

3516

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K-41559

After recording, return to:

Wayne J. & Caralie S. Gunderson
~~282 Elysium~~ 2822 Elysium
 Eugene, Oregon, 97401

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

Wayne J. & Caralie S. Gunderson
~~282 Elysium~~ 2822 Elysium
 Eugene, Oregon, 97401

LAND SALE CONTRACT

THIS AGREEMENT, made and entered into this 27th day of
 July, 1989, by and between:

SELLER:

RICHARD E. WARREN and RAMONA JO WARREN, husband and
 wife, hereinafter referred to as seller,

which term includes the heirs, successors, personal representatives
 and assigns of said persons, and

BUYER:

WAYNE J. GUNDERSON and CARALIE S. GUNDERSON, husband and
 wife, hereinafter referred to as buyer,

which term includes the heirs, successors, personal representatives
 and assigns of said persons,

W I T N E S S E T H:

That seller, for and in consideration of the covenants and
 agreements herein stated to be kept and performed by buyer, has agreed
 to sell and convey to buyer, and buyer has agreed to purchase and pay
 to seller, the sums of money hereinafter stated for the following-
 described real property, situated in the County of Klamath, State of
 Oregon, to-wit:

E1/2S1/2N1/2NE1/4NE1/4 of Section 8, Township 25 South,
 Range 8 East of the Willamette Meridian, Klamath County,
 Oregon.

Together with the easement for egress and ingress along
 the boundaries of the property to the West as more fully

GARRETT, SEIDEMAN, HEMANN, ROBERTSON & DE MUNIZ, P.C.

ATTORNEYS AT LAW
 WILLAMETTE PROFESSIONAL CENTER
 1011 COMMERCIAL STREET N.E. P.O. BOX 749
 SALEM, OREGON 97309

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set forth in those Deeds dated June 1, 1970 and recorded June 8, 1970 in Volume M 70 Pages 4578 and 4579.

and having Tax Lot Number 2508-800-500.

SUBJECT TO:

1. Reservations of fissionable materials and minerals, oil and gas rights, including the terms and provisions thereof, as reserved in Deed from Klamath Lumber & Box Company, Inc., to Bernard Grossman, dated May 26, 1965, recorded May 14, 1965, in Volume 362 page 280, Deed records of Klamath County, Oregon.

2. Buyer is aware that the main road which travels through the property adjoining the parcel being conveyed herein is owned by the United States Forest Service and is not a dedicated road, and therefore is subject to the policies and decisions of the U.S. Forest Service, including any decisions as to whether to continue to allow the public to use said road.

Also included in this transaction are the furniture, appliances, utensils and dishes previously in the premises and the Ski Doo snowmobile currently at said premises.

PURCHASE PRICE

The purchase price of the property which buyer agrees to pay shall be the sum of Twenty Thousand Nine Hundred Dollars (\$20,900.00) payable as follows:

a. The sum of Five Thousand Dollars (\$5,000.00), which has been previously paid as earnest money;

b. The remaining balance of Fifteen Thousand Nine Hundred Dollars (\$15,900.00) shall be paid in monthly installments of \$250.00 or more each, including interest at the rate of ten percent (10%) per annum on the unpaid balances from the 28th day of July, 1989, the first of such installments to be paid on the 20th day of August, 1989, and subsequent installments to be paid on or before the same day of each and every month thereafter until the entire unpaid balance, including principal, interest, and additions thereto, shall be paid in full. The above monthly installments include principal and interest.

d. In the event the monthly payment is not made within ten (10) days of the due date, then the buyer shall pay

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WARREN/GUNDERSON

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to the seller an additional \$15.00 for a late payment, without waiver, however, of any of the seller's rights pursuant to this contract.

INCREASING PAYMENTS

Buyer shall have the privilege of increasing any monthly payments or prepaying the whole consideration at any time; provided that no additional payments shall be credited as regular future payments nor excuse buyer from making the regular monthly payments provided for in this agreement. Said prepayments shall be made without penalty to buyer.

WARRANTY DEED

At such time as the buyer shall have fully paid and performed this contract, the seller shall convey said premises to the buyer by statutory Special Warranty Deed, conveying said premises free and clear of encumbrances, except such encumbrances as may have been permitted or committed by the buyer from and after the date hereof, except any reservations, zoning ordinances, building restrictions, and encumbrances, if any, hereinbefore more fully set forth.

POSSESSION

Buyer shall have possession of said real property on the 28th day of July, 1989, which date shall be referred to as the "Prorate Date."

