

1 **BEFORE THE HEARING EXAMINER FOR JEFFERSON COUNTY**

2 Irv Berteig, Hearing Examiner

3 **RE:** Judith C. French Scott) **File No. CUA01-0003**
4 Current Use Taxation application)
5 for Timber Open Space)
6) **FINDINGS, CONCLUSIONS,**
7) **AND DECISION**
8)
9)

10 **BACKGROUND INFORMATION**

11 Judith C. French Scott is applying to transfer and designate 8.35
12 acres of a 10.02-acre parcel for current use taxation assessment as
13 timber open space under the provisions of RCW 84.34. The property is
14 located on the Quimper Peninsula on Sand Road.

15 **PROCEDURAL INFORMATION**

16 **Notices:** **Mailed:** October 18, 2002

17 **Publication:** October 23, 2002 (Peninsula Daily News).

18 **Site Visit:** November 5, 2002.

19 **Open Record Hearing Date:** November 5, 2002.

20 The hearing was opened at 2:00 p.m. in the Courthouse First Floor
21 Conference Room. After the procedures were explained, testimony was
22 accepted. A verbatim recording of the public hearing was made. The
23 tape is maintained in the Jefferson Permit Center file.

24 **Participants:**

25 Jerry Smith, Associate Planner

26 Judith C. French Scott, Applicant

27 No other parties were present to testify.

28 **The Hearing Examiner closed the public hearing at 2:15 pm.**

1 **TABLE OF EXHIBITS:**

2

EXHIBIT - LOG ITEM	DOCUMENT	DATE
3 Ex 1	Staff Report together with a copy of the file containing 18 Log Items	10/29/2002
4 Ex 1 - Log 19	Memo correcting acreage for the property	11/7/2002

5 **FINDINGS OF FACT**

6 1. The request is to transfer and designate 8.35 acres of a
7 9.35-acre parcel for current use tax assessment as timber open
8 space under the provisions of RCW 84.34.

9 2. Legal Description: Tax Parcel Number 001-184-026 within the
10 Southeast 1/4 of Section 18, Township 30 North, Range 1 West
11 WM., Jefferson County, Washington.

12 3. Per the Unified Development Code, as amended, the subject
13 site is zoned as "Rural Residential, One Dwelling Unit Per 10
14 Acres (RR 1:10).

15 4. The Jefferson County Comprehensive Plan Land Use Map
16 adopted August 28, 1998, designates the subject property,
17 including the adjoining properties as Rural Residential, One
18 Dwelling Unit Per 10 acres (RR 1:10).

19 5. The total property area consists of approximately 9.35 acres. The
20 requested open space designation area of the property consists of 8.35
21 acres. A residence, shop, garage, storage building and driveway have
22 been constructed on the property. In addition, a well has been drilled
23 and a septic system has been installed. The property is somewhat "L"
24 shaped. Most of the site is characterized by little slope to
25 moderate slope on the westerly portion of the property. The
26 steeper parts of the property are heavily forested with Douglas
27 fir more than 60 years of age.

28 6. Except for the cleared portion of the property where
29 structures have been constructed, the property has only been

1 selectively cut for the owners use in building a house and a
2 shop building. As a result of a windstorm about 10 years ago,
3 many trees were blown down, some of which was utilized for the
4 property owner for firewood; and some that was sold for
5 commercial use over a five year period.

6 7. The major tree species on the property consists of Douglas
7 fir interspersed with western red cedar, hemlock and alder.
8 Portions of the property contain undergrowth consisting of
9 Salal, evergreen and deciduous huckleberry, sword fern, deer
10 fern, blackberry, and Oregon grape.

11 8. Soil Survey for Jefferson County indicates that the soils
12 of the property consist of three soil classifications:

13 a. Clallam series - Clallam gravelly sandy loam (CmC), 0 to 15
14 percent slope.

15 b. Clallam gravelly sandy loam (CmD), 15 to 30 percent slopes.

16 Both are identified as wooded areas that are used as a source of
17 woodland products, etc.

18 c. The other soil classification is from the Hoypus series, which
19 are somewhat, excessively drained gravelly soils, with slopes
20 that range from 0 to 50 percent. Most of the Hoypus soils are
21 wooded and are identified as tree production soils.

22 9. Properties in the area range from 5 acres to 20 acres in
23 size, with the most common being 5 acres. The area has a low-
24 density settlement pattern.

