

## LAND SALE CONTRACT

THIS CONTRACT, made and entered into this 5th day of September, 1987, by and between JOHN T. DOWLING and MARSHA A. DOWLING, husband and wife, hereinafter called Seller, and WALLACE L. KAELE and KAREN L. KAELE, husband and wife, hereinafter called Buyer (it being understood that the singular shall include the plural if there are two or more sellers and/or buyers).

WITNESSETH:

Seller agrees to sell to the Buyer and the Buyer agrees to buy from the Seller for the price and on the terms and conditions set forth hereafter all of the following described real property situated in the County of Klamath, State of Oregon, to-wit:

The West one-half of the following described real property:

BEGINNING at the Southerly line of the Klamath Falls-Ashland Highway (Greensprings Highway) at a stake which is South 135 feet and South 61° 56' West 374 feet from the quarter corner common to Sections 28 and 33, Township 39 South, Range 8 East of the Willamette Meridian; thence South 61° 56' West 374 feet along the Southerly line of said Highway to a stake; thence South 1576.9 feet to a stake on the Northerly right of way line of the Weyerhaeuser logging railroad; thence North 54° 12' East 406.85 feet along said right of way line to a stake; thence North 1514.3 feet to the place of beginning, and being in the E1/2 of NW1/4 of Section 33, Township 39 South, Range 8 East of the Willamette Meridian, in the County of Klamath, State of Oregon,

EXCEPTING THEREFROM portion deeded to J. W. and Elinor Brophy by deed recorded in Book 121 at page 121, Deed Records of Klamath County, Oregon.

SUBJECT TO contracts and/or liens for irrigation and/or drainage, the schedule of exclusions from coverage, together with any schedules contained in standard title policies, reservations, easements, restrictions and rights of way of record and those apparent on the land.

ALSO SUBJECT TO rights of the public in and to any portion of the herein described premises lying within the boundaries of roads or highways.

ALSO SUBJECT TO Regulations, including levies, assessments, water and irrigation rights and easements for ditches and canals, of Emmett Irrigation District.

ALSO SUBJECT TO Contract, including the terms and provisions thereof, as revealed by a memorandum thereof:

Vendor:	Edward J. Gardner and Monniette Gardner, husband and wife
Vendee:	John T. Dowling and Marsha A. Dowling
Dated:	October 5, 1976
Recorded:	October 6, 1976
Book:	M-76
Page:	15686
Re-recorded:	October 22, 1976
Book:	M-76
Page:	16819

which Buyer does not assume, and which said contract is to be paid from out of the proceeds in payment of the within Contract.

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## ALSO SUBJECT TO:

## Unpaid taxes for 1986-87:

Amount: \$627.69, plus interest  
Code: 21  
Map: 3908-33B0  
TL: 2500  
Key #: 502281

## Unpaid taxes for 1985-86

Amount: \$597.97, plus interest  
Code: 21  
Map: 3908-33B0  
TL: 2500  
Key #: 502281

## Unpaid taxes for 1984-85

Amount: \$542.36  
Balance  
Owing: \$388.51, plus interest  
Code: 21  
Map: 3908-33B0  
TL: 2500  
Key #: 502281

provision for payment of which said real property taxes  
is set forth hereinafter.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

It is mutually agreed as follows:

1. **Possession:** Buyer shall be entitled to possession of the property as of the date hereof.

2. **Prepayment Privileges:** After the date hereof, Buyer shall have the privilege of increasing any payment or prepaying the entire balance provided for hereinafter with interest due thereon to the date of payment;

3. **Payment of Liens and Taxes:** Buyer shall pay promptly all indebtedness incurred by their acts which may become a lien or purported lien, upon said property, and shall regularly and before the same shall become delinquent, pay all taxes, including adjustment of same for any reason, assessments, liens, and encumbrances of whatsoever kind affecting said property after this date, provided, all such taxes, assessments and charges for the current year shall be pro-rated as of the date hereof, and in the event Buyer shall fail to so pay, when due, any such matters or amounts required by Buyer to be paid hereunder, or to procure and pay seasonably for insurance, Seller may pay any or all such amounts and any such payment shall be added to the purchase price of said property on the date such payments are made by Seller and such amount shall bear interest at the same rate as provided herein, without waiver, however, of any right arising to Seller for Buyer's breach of contract, and, in such event or events, the escrow holder is hereby directed and authorized to so add such amounts to the contract balance upon being tendered a proper receipt therefore;

4. **Insurance:** It is agreed that buyer will keep any building or improvements on said property insured against loss or damage by fire or other casualty in an amount of not less than the full insurable value thereof with loss payable to the parties hereto and the interests herein reflected, if any, all as their interests appear at the time of loss, all uninsured losses shall be borne by the buyer on or after the date Buyer becomes entitled to possession; Buyer shall furnish Seller proof of such insurance coverage;

