

Return to
Hearing Examiner

9306140065

OST 92 006.REC

JERRY MCINTURFF
SKAGIT COUNTY AUDITOR

93 JUN 14 11:31

SKAGIT COUNTY HEARING EXAMINER
STATE OF WASHINGTON

RECORDED _____ FILED _____
REQUEST OF _____

In the matter of: OST 92 006
Timber Open Space Application
of ROBERT JAMES
for inclusion of 14.8 acres in the
Timber Open Space Classification

Findings of Fact
Recommendation
No. OST 92 006

This matter having come regularly before the Skagit County Hearing Examiner for a Public Hearing under an application filed with the Skagit County Department of Planning and Community Development on behalf of the Applicant requesting an Open Space Timber Classification as described and located in the attached Report and Findings of the Skagit County Department of Planning and Community Development,

And, notice having been given to all property owners within 300 feet of said property, the property having been posted in accordance with Chapter 14.04 of the Skagit County Code, the public hearing advertised in accordance with Chapter 14.104 of the Skagit County Code, and all matters in the file having been considered together with the testimony, evidence, and exhibits in open hearing and made a part of the record in this matter; the Hearing Examiner makes the following findings of fact.

FINDINGS OF FACT

1. May 12, 1993 was fixed as the date of the public hearing and the Hearing Examiner held a public hearing on that date.
2. All persons present at the Public Hearing were given an opportunity to present evidence and testimony, and all correspondence received was read and made part of the record.
3. The Hearing Examiner adopts the findings of the Department of Planning and Community Development as presented in the attached Report and Findings of that Department.
4. Chapter 8.34.020, Revised Code of Washington, provides the following information:
 1. (1) "Open Space Land" means (a) any land area so designated by an official comprehensive land use plan adopted by any city or county accordingly or (b) any land area, the preservation of which in its present use would (i) conserve and enhance natural or scenic resources, or (ii) protect streams or water supply, (iii) promote conservation of soils, wetlands, beaches, or tidal marshes, or (iv) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space, or (v) enhance recreation opportunities, or (vi) preserve historic sites, or (vii) retain in its natural state tracts of land not less than five acres situated in an urban area and open to public use, on such conditions as may be reasonably required by the legislative body granting the open space classification.
7. The Hearing Examiner has reviewed this application with respect to the above definitions and other requirements of the Skagit County Code and the Revised Code of Washington.

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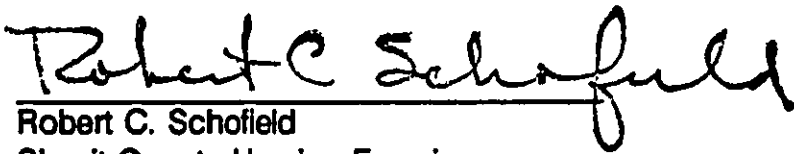
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CONCLUSIONS

The Hearing Examiner, having duly considered the matter, including all the evidence presented and on file, comments from interested persons, information and comments from other county departments affected and from the Prosecuting Attorney; independent studies of the Planning Department, and the evidence presented at the public hearing; finds that the application has been reviewed in accordance with the definitions and requirements referenced above and has been found to be compatible with those criteria.

RECOMMENDATION

The Hearing Examiner recommends **APPROVAL** of the application for inclusion of the subject property in the Timber Open Space Classification.


Robert C. Schofield
Skagit County Hearing Examiner

Date of Recommendation: May 17, 1993

Copies Transmitted to Applicant: May 17, 1993

Attachment: Staff Report and Findings

C (with attachment): Applicant, Applicant File, Board of County Commissioners, Hearing Examiner

SKAGIT COUNTY PLANNING AND COMMUNITY DEVELOPMENT
FINDINGS OF FACT

HEARING AUTHORITY: SKAGIT COUNTY HEARING EXAMINER

HEARING DATE: MAY 12, 1993

APPLICATION NUMBER: OPEN SPACE # OST-92-006

APPLICANT: ROBERT JAMES

ADDRESS: 1641 SW 351ST STREET
FEDERAL WAY, WA 98023

PROJECT LOCATION: The subject property is located on the south side of the South Skagit Highway, approximately 5 miles east of the Community of Day Creek; Tract 4 of survey recorded under Auditor File # 9005070053, within a portion of the North 1/2 of the Northeast 1/4 of Section 24, Township 35 North, Range 6 East, W.M., Skagit County, Washington.

