

**BEFORE THE OKANOGAN COUNTY HEARINGS EXAMINER**

**IN THE MATTER OF** )  
**OPEN SPACE TIMBER APPLICATION OST 2013-09** )  
**CARLTON GENSIL (RAMONA VAN VENKOVEN)** )

FINDINGS OF FACT, CONCLUSIONS, AND DECISION

This matter, an application for Open Space Timber tax classification was heard by the Okanogan County Hearings Examiner on February 13, 2014. The property of subject application is now owned by Ramona VanVenkoven who purchased the property from Carlton Gensil, who actually made the application prior to the sale to VanVenkoven. For convenience, this is still referred to as the Gensil application.

**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 Robert J. Anderson in 2013.
5. On December 4, 2013 a complete application for Open Space Timber was vested.
6. The property is identified by tax parcel 3930020015.
7. The Comprehensive Plan Designation for the property is Unclassified.
8. The Zoning Designation for the property is Minimum Requirement District.
9. Okanogan County Code (OCC) §14.09 regulates Open Space Timber applications.

10. Notice of Application and public hearing was mailed to eight (8) adjacent landowners on January 2, 2014.
11. Copies of the application, along with notice of the application and public hearing were mailed to 20 commenting agencies on January 2, 2014.
12. Notice of the Application and public hearing was published in The Omak Chronicle on January 8, 2014;
13. On February 13, 2014, the Okanogan County Hearings Examiner conducted a public hearing for this project. At said hearing, the applicant, County staff, and public were given opportunity to enter testimony into the record.
14. County staff, represented by Angela Hull and Perry Huston provided testimony on behalf of Okanogan County. They testified that there exists on the property a cabin that was apparently constructed c. 1996 without benefit of a building permit. At the time of construction, a building permit would have been required, and thus the property is “not in compliance with all Okanogan County land use codes” as provided in OCC 14.09.080(E).
15. County staff further testified that the cabin could not be considered a legal non-conforming structure, due to the absence of the required building permit.
16. County staff further testified that even though the one-acre parcel which is proposed to be separated from the remainder of the property, for OST tax purposes, it has consistently been the policy of Okanogan County that in considering OST applications, the parcel is considered in its entirety as to compliance with OCC 14.09.080(E).
17. Ms. VanVenkoven testified that she was unaware of the requirements of OCC 14.09.080(E), until she received the staff report on subject application.
18. Ms. VanVenkoven further testified that it was her intention to apply for and obtain the required building permit and thus eliminate the land-use code violation.
19. No members of the public were present to provide testimony.
20. Testimony of all parties 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. 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). This is due

to the cabin which is not in compliance with OCC 15.02.030 and 15.02.050(B)(1) that states a building permit is required as well as site plan approval from the Planning Department.

3. The property (3930020015) 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.
4. The Gensil Open Space Timber 2013-09 tax classification application is consistent with the Okanogan County Comprehensive Plan.
5. The Gensil Open Space Timber 2013-09 tax classification application is consistent with the Okanogan County Zoning Ordinance.
6. Gensil Open Space Timber 2013-09 tax classification application, including the Forest Management Plan, complies with all application requirements of Okanogan County Code, Chapter 14.09 “Open Space Timber Program”.
7. The Gensil Open Space Timber 2013-09 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.
8. The Gensil Open Space Timber 2013-09 tax classification application is 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”.
9. All procedural requirements for this proposal have been met in accordance with OCC 14.09.
10. The conditions recommended are not unnecessarily onerous.
11. Comments from the public and state, federal, and local agencies were received, reviewed, and considered in analysis of this proposal. The complete staff report is entered into the record of this decision.
12. Conditional approval of this application will be consistent with previous proposals of the same nature and scope.

13. OST 2013-09 cannot be approved outright inasmuch as the cabin on the property was built without benefit of a building permit.
14. It is the Hearing Examiner's firm conviction that if a building permit can be secured in a reasonable amount of time by the applicant, given that the applicant was only made aware of that requirement late in the application process, there is no reason for the applicant to reapply since the application has been reviewed for compliance with all other requirements necessary to qualify for Open Space Timber classification.

### DECISION

Based upon the information contained in the application materials, and additional information provided at the hearing, OST 2013-09 is RECOMMENDED FOR APPROVAL, subject to the conditions noted below:

### RECOMMENDED CONDITIONS OF APPROVAL

1. The landowner shall follow the harvest management guidelines as set forth in the attached Forest Management Plan in order for continued enrollment in the Open Space Timber Program.
2. Within 90 calendar days of this decision, the landowner shall apply for and obtain approval for a Site Analysis from the Office of Planning and Development as well as a Building Permit from the Building Department for the existing, non-compliant structure. This approval will be void if the applicant is unsuccessful in obtaining said approvals within the stated timeline.
3. All taxes are to be current for present year prior to tax agreement being signed.
4. It is the responsibility of the landowner to control invasive Noxious Weeds within their boundaries, if the landowner fails to perform Noxious Weed Control. The Okanogan County Noxious Weed Control Board Reserves the right to utilize such control actions/measures necessary to accomplish control requirements as stated in RCW 17-10 & WAC 16-750.

Dated this 15th day of February, 2014.

OKANOGAN COUNTY HEARING EXAMINER



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DAN BEARDSLEE

Any aggrieved party of record that believes the final recommendation 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. A request for reconsideration is not a prerequisite to an appeal.