

AGRICULTURAL PROPERTY SALES

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Agricultural Sales

- Irrigation
- Current Use
- Use of Property
- Conditions
- Web Sites
- Miscellaneous Documents



Columbia Basin Project



IRRIGATION

Irrigation Districts



The Property is included within the _____ (identified in the title report) Irrigation District and is subject to the laws of the United States of America and the State of Washington relative to the Property and the Columbia Basin Project and the terms of any recordable contracts entered into pursuant to such laws and is liable for all charges and assessments levied by said District and the U.S. Bureau of Reclamation.

Bureau Regulations

A Buyer is and shall remain in full compliance with the applicable provisions of the Reclamation Act of 1902, Act June 17, 1902, 32 Stat. 388 [43 U.S.C. §371, *et. seq.*] as amended and supplemented, and including the Reclamation Reform Act of 1982, Title II of Act October 12, 1982, P. L. 97-293, 96 Stat. 1263 [43 U.S.C. §390aa, *et. seq.*] as amended by the Omnibus Budget Reconciliation Act of 1987, Act December 22, 1987, P.L. 100-203, 101 Stat. 1330, and the Administrative Procedure Act, Act June 11, 1946, ch. 324, 60 Stat. 237 [5 U.S.C. §551, *et. seq.* and §701, *et. seq.*], all as now or hereafter supplemented, amended, and recodified and all rules and regulations now or hereafter promulgated thereunder (“Reclamation Laws”). Buyer shall defend, indemnify and hold Seller harmless from any noncompliance with Reclamation Laws. Buyer shall pay and be solely responsible for all water charges assessed by the Bureau of Reclamation/Irrigation District for irrigation water used on the Property, including any “full cost” or “compensation rate” charges, and shall defend, indemnify and hold Seller harmless therefrom. Further, in the event on account of noncompliance with or violation of any Reclamation Laws by Buyer, Buyer is prevented from irrigating all or any portion of the Property, the same shall not constitute a failure of consideration of this Contract, and Buyer shall remain obligated to pay all purchase price payments and other charges and expenses required by this Contract and all charges with respect to irrigation water charged or imposed by the Bureau of Reclamation/Irrigation District and shall defend, indemnify and hold Seller harmless therefrom.



Bureau Regulations (cont'd)

B. Buyer shall promptly file all annual landholding certification or verification forms required for the delivery of irrigation water by the Bureau of Reclamation/Irrigation District and shall not, because of any delay in the completion and filing of said forms, cause a delay or interruption in the delivery of irrigation water to the Property. In the completion of all required annual certification or verification forms, Buyer shall report the Property as having approximately _____ irrigable acres.




Current Use

SUBJECT TO terms, covenants and conditions contained in Application for Current Use Classification, entered into pursuant to RCW 84.34 (including potential liability for future applicable taxes, special benefit assessments levied by local governments, penalties and interest upon breach of, or withdrawal from, said classification); notice of approval of such classified use as Farm and Agricultural was recorded _____ with the _____ County Assessor.

Buyer shall not by act or omission allow all or any portion of such designation to be withdrawn, removed or discontinued for any reason and shall defend, indemnify and hold Seller harmless from any additional or compensating tax, including penalties and interest thereon, imposed as a result of any withdrawal, removal or discontinuation of such classification.




USE OF THE PROPERTY



1.1 Buyer shall operate, farm and maintain the Property in a good, husbandlike manner according to the best prevailing irrigated crop standards reasonably followed by Buyer in the area in which the Property is situated.


1.2 During the period of orchard/vineyard establishment, Buyer may grow other agricultural commodities in order to make the Property as productive as possible. The obligation of Buyer to farm in a good, husbandlike manner with respect to the orchard/vineyard shall include, but not be limited to the following:



A. Spraying thoroughly, skillfully, at the proper times, with such standard sprays and chemicals as Buyer may reasonably deem needed and necessary;

B. Pruning in a manner reasonably designed to produce an abundant and good quality fruit/grape crops, taking into consideration the age and types of trees/vines, in a manner consistent with Buyer's best judgment for the overall economic return of the Property;

C. Applying appropriate fertilizers at such times and in such quantities as Buyer may reasonably deem needed and necessary;



D. Applying appropriate pesticides at such times and in such quantities, within label limitations, as Buyer may reasonably deem necessary for control of orchard/vineyard pests;