PROJECT DESCRIPTION: Timber Open Space Classification Request to allow the inclusion of approximately 14.8 acres in the Timber Open Space Program.

ASSESSOR'S ACCOUNT NUMBER: 350624-0-001-0103

STAFF FINDINGS:

1. The subject property is zoned Forestry. The Eastern District Comprehensive Plan designates the area as Forestry.
2. The public hearing has been advertised in accordance with the requirements of Chapter 14.04 of the Skagit County Code.
3. The subject property is divided by the South Skagit Highway. The portion of the property located between the South Skagit Highway and the Skagit River is located within the floodway of the Skagit River and is considered non-buildable. The portion of the property located south of the South Skagit Highway is located out of any designated flood hazard areas.
4. The parcel proposed for inclusion in the Timber Open Space Program is approximately 14.8 acres. The area proposed for inclusion in the Program is located on a hillside.
5. The site is accessed off of the South Skagit Highway, approximately five miles east of the Community of Day Creek.

The subject property is located in an area of the county with a variety of parcel sizes and uses.

6. The applicant has had a Timber Management Plan prepared for the subject property, which is attached for reference.

RECOMMENDATION:

The Skagit County Planning Department would recommend approval of the request for inclusion into the Timber Open Space Program with the following condition:

1. The applicant shall comply with the Timber Management Plan as submitted.

Prepared by: G.R.
Approved by: OFY

At Susan Forest Management

**P. O. Box 1627
Stanwood, WA 98292**

**SKAGIT COUNTY
PERMIT CNTR.**

APR 19 1993

RECEIVED

Management Plan For: Rob James

Legal: Portion of N/2 of NE/4 of Section 24 Township 35 N. Range
6E. 20 acres, Lot 4 of Brazier Plat, Skagit County.

This property has been logged and part of it has been replanted with
Douglas Fir seedlings now approximately five feet tall.

The north third of the lot is in wild and scenic river designation. This
area has some modest potential to be managed over time in
Cottonwood and Red Alder. No more than sixty percent of the volume
can be removed over a ten year period so I recommend a light thinning
of hardwoods (20%), starting in 2024.

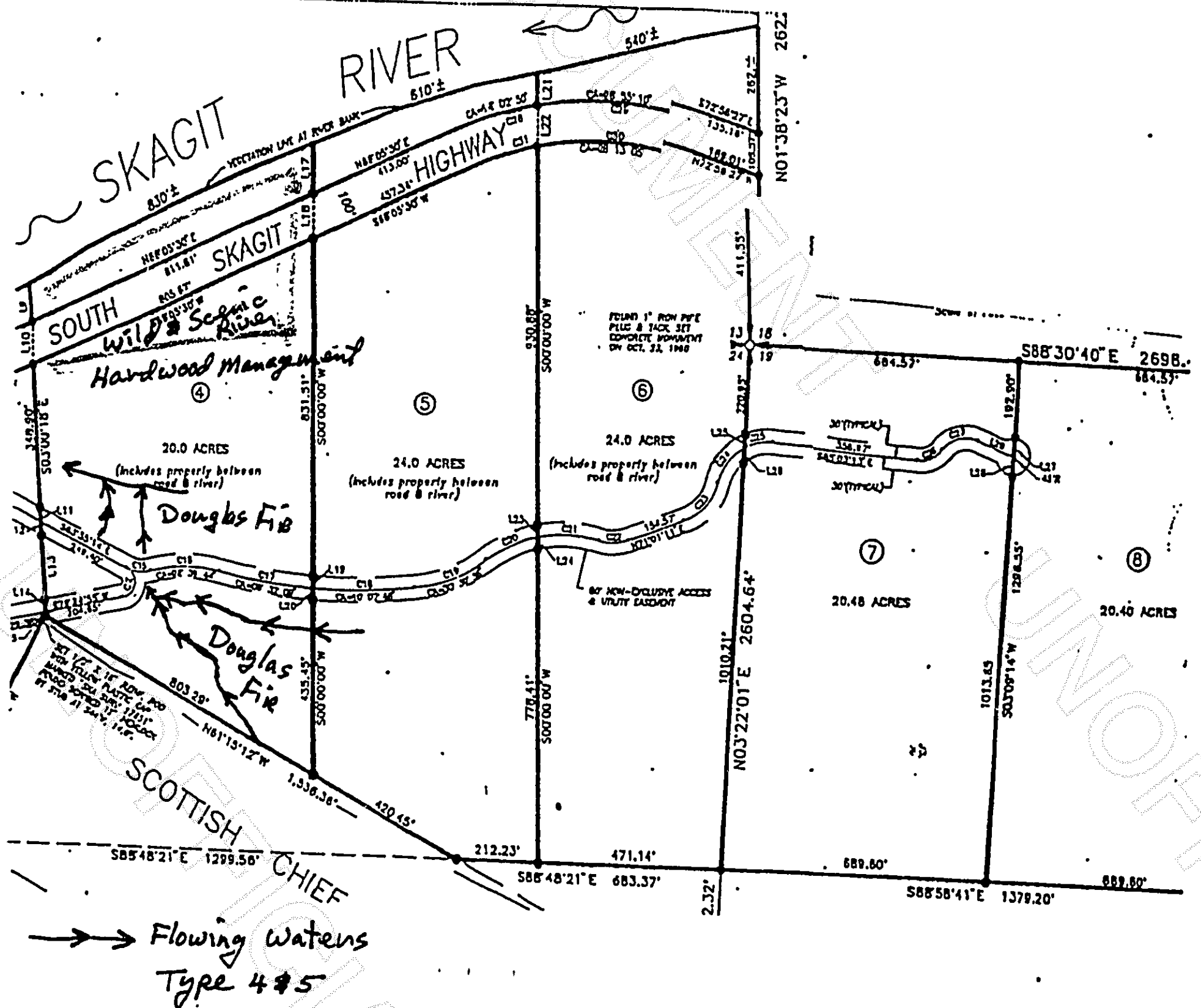
The steep face up to the access road and above to the property line has
been planted to Douglas Fir. As the hardwood brush begins to close
canopy over the Fir trees, they will need to be removed. This work
should begin within the next three years and it entails the following:
mid June and the end of August, cut all of the Alder and Cottonwood
whips at ground level below the first branch with a chain saw. This