25 10. Slight landslide hazards are mapped on a portion of the
26 eastern part of the subject property. Susceptible Aquifer
27 Recharge Area is identified for the entire subject property.

28 11. The subject proposal is categorically exempt from
29 environmental review pursuant to WAC 197-11-800(6)(c).

1 12. The Applicant prepared her own "Forest Stewardship Plan"
2 after extensive study of forest stewardship materials. The
3 Applicant had Russ Holt, DNR Forester, review the Plan and serve
4 as an On Site Advisor. Judith French-Scott has owned the
5 property for 29 years and has lived there for 27 years.

6 13. The Applicant raised concerns over several of the Staff
7 recommended conditions, but was satisfied after hearing the Staff
8 explanations. The Applicant then concurred with the recommended
9 conditions.

11 REVIEW CRITERIA

12 Current use timber open space applications are reviewed under the
13 provisions of the Jefferson County Open Space Program. The Staff
14 Report contains a concise summary of the following criteria:

- 15 (a) *Eligible Lands: Part III, Section I*
- 16 (b) *Application: Part III, Section II*
- 17 (c) *Criteria for Enrollment: Part III, Section IV, A.*
- 18 (d) *Timber Management Plan Requirements: Part III, Section IV A,1,2,3*
- 19 (e) *Site Suitability for Long term Timber Management:*
20 *Part III, Section IV,B*
- 21 (f) *"Primary Use" for Timber Crop:*
- 22 (g) *Periodic Evaluation.*

21 CONCLUSIONS OF LAW

22 1. It is evident from testimony by Judith French-Scott in response
23 to questions by the Examiner that she is committed to "...continue to
24 nurture and protect this 75 year old forest as a healthy environment
25 for local wildlife, birds and indigenous plant life."

26 2. A review of the criteria and staff analysis at pages 3 and 4 of
27 the Staff Report—together with testimony by the Applicant—supports a
28 conclusion that the application meets the Review Criteria and warrants
29 approval.

1 **DECISION**

2 Based on the testimony presented at the Public Hearing, the documents
3 and exhibits admitted into the record, a visit to the site and
4 surroundings, and the above Findings and Conclusions, the application
5 by Judith C. French-Scott to transfer and designate 8.35 acres for
6 current use tax assessment as Timber Open Space, is recommended for

7 **APPROVAL**, subject to the following conditions:

- 8 1. Prior to Board of Commissioner's approval, the applicant shall
9 provide certification of no delinquent property tax issued by the
10 Jefferson County Treasurer. Approval will be denied if the
11 landowner has failed to satisfy any judgments the County has
12 obtained against the landowner, or if the landowner owes any fee
13 to the County, or has failed to pay traffic fines or penalties of
14 the Jefferson County District Court.
- 15 2. Subsequent to approval for enrollment, the applicant shall
16 provide a legal description of that portion of the property
17 excluded from enrolled property as required by the Jefferson
18 County Assessor. If required, a survey shall be provided to
19 delineate ineligible lands.
- 20 3. Throughout its term under Timberland Tax Classification, the
21 property shall be managed in accordance with the attached Forest
22 Stewardship Plan dated December 10, 2001. The landowner shall
23 provide periodic progress-to-date reports related to
24 implementation of the plan. The timing of said reports should be
25 determined by the County Assessor's Office.
- 26 4. Throughout its term under Timberland Tax Classification, the
27 property shall be managed in accordance with the following
28 administrative procedures:

29 **A. Length of Time in Classification**

Once land has been classified as open space, agricultural/farm-land, or timberland, it shall not be applied to any other use for a period of not less than ten (10) years, EXCEPT for a transfer between agricultural/farmland and timberland classifications. The land shall continue in classification after the ten (10) year period until a request for withdrawal is made by the owner or until the use of the land has changed or it has been sold and the new owner has not signed a Notice of Continuance.

B. Owner Request for Withdrawal

After eight (8) years of the initial ten (10) year period have passed, the landowner may request

1 that all or part of his land be withdrawn from the classification. This request is irrevocable.
2 The request shall be made to the Assessor. If a portion of a parcel is removed from
3 classification, the remaining portion must meet the requirements for original classification.