E. Mowing and applying herbicides to control grass and weed growth in a reasonable and efficient manner;

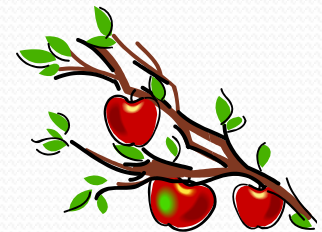
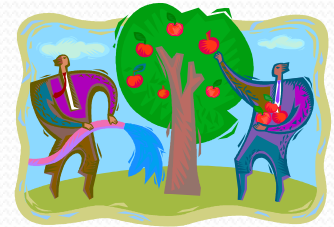
F. Reasonably eliminating and preventing accumulation of fire hazards on the Property;

G. Disposing in a customary manner of all trash or rubbish, dead trees, limbs, and vines from the Property; and

H. Harvesting all fruit in such manner and at such dates and times so as to reasonably maximize production and quality, and maintain tree health; to the extent such harvest is reasonably economically justified.

Fruit trees/vines once planted on the Property shall remain on the Property, unless removal is, in the reasonable judgment of Buyer, required because of disease or death caused by the elements or varietal or other changes making such trees/vines unprofitable. Except for removal of individual, or insignificant numbers of trees/vines which do not materially affect the farming or profitability of the orchard, all trees/vines removed because of disease or death shall be substantially replaced by fruit trees/vines of good vigor, quality, and marketability.

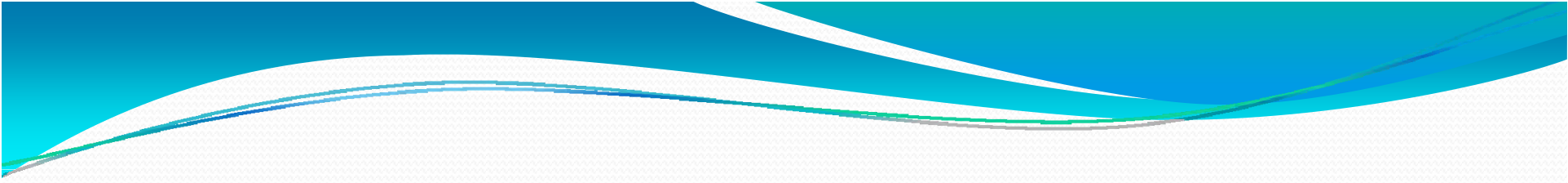
Buyer shall not be permitted to keep or maintain livestock on the Property, either temporarily or permanently, without the prior consent of Seller.




Horticulture Practices



Buyer will care for the Property and the orchard and other improvements thereon during the Contract term in a good and husbandlike manner, including, without limitation, pruning, irrigating, cultivating, spraying, fertilizing and propping; and growing, harvesting and delivering to market in proper season all fruit grown on the Property; and winterizing the Property all in accordance with the best prevailing rules of orchard horticulture obtained in or near the location of the Property pertaining to the type of fruit grown on the Property. Without limiting the foregoing, Buyer will:

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- (a) Use reasonable efforts and good farming practices to keep the Property clear of noxious and perennial weeds;
 - (b) Use reasonable efforts and good farming practices to keep all irrigation laterals, ditches, facilities and improvements, including pipelines, pumps, sprinklers, drip lines and other similar irrigation devices, clean and free of weeds and in a good state of repair and to otherwise properly maintain the Property for irrigation;
 - (c) Use reasonable efforts and good farming practices to prevent infestation by rodents or other vertebrate pests, insects, spiders, mites, and other pests and organisms which would be harmful to the use of the Property for orchard purposes;

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- (d) Continuously cultivate, irrigate, fertilize, prune and harvest the fruit in the proper season and in harmony with the best recognized growing and harvesting practices pertaining to the fruit varieties grown on the Property, all with a view toward obtaining the maximum economic yield from the Property:
 - (e) Not use the Property for any purposes other than the planting, growing, harvesting, packing and storing of fruit;
 - (f) Obtain the Seller's prior written approval for all tree removals and replantings and similar activities affecting the improvements on the Property; and
 - (g) Otherwise engage in all necessary and appropriate activities relating to the production and marketing of the fruit grown on the Property in a commercially reasonable manner, in accordance with the best orchard farming practices prevailing in the area.

