

**BEFORE THE OKANOGAN COUNTY HEARINGS EXAMINER**

**IN THE MATTER OF** )  
**BRUMMETT OPEN SPACE TIMBER APPLICATION** )  
**OST 2011-06** )

FINDINGS OF FACT, CONCLUSIONS, AND DECISION

This matter, an application for Open Space Timber designation was heard by the Okanogan County Hearings Examiner on February 27, 2014. The County staff report was entered into the record.

**FINDINGS OF FACT**

1. The property contains a minimum of 5 acres.
2. The property is devoted primarily to the growth and harvest of commercial tree species for commercial purposes.
3. The property supports the growth and harvest of tree species for commercial purposes.
4. The property has a Forest Management Plan prepared by Clay Brown in 2004.
5. On October 23, 2013 a complete application for Open Space Timber was vested.
6. The property is identified by tax parcel 3831292006.
7. The Comprehensive Plan Designation for the property is Unclassified.
8. The Zoning Designation for the property is Minimum Requirement District.
9. Notice of Application was mailed to six (6) adjacent landowners on October 29, 2013.
10. Copies of the application, along with notice of the application were mailed to 20 commenting agencies on October 29, 2013.
11. Notice of the Application was published in The Omak Chronicle on October 30, 2013;

12. Notice of Hearing was mailed to adjacent landowners and agencies on January 3, 2014.
13. Notice of Hearing was published in The Omak Chronicle on January 8, 2014.
14. On January 23, 2014, the Okanogan County Hearings Examiner conducted a public hearing for this project. At said hearing, the applicant, County staff, and the public were given opportunity to enter testimony into the record.
15. Mr. Daniel Brummett, the applicant and landowner was present and provided testimony, the relevant parts of which are as follows:
  - a. Mr. Brummett purchased the property about 30 years ago, although he could not recall the exact year.
  - b. He originally did not own the timber rights but later purchased them from the “Omak Indians” (sic).
  - c. Mr. Brummett has been employed as a carpenter for many years and has constructed many homes and is familiar with the requirement to obtain building permits. He was led to believe by unidentified parties that he did not need building permits for the structures on his property (some of which were constructed 20 years ago), but he did not inquire at Okanogan County as to whether or not permits were necessary.
  - d. Asked repeatedly if he was going to pursue acquisition of building permits for the structures on the property, Mr. Brummett refused to answer the question directly, stating only that he intended to sell the property and currently has it listed with a realtor, known to him only as “Earl.”
  - e. Mr. Brummett testified that the sawmill on the property has never been used for commercial production and has not been operated for approximately seven years.
16. Clay Brown, author of the timber management plan for Mr. Brummett’s property testified that over the years Mr. Brummett has implemented the plan specifically by removing diseased trees from time to time.
17. Okanogan County Code, §14.09.080(e) states “any parcel which is not in compliance with all Okanogan County Land Use Codes” is not eligible for Open Space Timber classification. It is the policy of Okanogan County that a parcel on which structures are located which were built without building permits is not in compliance with county land use codes.
18. Mr. Perry Huston, Okanogan County Planning Director, testified that it was his understanding that building permits have been required in Okanogan County since around

1974, and the structures on the property could not be deemed legal non-conforming structures.

19. No members of the public were present to testify with respect to the application.

20. All testimony was taken under oath.

### CONCLUSIONS

1. This application has met the minimum enrollment qualification requirements of the Open Space Tax Act (RCW 84.34).
2. No building permits have ever been issued for the structures on subject property.
3. This application is not in compliance with the Open Space Timber Program (Okanogan County Code 14.09) and is considered ineligible lands under OCC 14.09.080(e), since the residence, 2 shops, sawmill, carport, and woodshed were built without building permits. OCC 15.02.030 and 15.02.050(B)(1) that state a building permit is required as well as approval from the Planning Department. Based on testimony received from the applicant, it is apparent he does not intend to secure building permits.
4. The property (3831292006) that is the subject of this Open Space Timber application is in contiguous ownership of five (5) or more acres that are devoted primarily to the growth and harvest of forest crops. According to the Forest Management Plan, the parcel is devoted to the growth of timber.
5. The Brummett Open Space Timber 2011-06 tax classification application is consistent with the Okanogan County Comprehensive Plan.
6. The Brummett Open Space Timber 2011-06 tax classification application is consistent with the Okanogan County Zoning Ordinance.
7. Brummett Open Space Timber 2011-06 tax classification application, including the Forest Management Plan, complies with all application requirements of Okanogan County Code, Chapter 14.09 "Open Space Timber Program".
8. The Brummett Open Space Timber 2011-06 tax classification application has a Forest Management Plan that shows how the subject property will be managed to provide for long-term productivity of the timber on the site.

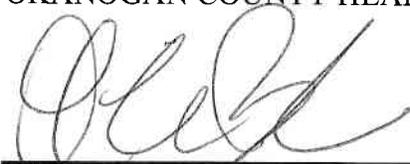
9. The Brummett Open Space Timber 2011-06 tax classification application was deemed complete and fees have been paid in accordance with Okanogan County Code, Chapter 14.09, "Open Space Timber Program", WAC 458-30-232 "Application For Timber Land Classification", and RCW 84.34 "Open Space, Agricultural, Timber Lands—Current Use—Conservation Futures".
10. All procedural requirements for this proposal have been met in accordance with OCC 14.09.
11. Comments from the public and state, federal, and local agencies were received, reviewed, and considered in analysis of this proposal.

DECISION

Based upon above noted findings of fact and conclusions, it is recommended that the Okanogan Board of County Commissioners deny OST 2011-06 based specifically on conclusion No. 3 above.

Dated this first day of March, 2014.

OKANOGAN COUNTY HEARING EXAMINER



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DAN BEARDSLEE

Any aggrieved party of record that believes the decision of the examiner is unsound based upon errors in procedure, law, interpretation of adopted policy, fact, judgment, or the discovery of new factual evidence which, by due diligence, could not have been found prior to the examiner hearing may make a written request for reconsideration by the examiner within 14 days of the filing of the written record of decision. The request for reconsideration shall be submitted to the planning department on forms provided by the department. Reconsideration of the decision is wholly within the discretion of the examiner; if the examiner chooses to reconsider, he may revise the decision as he deems appropriate, and may issue a revised record of decision within 10 days of the reconsideration heard by the examiner.

Anyone considering a request for reconsideration of this decision is encouraged to seek legal advice.