4 **C. Action on a Timely Request for Withdrawal**

5 Upon receipt of a request for withdrawal, the Assessor shall notify the Board of
6 Commissioners, which originally approved the classification, and when two (2) years have
7 elapsed, the Assessor shall withdraw the land from classification. The land, which is
8 removed, shall be subject to a tax equal to the difference between the amount of tax paid under
9 the open space classification and the tax as true and fair value for seven (7) years last past,
10 plus the statutory interest rate charged on delinquent property taxes. Property withdrawn
11 without a timely request may be subject to an additional twenty percent (20%).

12 **D. Owner to Notify Assessor of Change in Use**

13 If an owner changes the use of his classified land, he must within sixty (60) days notify the
14 County Assessor of the change. The Assessor shall then impose an additional tax equal to the
15 difference between the tax paid on current use value and the tax that would have been paid on
16 that land had it not been so classified, Payable for the seven (7) years last past, plus interest
17 on this additional tax at the same rate as charged on delinquent property taxes, plus a penalty
18 of twenty percent (20 %) of the total amount.

19 **E. Sale of Classified Land**

20 When classified land is sold, the seller or transferor becomes liable at the time of sale for the
21 additional tax, interest and penalty of all or a portion of classified lands, unless the new
22 owner signs the Notice of Continuance which is attached to or shown on the excise tax
23 affidavit. The County Auditor shall not accept an instrument of conveyance on any classified
24 land unless the Notice of Continuance has been signed or the additional tax has been paid.

25 **F. Removal of Land Classification by County Assessor**

26 The Assessor may determine, after giving the owner written notice and an opportunity to be
27 heard, that all or a portion of the land classified for current use assessment is no longer
28 primarily devoted to and used for the purposes for which it was granted classification. Within
29 thirty (30) days after the Assessor has determined that all or a portion of the land no longer
qualifies for classification, the Assessor shall notify the owner in writing and explain why
such action was taken. The owner may appeal the removal of classification to the Board of
Equalization pursuant to RCW 84.34.108.

At the time the land is removed from classification, it becomes subject to an additional tax,
interest, and penalty thereon.

G. Removal of Lands which adversely Effect Water Quality

The Assessor may determine, after receiving written certification from the Jefferson County
Water Quality Program, the Jefferson County Health Department, or the Jefferson County
Conservation District, and after giving the owner written notice and an opportunity to be
heard, that all or a portion of the land classified for current use assessment severely degrades
water quality in its present use. Within thirty (30) days after the Assessor has determined
that the land in its current use severely degrades water quality, the Assessor shall notify the

1 owner in writing that all or a portion of the land has been removed from current use
2 classification, and explain why such action was taken. The Owner may appeal such removal
3 of classification to the Board of Equalization pursuant to RCW 84.34.108.

4 At the time land is removed from classification, it becomes subject to an additional tax,
5 interest, and penalty thereon.

6 **H. When Removal of Land is not Subject to Additional Tax**

7 *1. Land is transferred to a government entity in exchange for other land located in the
8 State of Washington;*

9 *2. Land is taken by power of eminent domain or transferred in anticipation of the exercise
10 of such power;*

11 *3. Land is sold or transferred within two (2) years of the death of the owner of at least
12 fifty percent (50%) interest in the land;*

13 *4. A natural disaster changes the use of such property;*

14 *5. Official action by State, County, or City disallows the present use of such land; or*

15 *6. The land is transferred to a church such that the land would qualify for a property tax
16 exemption pursuant to RCW 84.36.210;*

17 *7. Acquisition of property interest by State agencies or agencies or organizations qualified
18 under RCW 84.34.210 and 64.04.130 [reference RCW 84.34.108(5)(g)].*

19 5. All subsequent timber harvest activities shall be conducted in
20 accordance with the Washington State Forest Practices Act.

21 6. Prior to any subsequent timber harvest activity, the applicant
22 shall obtain the appropriate storm water management approval from
23 the Jefferson County Department of Community Development in
24 accordance with the requirement of Sections 6.6 and 6.7 of the
25 Jefferson County Unified Development Code. This approval may
26 involve any of the following: i) Best Management Practices; ii)
27 Small Parcel Sediment and Erosion Control Plan; iii) Stormwater
28 Management Permit; iv); Large Parcel Erosion and Sediment Control
29 Plan; or v) Engineered Stormwater Site Plan.

DATED this 15th day of November 2002.



Irv Berteig
Jefferson County Hearing Examiner

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