5. **Waste Prohibited:** Buyer agrees that all improvements now locate or which shall hereafter be placed on the property, shall remain a part of the real property and shall not be removed at any time prior to the expiration of this agreement without the written consent of Seller. Buyer shall not cut or remove any timber, trees or shrubbery without Sellers prior written consent. Buyer shall not commit or suffer any waste of the property, or any improvements thereon, or alteration thereof, and shall maintain the property, improvements and alterations thereof, in good condition and repair, provided, Buyer shall not make or cause to be made any major improvements or alterations to the property without first obtaining the written consent of Seller;

6. **Transfer of Title:** Seller shall upon the execution hereof make and execute in favor of Buyer a good and sufficient deed conveying said property free and clear of all liens and encumbrances, except as provided hereinbefore, and will place said documents, together with one of these agreements, in escrow at ASPEN TITLE & ESCROW, INC., 600 Main Street, Klamath Falls OR 97601, shall enter into written escrow instructions in form satisfactory to said escrow holder and the parties hereto, instruct said escrow holder that when, and if, Buyer shall have paid the balance of the purchase price in accordance with the terms and conditions of this contract, said escrow holder shall deliver said documents to Buyer, but in case of default by Buyer said escrow holder shall, on demand, surrender said documents to Seller;

7. **Tax Payment Procedures:**

(a) Until a change is requested, all tax statements shall be sent to the address designated by Buyer. Buyer shall be required to pay the same and provide proof of such payment to Seller within thirty (30) days of the date of mailing of the said tax statement by Klamath County.

(b) Buyer and Seller agree and understand that the property is taken subject to certain unpaid real property taxes for the tax years 1984-85, 1985-86, and 1986-87. Buyer and Seller agree that appropriate escrow instructions will be forwarded to Aspen Title & Escrow, Inc., providing that from out of the proceeds of payment of the within Land Sale Contract, the said Aspen Title & Escrow, Inc., shall be authorized to pay toward the unpaid back real property taxes the sum of TWO HUNDRED AND NO/100THS DOLALRS (\$200.00) per month, until the same have been paid in full.

8. **Property Taken "As Is":** Buyer certifies that this contract of purchase is accepted and executed on the basis of his own examination and personal knowledge of the premises and opinion of the value thereof; that Buyer has made a personal inspection of the property so as to determine its acceptability, that no attempt has been made to influence his judgment; that no representations as to the condition or repair of said premises have been made by Seller or by an agent of Seller, and that

Buyer takes said property and the improvements thereon in the condition existing at the time of this agreement, with no express, implied or other warranties by Seller;

9. **Consent to Assignment:** Buyer shall not assign this agreement, his rights thereunder, or in the property covered thereby without the written consent of Seller. In the event the within-described property, or any part thereof, or any interest in this Agreement, the rights of Buyer thereunder, or any part thereof, or any interest therein is sold, agreed to be sold, conveyed, assigned or alienated by the Buyer without first having obtained the written consent or approval of Seller, then, at the Seller's option, all obligations secured by this Agreement, irrespective of the maturity dates expressed herein, shall become immediately due and payable.

10. **Time of Essence:** It is understood that and agreed between the parties that time is of the essence of this contract;

11. **Default:** In case Buyer shall fail to make the payments aforesaid, or them punctually and upon the strict terms and at the times above-specified or fail to keep any of the terms or conditions of this agreement, then the Seller at his option shall have the following rights;

(a) To declare this contract null and void, after giving such notice as is then required by Oregon Revised Statutes; and/or

(b) To declare the whole unpaid principal balance of said purchase price with the interest thereon at once due and payable; and/or

(c) To withdraw said deed and other documents from the escrow and/or;

(d) To foreclose this contract by suit or by strict foreclosure in equity.

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 revest in said Seller without any act of re-entry, or any other act of said Seller to be performed and without any right of Buyer of return, reclamation or compensation for monies 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. The said Seller, in case of such default, shall have the right immediately, or any time thereafter, to enter upon the land aforesaid, without any process of law, and take immediate possession thereof, together with all of the improvements thereon; and alternatively, Buyer shall have the right to apply to the Court for appointment of a receiver as a matter of right and nothing in this contract shall preclude appointment of the Seller as such receiver;

12. **Abandonment:** Should Buyer, while in default, permit the premises to become vacant for a period in excess of 20 days, Seller may take possession of same individually or by appointment

of a receiver by self-help or by Court order for the purpose of protecting and preserving the property and his security interest herein, and in the event possession is so taken by Seller he shall not be deemed to have waived his right to exercise any of the foregoing rights;

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

14. **No Waiver:** Buyer further agrees that failure by Seller at any time to require performance by Buyer of any provision hereof shall in no way affect Seller's right hereunder to enforce the same, nor shall any waiver by 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;

15. **Binding on Successors:** This agreement shall bind and inure to the benefit of, as the circumstances may require, the parties hereto and their respective heirs, executors, administrators, successors and assigns, subject to the foregoing;

16. **Purchase Price and Payments:** The purchase price for the interest conveyed is the sum of THIRTY-TWO THOUSAND AND NO/100THS DOLLARS (\$32,000.00) payable as follows:

