lessor as and for additional rental for the prior year the difference between said computed sum and \$74,400.00.

4. USE

Lessee shall use the equipment in a careful and proper manner and shall comply with and conform to all national, state and municipal and other laws, ordinances and regulations in any wise relating to the possession, use or maintenance of the equipment. Said equipment shall not be removed from the premises herein leased without the prior written consent of the Lessor, except for repairs or replacement.

5. MAINTENANCE

Except as hereinafter provided, Lessee, at its own cost and expense, shall keep the equipment and property in good repair, condition and working order and shall furnish any and all parts, mechanisms and devices required to keep the equipment in good mechanical and working order. Lessee hereby assumes and shall bear the entire risk of loss and damage to the equipment from any and every cause whatsoever. No loss or damage to the equipment or any

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part thereof shall impair any obligation of Lessee under this lease, which shall continue in full force and effect. In the event of loss or damage of any kind whatever to any item of equipment or property, Lessee, at the option of Lessor, shall: a) place the same in good repair, condition and working order; or b) replace the same with like equipment in good repair, condition and working order. If the assets leased are destroyed more than one-third (1/3) and either a) the insurance company refuses coverage or b) repair and replacement cannot be completed within ninety (90) days after receipt of the insurance proceeds, either party may terminate the Agreement.

Notwithstanding the foregoing, as to those items of equipment set forth in Exhibit A marked with an asterisk (*), for a period of eighteen (18) months from the date of inception of this lease, Lessor, at Lessor's own cost and expense, shall keep the equipment and said property in good repair, condition and working order, except as to such maintenance or repair caused by the neglect of the Lessee, and shall furnish any and all parts, mechanisms and devices needed to keep the equipment in good mechanical and working order.

6. INSURANCE

Lessee shall keep the equipment insured against all risk of loss or damage from every cause whatsoever for not less than the full replacement value thereof and shall carry public liability and property damage insurance covering said equipment with limits of not less than \$500,000 per occurrence. All such insurance shall be in a form and with companies approved by Lessor and shall

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be in the joint names of Lessor and Lessee. Lessee shall pay the premiums therefor and deliver said policies, or duplicates thereof, to Lessor. The proceeds of such insurance shall be applied toward the replacement, restoration or repair of the equipment or property leased hereunder.

7. LIENS AND ENCUMBRANCES

Except as provided in this Section 7, the parties shall keep the equipment free and clear of all levies, liens and encumbrances. Lessee shall pay all license fees, registration fees, assessments, charges and taxes (municipal, state and federal) which may now or hereafter be imposed upon the ownership, leasing, renting, sale, possession or use of the equipment, excluding, however, all taxes on or measured by Lessor's income. Lessor is allowed to continue its present borrowing from FmHA secured by certain of the Exhibit A assets; Lessor agrees to repay said borrowing when due, comply with all its terms, and not to borrow more or to change the terms. If FmHA accelerates the note or in any way seeks to foreclose upon the assets or to disturb Lessee's quiet enjoyment thereof, Lessor shall indemnify, defend, and hold Lessee free and harmless. Lessee is allowed to encumber this Agreement as security for money borrowed by it.

8. WARRANTIES

Except as to title, Lessor makes no warranties, either express or implied, as to any matter whatsoever, including, without limitation, the condition of the equipment, its merchantability, or its fitness for any purpose, and Lessee does hereby accept said equipment in an "as is" condition.

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9. INDEMNIFICATION

Lessee shall indemnify Lessor against and hold Lessor harmless from, any and all claims, actions, suits, proceedings, costs, expenses, damages and liabilities, including attorneys' fees, arising out of, connected with, or resulting from lessee's use or possession of the equipment or property, including, without limitation, the manufacture, selection, delivery, possession, use, operation or return of the equipment.

10. ASSIGNMENT

Without the prior written consent of Lessor, Lessee shall not a) except as provided above, assign, transfer, pledge or hypothecate this lease, the equipment, or any part thereof, or any interest therein, or b) sublet or lend the equipment or any part thereof, or permit the equipment or any part thereof to be used by anyone other than Lessee or Lessee's employees. Consent to any of the foregoing prohibited acts applies only in a given instance and is not a consent to any subsequent like act by the Lessee or any other person. Subject to the foregoing, this lease inures to the benefit of, and is binding on, the successors and assigns of the parties hereto.

11. OWNERSHIP

The equipment is, and shall at all times be and remain, the sole and exclusive property of Lessor and Lessee shall have no right, title or interest therein or thereto except as expressly set forth in this lease.

12. OFFSET

Lessee hereby waives any and all existing and future

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claims and offsets against any rent or other payments due hereunder, and agrees to pay the rent and other amounts hereunder, regardless of any offset or claim which may be asserted by Lessee or on its behalf.