Reservation of Mineral Rights

Grantors hereby expressly SAVE AND RESERVE unto Grantors, Grantors' successors and assigns forever, an undivided 50% interest in all oils, gases, coal, ores, minerals, hydrocarbons and fossils of every name, kind or description (hereinafter in this paragraph "Minerals"), which may be in or upon the above-described Parcels, or any part there-of, and the right to explore the above-described Parcels for such Minerals; and Grantors also hereby expressly SAVE AND RESERVE unto Grantors, Grantors' successors and assigns forever, the right to enter by Grantors, Grantors' agents, attorneys and assigns upon the above-described Parcels, or any part thereof, at any and all times, for the purpose of opening, developing and working the above-described Parcels and taking out of or removing from the above-described Parcels all Minerals, and to that end, Grantors further expressly SAVE AND RESERVE to Grantors, Grantors' successors and assigns forever, the right by Grantors or Grantors' agents, attorneys and assigns at any and all times to erect, construct, maintain and use all such buildings and structures, machinery and equipment, roads and railroads, trams, conveyors, and such shafts or wells on the above-described Parcels, or any part thereof, for the business of removing the Minerals by any and all methods now known or hereafter devised and to occupy as much of the above-described Parcels as may be necessary or convenient for the successful prosecution of such Mineral removal; and hereby expressly SAVE AND RESERVE to Grantors, Grantors' successors and assigns generally, all rights and powers in, to and over the above-described Parcels, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the above-described Parcels and the rights and interests hereby expressly reserved; SUBJECT HOWEVER to the obligation as a condition of any such use to fully compensate and/or reimburse Grantee for the full cost and value of any interruption with Grantee's use and enjoyment of the above-described Parcels affected by this Mineral reservation, including without limitation costs of repair and/or restoration of, or the value of, any damage to any improvements of Grantee including again without limitation trees, vines, irrigation systems and the like.



CONDITIONS



Encumbrances

SUBJECT TO all encumbrances of record, including but not limited to: all rights reserved in federal patents or state deeds; reservations, restrictions, land use and zoning laws; plat dedications, restrictive and protective covenants, easements and rights-of-way of record or in apparent use; and existing or future municipal, county, state or other governmental or quasi-governmental taxes and assessments, including LID assessments and utility tap or connection charges, if any.



Encumbrances (cont'd)

SUBJECT TO terms, covenants and conditions contained in Application for Current Use Classification, entered into pursuant to RCW 84.34 (including potential liability for future applicable taxes, special benefit assessments levied by local governments, penalties and interest upon breach of, or withdrawal from, said classification); notice of approval of such classified use as Farm and Agricultural was given by the _____ County Assessor.

The Property is included within the Quincy Columbia Basin Irrigation District and is subject to the laws of the United States of America and the State of Washington relative to the Property and the Columbia Basin Project and the terms of any recordable contracts entered into pursuant to such laws and is liable for all charges and assessments levied by said District and the U. S. Bureau of Reclamation.



Encumbrances (cont'd)

TOGETHER WITH all of Seller's interest in water, water rights, water shares, water access, ditches, appropriations, franchises, privileges, permits, applications, certificates, licenses, approvals and easements, if any, that are on, connected with, and appurtenant to the above-described real property.

INCLUDING all reasonable rights-of-way of ingress and egress which are appurtenant to the above-described real property.

INCLUDING all improvements and fixtures situate on the above-described real property.

Hazardous Substances

As used in this Contract “hazardous substances” means any substance or material now or hereafter defined or regulated as a hazardous substance, hazardous waste, solid waste, toxic substance, pollutant or contaminant under any federal, state, tribal or local law, rule regulation or ordinance including without limitation:

- i. Any “hazardous substance”, “hazardous waste”, “solid waste”, “pollutant”, “irritant” or “contaminant” under the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. 9601, et seq., the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. 6901, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. 1801, et seq.; the Washington Model Toxics Control Act (“MTCA”), R.C.W. Ch. 70.105D, et seq.; the State Environmental Policy Act (“SEPA”) RCW Ch. 43.216; or Hazardous Waste Management Act, RCW Ch. 70.105;
- ii. Those substances listed as hazardous substances in the United States Department of Transportation Table (49 CFR 172.101) and amendments thereto or by the Environmental Protection Agency (or any successor agency) (40 CFR Part 302) and amendments thereto; and
- iii. Any material, waste or substance which is (a) petroleum or any constituent or fraction thereof, (b) asbestos or asbestos containing material, (c) polychlorinated biphenyls, (d) designated as a “hazardous substance” pursuant to Section 307 of the Clean Water Act (33 U.S.C. 1317), (e) flammable or explosive, or (f) radioactive materials which are now considered to be “hazardous substances” under any applicable law, rule or regulation.