(a) Buyer shall pay an initial payment in the sum of ONE THOUSAND FIVE HUNDRED AND NO/100THS DOLLARS (\$1,500.00); and

(b) The remainder of the purchase price in the amount of THIRTY THOUSAND FIVE HUNDRED AND NO/100THS DOLLARS (\$30,500.0) shall be payable in monthly installments of FIVE HUNDRED SIXTY-THREE AND 62/100THS DOLLARS (\$563.62) including interest at the rate of nine and one-half percent (9.5%) per annum on the unpaid balance, which said sum includes principal and interest; together with the applicable collection escrow fees; the first of such payments shall be payable on the 9 day of ~~OCTOBER~~ <sup>NOVEMBER</sup>, 1987, with a further and like installment payable on the 9 day of each and every month thereafter, until the payment which shall come due on the 9 day of October, 1988, when the payment amount shall be payable in monthly installments of THREE HUNDRED SIXTY-THREE AND 62/100THS DOLLARS (\$363.62) including interest at the rate of nine and one-half percent (9.5%) per annum on the unpaid balance, which said sum includes principal and interest; together with the applicable collection escrow fees; the first of such payments shall be payable on the 9 day of October, 1988, with a further and like installment payable on the 9 day of each and every month thereafter, until the full amount of principal and interest shall have been paid in full.

17. **Inclusion of Personal Property:** It is agreed between Buyer and Seller that the property conveyed by the within Land Sale Contract include a wood stove and appliances, which said personal property items constitute an improvement to the real property conveyed by the within instrument. Buyer and Seller agree that Seller shall retain title to the said personal property items until the Land Sale Contract has been paid in full.

18. **Escrow Funds Distribution:** It is understood by and between the parties that the real property being conveyed by the within instrument is encumbered by a certain contract, including the terms and provisions thereof, more particularly described hereinabove, owing to EDWARD J. GARDNER and MONNIETTE GARDNER, husband and wife. It is agreed that the escrow holder named herein, or its successor, upon receipt of payments from Buyer, shall remit the same in payment of the obligation owing to EDWARD J. GARDNER and MONIETTE GARDNER, husband and wife, until the said obligation has been paid in full. Seller agrees that the proceeds from payments made hereunder by Buyer shall be utilized by Seller (and the named escrow agent) in payment of the aforesaid obligation, which Buyer does not assume.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed the day and year first hereinabove written.

**SELLER:**

*John T. Dowling*  
John T. Dowling

*Marsha A. Dowling*  
Marsha A. Dowling

**BUYER:**

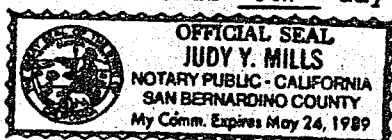
*Wallace L. Kaelke*  
Wallace L. Kaelke

*Karen L. Kaelke*  
Karen L. Kaelke

STATE OF CALIFORNIA/County of SAN BERNARDINO ) ss.

PERSONALLY APPEARED BEFORE ME the above-named JOHN T. DOWLING and MARSHA A. DOWLING, and acknowledged the foregoing Land Sale Contract to be their voluntary act and deed.

DATED this 9th day of October, 1987.

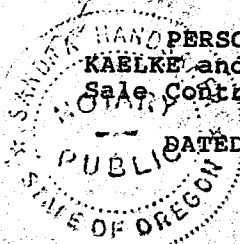


*Judy Y. Mills*  
NOTARY PUBLIC FOR CALIFORNIA  
My Commission expires: May 24, 1989

STATE OF OREGON/County of Klamath ) ss.

PERSONALLY APPEARED BEFORE ME the above-named WALLACE L. KAELE and KAREN L. KAELE, and acknowledged the foregoing Land Sale Contract to be their voluntary act and deed.

DATED this 5th day of October, 1987.



*Sandra Handseher*  
NOTARY PUBLIC FOR OREGON  
My Commission expires: 7-23-89

18883

**GRANTOR'S NAME AND ADDRESS:**

John T. Dowling and  
Marsha A. Dowling  
16172 Upland Avenue  
Fontana CA

**GRANTEE'S NAME AND ADDRESS:**

Wallace L. Kaelke and  
Karen L. Kaelke  
P O Box 316  
Keno OR

**AFTER RECORDING, RETURN TO:**

**ASPEN TITLE & ESCROW, INC.**  
**600 MAIN**  
**KLAMATH FALLS, OR 97601**

**UNTIL A CHANGE IS REQUESTED,  
TAX STATEMENTS SHOULD BE  
SENT TO:**

STATE OF OREGON/County of Klamath ) ss.

I CERTIFY that the within instrument was received for record  
on the 19th day of October, 1987, at 3:18 o'clock  
P.M., and recorded in Book M87 on Page 18877  
or as File/Reel number 80599, Records of Deeds of said  
County.

WITNESS MY HAND AND SEAL OF COUNTY AFFIXED.

Evelyn Biehn, County Clerk  
Recording Officer

Fee: \$35.00

By: *Pam Smith*