13. NOTICES

Any notice which either party hereto deems it necessary or desirable to give to the other shall be in writing, and may be delivered either personally or by mail, and if by mail shall be deemed given and received forty-eight (48) hours after the deposit thereof in a United States Post Office, certified, with sufficient postage thereto affixed, and addressed as follows:

If given to Lessor:

P.O. Box 844
Tulelake, CA 96134

If given to Lessee:

P.O. Box 367
Tulelake, CA 96134

Either party may change its address by notice to the other in the manner hereinabove set forth.

14. ENTIRE AGREEMENT

This Agreement, together with the Exhibit hereto, contain all the representations and the entire understandings between the parties hereto with respect to the subject matter hereof. Any prior correspondence, memoranda or agreements are replaced in total by this lease, and the exhibit hereto. This lease may be modified only by an agreement in writing signed by each of the parties.

15. LESSEE'S OPTION

Lessor grants to Lessee the option to purchase the Exhibit A assets in accordance with the provisions of this lease, as

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long as Lessee is not in default at the time Lessee exercises the option. Lessee shall have the right to exercise the option to purchase at any time during the term but not before January 1, 1988. Lessee shall exercise the option by giving notice ("option notice") to Lessor within the option period.

The purchase price of the assets shall be SEVEN HUNDRED FORTY FOUR THOUSAND DOLLARS (\$744,000.00) payable as set forth below.

The purchase price shall be payable to Lessor by Lessee at close of escrow (the date the grant deed is recorded) as follows: no down payment; assumption of the debt to FmHA if permitted by the lender; Lessee shall deliver to Lessor an executed promissory note payable to Lessor for the balance of the purchase price after deducting the FmHA debt. The note shall provide for payment of principal in equal annual installments over a twenty-five (25) year period, the first installment to become due and payable on the last day of the twelfth (12th) month following the month in which escrow closes. Interest on the unpaid balance of the promissory note shall accrue from close of escrow, payable with each principal payment. The annual interest rate shall be the greater of (i) 10% or (ii) average rate for ten (10) year secured loans charged, over the twelve (12) months preceding the respective principal payment, by Klamath Production Credit Association, together with stock requirements of its principal borrowers.

Lessee shall deliver to Lessor an executed deed of trust, in recordable form encumbering the real property to secure the note. The note and deed of trust shall be in escrow-holder's

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standard printed forms. In addition the note shall be secured by the machinery and equipment, and Lessee shall sign and deliver a UCC-1 form. Note is prepayable with Lessor's consent.

The purchase price shall be allocated among the land, improvements and personalty as specified in EXHIBIT B attached hereto.

Lessor shall deliver to Lessee an executed bill of sale for the personalty and a grant deed in recordable form conveying the realty. Title shall be conveyed by Lessor to Lessee in the condition set forth in the issued title insurance policy described below.

The sale shall be consummated through an escrow with Siskiyou County Title Co. ("escrowholder"), to be opened within ten (10) days after the option notice has been given to Lessor. Escrow shall be deemed to be opened under this paragraph on the date the escrow number is obtained. The parties shall execute all documents required by escrowholder as long as they are consistent with the provisions of this section. Escrow shall close within sixty (60) days after the option exercise. Escrow shall be deemed to be closed pursuant to this paragraph on the date the grant deed is recorded.

At the close of escrow, escrowholder must be prepared to issue a CLTA Standard Coverage Policy of Title Insurance in the amount of the purchase price insuring title to the premises vested in Lessee subject only to the matters set forth in its preliminary report. If either party gives escrowholder written objection to said report within fourteen (14) days after delivery, the escrow shall terminate and this section shall be void.

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Rent, insurance premiums and taxes shall be prorated as of close of escrow.

Transfer taxes, recording fees on the deed, the cost of the title policy, and charges of escrow shall be paid equally by the parties.

16. GENERAL

Time is of the essence of this lease and all of its provisions. Lessor shall be bound by any one of the following: TOM A. FREY, NORMA FREY, or TOM W. FREY. The parties agree that Lessee may record a memo hereof at any time and Lessor will sign all documents necessary for such recording. Lessor will cause BASIN POTATO CO., a California corporation, to change its name, thus allowing Lessee to use said name. Sales tax on the transactions under the Agreement shall be paid one-half (1/2) by each party.

Except for possible FmHA assumption in Section 15, Lessee assumes no liability with respect to any existing or future liability of Lessor, whether disclosed, undisclosed, fixed, contingent, tort, contract or otherwise. Lessor continues to be solely liable for all his liabilities, including without limitation any liability for defective products, service, or repairs.

Lessor hereby agrees to indemnify, defend, and hold Lessee harmless against any claim which may be asserted against Lessee arising out of Lessor's conduct of the potato processing business prior to the commencement date of this lease.

IN WITNESS WHEREOF, this lease is executed by the parties hereto as of the day and year first above written.