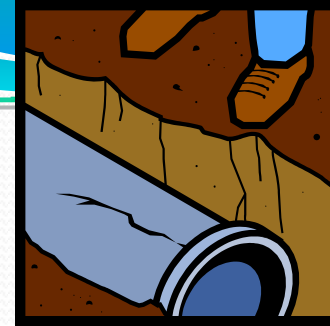
Hazardous Substances (cont'd)

- Buyer covenants to indemnify, defend and hold Seller harmless from and against any and all claims, liabilities, losses, penalties, and any remediation or response costs and expenses (including without limitation attorneys, experts, and consultants fees and costs), that Seller may incur or have asserted against the Property or Seller as a result of the presence, release, or threatened release of hazardous substances in, on, under, about or emanating onto or off of the Property caused by Buyer, or Buyer's its employees, agents, licensees, or invitees, or contractors, or arising as a result of Buyer's possession and operation of the Property, or the testing therefore or any and all clean-up, remediation, or correction thereof, and whether or not the performance of such work or activities is required by any governmental agency, under any order imposed by any court or government agency or voluntarily undertaken. This defense and indemnification covenants shall survive the termination of this Contract.
- Notwithstanding the foregoing, Seller acknowledges that the commercial orchard and vineyard to be operated by Buyer on the Property will require the use and application of a variety of chemicals and fertilizers on the Property and that the soil of the Property may retain some amounts of those chemicals and fertilizers. Buyer shall have no obligation to remove any such chemicals or fertilizers which may be present in the soil, provided such chemicals and fertilizers were applied in accordance with sound fruit tree/vineyard husbandry practices and in accordance with applicable manufacturer's labels, directions and recommendations and within label limitations for all such products.

Governmental Authority

Buyer shall fully and timely comply with and not be in violation of all statutes, rules, ordinances, and regulations of _____ County, the State of Washington, the United States government and all of their respective agencies and any other authority with jurisdiction as may be required or imposed by any such authorities on the Property, or Buyer's use, occupancy, or control thereof, including without limitation the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA"), 7 U.S.C. §136; the Federal Water Pollution Control Act ("FWPCA", also known as the "Clean Water Act") 33 U.S.C. §1251, *et. seq.*; the Public Health Service Act ("PHASA", also known as the "Safe Drinking Water Act"), 42 U.S.C. §300; the National Environmental Policy Act ("NEPA"), 42 U.S.C. §4321, *et. seq.*; and the Clean Air Act ("CAA"), 42 U.S.C. §7401, *et. seq.*, including all amendments and recodifications thereof and all regulations, guidelines, standards, or policies promulgated thereunder. Buyer shall comply in every respect, in a full and timely manner, with any direction pursuant to law of any public official or officer who shall impose any duties upon Buyer with respect to the Property or the use, occupancy, or control thereof, or the conduct of any business thereon.

IMPROVEMENTS



Except as may be otherwise specifically provided herein, Buyer may make such repairs, additions, and improvements to the Property, including removal of cement ditches, as are deemed reasonably necessary to properly irrigate, drain, and farm the Property. The nature of the repairs, additions, or improvements made shall be at the sole discretion of Buyer, but shall when made become part of the Property and the property of Seller.

Notwithstanding the foregoing provisions of this Section or any other provisions of this Contract, Buyer shall not be permitted to maintain farm labor housing on the Property.

WEEDS



During the Contract term, particularly during the growing season and immediately following completion of harvest, Buyer shall eradicate or dispose of all noxious weeds on the Property, particularly those which may grow or accumulate along fences, ditches or other improvements, field borders, rights-of-way, drains, roads, and other uncultivated areas, which shall include eradicating or disposing of all such noxious weeds before the same go to seed. In the event Buyer does not eradicate or dispose of all weeds as required by this section, Seller shall have the right to eradicate or dispose of the same and Buyer shall, immediately on demand of Seller, pay for or reimburse Seller for all cost and expense incurred by Seller in eradicating or disposing thereof.