TAX PRORATE - BUYER TO PAY

Taxes levied against the above-described property for the current tax year shall be prorated between the seller and the buyer as of the "Prorate Date." Buyer agrees to pay when due all taxes which are thereafter levied against said property and all public, municipal, and statutory liens and/or assessments which may be lawfully imposed against the premises. If the buyer shall fail to pay any taxes or charges or any liens or encumbrances above-provided, the seller may, at his option, do so, and any payments so made shall be added to and become a part of the principal purchase price and shall bear interest at the same rate as provided for in this agreement, without waiver, however, of any rights arising to the seller for breach of covenant.

HAZARD INSURANCE - BUYER TO PAY

The buyer agrees to keep the building on said premises insured against loss or damage by fire or other casualty in an amount not less than their full insurable value with loss payable to the parties herein as their interests appear at the time of the loss, with priority amount to the seller. The seller shall be named as an insured and shall apply the proceeds of any insurance claim to repair

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and reconstruct the building insured and apply the remainder to the balance of the purchase price then due. The buyer shall furnish to the seller written proof that the premiums therefore have been paid and are current. All uninsured losses shall be borne by the buyer on or after the prorated date.

IMPROVEMENTS

Buyer agrees that all improvements now on or hereafter placed on the premises 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 the seller. Buyer shall not commit or suffer any waste of the property, nor of any improvements thereon, nor of any improvements hereafter placed thereon, and shall maintain the property and all improvements now or hereafter placed thereon and alterations thereof in good repair and condition. Buyer shall promptly comply with all laws, ordinances, regulations and requirements of all governmental authorities applicable to the use or occupancy of the property, and in this connection promptly make all required repairs, alterations and additions.

BUYER'S TITLE INSURANCE

Seller shall furnish at his expense a buyer's title insurance policy in the amount of \$20,900.00 within ten (10) days from the date hereof, insuring buyer against loss or damage sustained by him by reason of the unmarketability of seller's title or liens or encumbrances thereon, excepting matters contained in the usual printed exceptions in such title insurance policies, the easements, conditions, restrictions, liens, and encumbrances placed upon the property or suffered by buyer subsequent to the date of this agreement.

SURVIVING SELLER

The sellers own this property as tenants by the entirety, and in the event of the death of either seller, then this contract, together with all right, title and interest of vendors herein, shall inure and automatically vest in the survivor of the sellers.

SURVIVING BUYER

The buyers herein are purchasing said real property as tenants by the entirety, and by executing this contract the parties hereto agree that in the event of the death of either buyer, then this contract, together with all right, title, and interest of the buyers hereunder, shall inure to and be binding upon and automatically vest in the survivor of the buyers.

CONSENT TO ASSIGN

This contract is personal to the seller and the buyer herein, and the buyer shall not assign this agreement, sell this property on contract, or transfer his rights herein or in the property covered hereby without the written consent of the seller first had and obtained. Any assignment, contract, mortgage, sale, or transfer of any interest herein made or given without the seller's consent will constitute a material breach of the terms and conditions of this contract, and the seller may pursue any of the remedies or rights provided by the default provisions contained herein. Said consent shall not be unreasonably withheld. In the event that buyer requests such consent, buyer shall pay all of seller's expenses incurred in determining whether consent should be granted, including but not limited to attorney fees, accounting fees, review of credit applications, document preparation and recording fees.

DEFAULT

In the event that buyer shall fail to perform any of the terms of this agreement, time of payment and performance being of the essence, seller shall, at his option, subject to the requirements of notice as herein provided, have the following rights (no one of which shall be waived by exercise of another):

- (a) to foreclose this contract by strict foreclosure in equity;
- (b) to declare the full unpaid balance of the purchase price immediately due and payable;
- (c) to specifically enforce the terms of this agreement by suit in equity;
- (d) to declare this contract to be null and void after notice pursuant to ORS 93.905 through 93.945 to buyer in writing of seller's intention to do so, unless the performance then due under this contract is tendered or accomplished prior to the time stated. Upon the maturing of such declaration, all of buyer's rights under this contract shall cease without further act by seller, seller shall be entitled to immediate possession of the property and all payments previously made to seller by buyer may be retained by seller as reasonable rental of the property up to the time of default;
- (e) to bring an action for the unpaid and overdue payments without waiving the security of the property, it being agreed that buyer's promise to pay the purchase price, except the final payment, is independent of seller's agreement to convey title; and

(f) to have a receiver appointed to manage the property, collect the rents and profits and apply them on the unpaid balance of the contract until default is cured.