LESSOR:

FREY & SON, a partnership

By Tom A. Frey

By Cheri A. Frey

Thomas A. Frey
Thomas A. Frey

Norma Frey
Norma Frey

LESSEE:

BASIN PRODUCE CORP. a
California corporation

By Tom A. Frey
President

By Martha Johnson
Secretary

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and

IN CONSIDERATION of Lessor's entering into the within lease,
the undersigned, ~~in proportion to their respective family equity in~~
~~Basin Produce Corp.~~, do hereby guarantee the performance of three-quarters of all
the above terms and covenants which obligate Lessee, including, but
not limited to, payment of rental required pursuant to the within
lease, that is, ~~each group of guarantors is limited to 25% of Lessee's~~
~~obligations to Lessor.~~

jointly & separately

(1) 25% BERNIE AND PAM LISKEY FARMS, INC.

By Bernie Liskey

Bernie Liskey
Bernie Liskey, individually

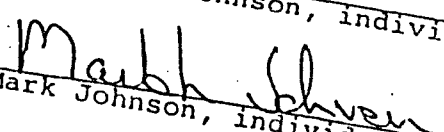
Pam Liskey
Pam Liskey, individually

Harry B. Rose, individually

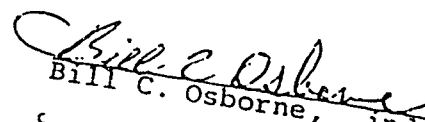
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(2) 25% FRENCH E. JOHNSON & SON, INC.

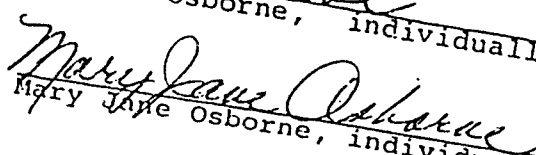
By 

French E. Johnson, individually


Mark Johnson, individually

(3) 25%


Bill C. Osborne, individually


Mary Jane Osborne, individually

James E. Osborne, individually

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EXHIBIT A

1. REAL PROPERTY

12.2 acres (with improvements, present access road, and use of scale located on adjoining parcel) more particularly described as follows:

All that real property situated in the County of Siskiyou, State of California, described as:

Parcel 1 (12.20 acres) as shown on the map for Thomas Frey, being a portion of the Northeast quarter of the Southeast quarter of Section 24, Township 48 North, Range 3 East, M.D.M., filed in the Siskiyou County Recorder's Office in Parcel Map Book 8, page 68.

2. MACHINERY AND EQUIPMENT

See list attached hereto as RIDER 1.

MACHINERY AND EQUIPMENT

--- FMC Sizer	\$ 50,000.00
--- Paramount 5 Head dig	5,000.00
--- FMC Sizing Table	7,500.00
--- Paramount Roller Sizer	6,000.00
--- 3 Paramount 2 Head Jig	3,500.00
--- 8 Scales	3,500.00
--- 6 Hand Trucks	750.00
--- 600 Sx Even Flo Tank	2,000.00
--- 2 - 30' Conveyors	2,500.00
--- Ideal Carton Stapler	2,000.00
--- New Jersey 10# Poly Wire Tie	8,000.00
--- Air Compressor	1,000.00
--- North West Bagger	2,500.00
--- 4 Section Sewing Belt	1,000.00
--- 3 Sack Elevators	500.00
--- GW #2 Table	1,000.00
--- GW 24' Conveyor	750.00
--- GW 10' Conveyor	1,000.00
--- 700 Sx Storage Tank	2,500.00
--- Cull Elevator	300.00
--- 4 Carton Hand Trucks	250.00
--- Ernst Roller Grader	8,000.00
--- Moorehead Brushwasher	6,500.00
--- 14 Head Baker Bagger	22,500.00
--- Lewis Baler	2,500.00
--- 5 Wire Stitcher	8,000.00
--- Model 6614 Bagger	4,000.00
--- Conveyor & Holding Tanks	5,000.00
--- 1976 Cat 5,000 lb Forklift	20,000.00
--- 1982 Hyster 5,000 lb Forklift	22,000.00
--- 1976 Nordson Glue Machine	15,000.00
--- 4-1977 McClusky Carton Fillers	12,000.00
--- 1982 McClusky Baler Sewing Machine	7,600.00

MACHINERY AND EQUIPMENT CONT'D

EXHIBIT A 596-N
Rider 1

--- Miscellaneous Conveyors, tanks, etc.	\$ 8,000.00
--- Water System & Pumps	10,000.00
--- 300 IH with Scraper	2,500.00
--- New Filiber Bagger	21,000.00
--- Lockwood Elevator	8,000.00
--- Spudnick Scoopy	10,000.00
--- Lewis Elevator	5,000.00

EXHIBIT B

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ALLOCATION OF PURCHASE PRICE

<u>ASSET</u>	<u>PRICE</u>
1. Land	\$ 15,000.00
2. Improvements	\$429,000.00
3. Machinery and Equipment	<u>\$300,000.00</u>
	\$744,000.00

STATE OF OREGON,
County of Klamath ss.

Filed for record at request of:

on this 14th day of January A.D., 19 87
at 11:26 o'clock A M. and duly recorded
in Vol. M87 of Deeds Page 596
Evelyn Biehn County Clerk
By Bernetha D. Heloch
Deputy.

Fee 4 5.00