CHEMICALS

Buyer shall not use or permit the use of any chemicals, pesticides, or fertilizers on the Property or crops growing or to be grown thereon where such use is prohibited by any product label or governmental authority; or, if such use is not prohibited but is restricted in any manner, Buyer shall not violate any use restriction. Further, Buyer shall not apply or permit application of any chemical or pesticide at such time or in such manner as to cause damage to any adjoining lands, the crops growing or to be grown thereon, or animals situated or to be situated thereon. Buyer shall be solely and exclusively responsible for any claims, liabilities, and damages (including incidental and consequential damages and lost profits) threatened or incurred by Seller, including damages to the Irrigation System or any third party proximately caused by or resulting from a breach of Buyer's covenants and agreements contained in this section, and shall fully compensate Seller for any such damages and defend, indemnify and hold Seller completely harmless therefrom.

IRRIGATION

A. Buyer shall irrigate and water the Property in such a manner as to properly and adequately water all crops and orchards/vineyards, to prevent excessive erosion of soil on the Property or the drying up of farm crops and orchards/vineyards. Buyer shall dispose of waste or excess water off the Property in a lawful manner without damage, trespass, or nuisance to adjoining or neighboring lands or public roads, highways and rights-of-way and shall defend, indemnify and hold Seller harmless therefrom.

B. Notwithstanding the foregoing paragraph respecting irrigation, Seller does not warrant or guarantee to Buyer a continuous irrigation water supply from the existing water source(s) and shall not be liable or responsible to Buyer or any third party for any loss, damage or liability of any kind, whether direct, indirect, consequential, or incidental, including lost profits, resulting or arising from total failure of irrigation water supply or intermittent or diminished irrigation water supply. Further, failure or diminution of a continuous water supply from the existing water sources shall not constitute a failure of consideration of this Contract and is a risk specifically assumed by Buyer.



IRRIGATION SYSTEMS

- A. In the establishment of its orchard/vineyards on the Property and any interior row crop production, Buyer shall use those systems in the presently existing irrigation facilities deemed appropriate and necessary by Buyer and shall in addition make substantial irrigation facility and weather control improvements to or of the Property, at the sole cost and expense of Buyer, as Buyer deems reasonably necessary and prudent to establish and maintain an orchard/vineyards (all herein “the Irrigation System”). Buyer shall pay and provide for all maintenance and repair of the Irrigation System and shall keep the Irrigation System at all times in excellent operating condition and repair.



IRRIGATION SYSTEMS (cont'd)

- B.** The Irrigation System shall be properly and seasonally drained and serviced in accordance with the Irrigation System manufacturers' specifications prior to freezing weather to prevent deterioration and freezing, and the Irrigation System shall be properly positioned and anchored to prevent damage from wind or the elements.
- C.** Buyer shall operate the Irrigation System in strict compliance with manufacturer requirements and recommendations and shall not allow or permit the use of any corrosive or any other chemicals in the irrigation system unless the Irrigation System manufacturers' specifications permit such use and then only in strict compliance with such specifications.

MINERALS

Buyer shall not remove or permit removal or extraction of any minerals, including soil or gravel, from the Property, except for soil or gravel to maintain the Property and/or improve, install, and maintain Buyer's anticipated improvements thereon.



Useful Web Sites:

Department of Ecology:

Assignment of Application or Permit to Appropriate or Store Water:

<http://www.ecy.wa.gov/biblio/ecy040161.html>

Application for Change/Transfer of Water Right:

<http://www.ecy.wa.gov/biblio/ecy040197.html>

Water Rights publication:

<http://www.ecy.wa.gov/pubs/961804swr.pdf>

Domestic wells for personal use on farm properties:

<http://www.ecy.wa.gov/pubs/fwr92104.pdf>





Department of Revenue:

Use Tax Form:

<http://www.dor.wa.gov/Docs/forms/UseTx/ConsumerUseTxRtrn.pdf>

Excise Tax Form:

http://www.dor.wa.gov/Docs/forms/RealEstExcsTx/RealEstExTxAffid_E.pdf

Controlling Interest:

<http://www.dor.wa.gov/Docs/forms/RealEstExcsTx/RealEstExTxAffidRtn.pdf>

Department of Licensing:

Vehicle Certificate of Ownership (Title) Application

<http://www.dol.wa.gov/forms/420001.pdf>

MISCELLANEOUS DOCUMENTS

- Open Space Taxation Act
- Farm and Agricultural Management Plan
- Notice of Continuance / Current Use or Forest Land
- DOE Water Rights in Washington
- DOE Assignment of Application or Permit
- Pipeline Easement and Agreement
- Development Covenant (farm worker housing)
- Withholding Agent



QUESTIONS??

THANK YOU

Brian