DEFAULT NOTICE

Buyer shall not be deemed in default for failing to perform any covenant or condition of this contract, other than making payment, until notice of said default has been given by seller to buyer, and buyer shall have failed to remedy said default within thirty (30) days after the giving of the notice. Notice for this purpose shall be deemed to have been given by the deposit in the mail of a certified letter containing said notice and addressed to buyer at 2821 Elysium Eugene, Oregon 97401. If buyer shall fail to make payments as herein provided and said failure shall continue for more than thirty (30) days after the payment becomes due, buyer shall be deemed in default and seller shall not be obligated to give notice to buyer of a declaration of said default.

2822
ELYSIUM
CG
WGS
P.W.

CG
WGS
P.W.

WAIVER

Failure by seller at any time to require performance by buyer of any other provisions hereof shall in no way affect seller's right hereunder to enforce the same, nor shall any waiver by seller of any breach hereof be held to be a waiver of any succeeding breach, or a waiver of this non-waiver clause. Time is of the essence of this agreement.

"AS IS" CLAUSE

Buyer certifies that this contract of purchase is accepted and executed on the basis of his own examination and personal knowledge of the property and opinion of the value thereof; that no attempts have been made to influence his judgment; that no representations as to the condition or repair of said premises have been made by seller or any agent of the seller; that no agreement or promise to alter or repair or improve said premises has been made by seller or by any agent of seller; that buyer takes said property and the improvements thereon, as is, in the condition existing at the time of this agreement, and subject to all laws, ordinances and administrative rules of the State of Oregon and its subdivisions which may affect said premises or the use thereof.

ATTORNEY FEES

In the event this contract is in default, the buyer promises and agrees to pay seller's reasonable collection costs, including but not limited to title report costs and attorney fees, even though no suit or action is filed herein. In case litigation is instituted, arising directly or indirectly out of this contract, the losing party shall pay to the prevailing party the costs above described, and his

reasonable attorney fees as may be awarded by the Court, including awards on any appeals therefrom.

In the event that buyer files for protection under the U.S. Bankruptcy Act during the term of this Agreement, buyer shall pay to seller all of seller's attorney fees and costs incurred to protect seller's interest in the real property during the term of the bankruptcy, whether or not seller is the prevailing party.

ENTIRE AGREEMENT

This document is the entire, final, and complete agreement of the parties pertaining to the sale and purchase of the within-described real property, and supersedes and replaces all written and oral agreements heretofore made or existing by and between the parties or their representatives insofar as the within-described property is concerned.

CONSTRUCTION

In construing this agreement, it is understood that the seller or 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, the feminine and the neuter. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this contract.

SUCCESSOR INTEREST

The covenants, conditions and terms of this agreement shall extend to and be binding upon and inure to the benefit of the heirs, administrators, executors and assigns of the parties hereto; provided, however, that nothing contained in this paragraph shall alter the restrictions hereinabove contained relating to assignments.

LAND USE

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.

CONTRACT PREPARED BY ATTORNEYS FOR SELLER

This agreement has been prepared by Garrett, Seideman, Hemann, Robertson & De Muniz, P.C., as attorneys for the seller, notwithstanding any agreement which the parties may have regarding the

payment of said fee. The buyer acknowledges that he has the right to have this agreement reviewed by an attorney of his choice.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed on the date first-above written.

Richard E. Warren
RICHARD E. WARREN

Ramona Jo Warren
RAMONA JO WARREN

"Seller"

Wayne J. Gunderson
WAYNE J. GUNDERSON

Caralie S. Gunderson
CARALIE S. GUNDERSON

"Buyer"

STATE OF OREGON)
County of Marion) ss.

On this 31st day of July, 1989, personally appeared before me the within-named RICHARD E. WARREN and RAMONA JO WARREN and acknowledged said instrument to be their voluntary act and deed.

Before me:
(SEAL) OF OREGON

NOTARY PUBLIC FOR OREGON
My Commission Expires: 2-27-91

STATE OF OREGON)
County of LANE) ss.

On this 27th day of July, 1989, personally appeared before me the within-named WAYNE J. GUNDERSON and CARALIE S. GUNDERSON and acknowledged said instrument to be their voluntary act and deed.

Before me:
(SEAL) OF OREGON

La May O'Neal
NOTARY PUBLIC FOR OREGON
My Commission Expires: 1-25-93

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REA/P. WARREN/rccs

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Title Co. the 4th day of Aug. A.D., 19 89 at 1:51 o'clock P.M., and duly recorded in Vol. M89, of Deeds on Page 14448

FEE 43.00

Evelyn Biehn County Clerk
By Caralie S. Gunderson