timing is important in order to reduce the possibility of sprouting. Once this has been accomplished, the Fir plantation should be free to grow. The next silvicultural operation at about age fifteen could be pruning with a possible commercial thinning at about age twenty. Subsequent stand entries will depend upon ownership priorities.

Paul Kriegel, Forester

April 19, 1993

This sketch is furnished solely for the purpose of assisting in locating the premises and does not purport to show all highways, roads or easements affecting the property. No reliance should be placed upon this sketch for the location or dimensions of the property and no liability is assumed for the correctness thereof.



OST-92-006

APPLICATION FOR CLASSIFICATION AS OPEN SPACE LAND OR TIMBER LAND
FOR CURRENT USE ASSESSMENT UNDER CH. 84.36 RCW

DEC 15 1992

FILE WITH THE COUNTY LEGISLATIVE AUTHORITY

COMM. DEVELOP. DIV

COMM DEVELOP DIV

Name of Applicant Robert James

COMM. DEVELOP. DIV

Phone (206) 874-2518

Address 1641 SW 351st Street, Federal Way, Seattle, WA 98023

Property Location Ptn of Lot 4 of Survey recorded under AF # 9005070053, lying within NE 1/4 of Sec. 24, Twp 35 N., Rge 6 E., W.M.

1. Interest in property: ☒ Fee Owner ☐ Contract Purchaser ☐ Other (Describe) _____

2. Assessor's parcel or account number 350624-0-001-0103

Legal description of land to be classified see above

3. Land classification that is being sought? ☐ Open Space ☒ Timber Land

NOTE: A single application may be made for both open space and timber land, but a separate legal description must be furnished for each area that classification is being sought.

4. Total acres in application 14.8 acres

5. OPEN SPACE CLASSIFICATION

Number of acres _____

6. Indicate what category of open space this land will qualify for: (See reverse side for definitions)

☐ Open space zoning

☐ Conserve and enhance natural or scenic resources

☐ Protect streams or water supply

☐ Promote conservation of soils, wetlands, beaches or tidal marshes

☐ Enhance public recreation opportunities

☐ Enhance value to public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space

☐ Preserve historic sites

☐ Retain in natural state tracts of five (5) or more acres in urban areas and open to public use as reasonably required by granting authority

7. TIMBER LAND CLASSIFICATION

Number of acres 14.8

8. Do you have a timber management plan for this property? ☐ Yes ☒ No If yes, submit a copy of that plan with this application. I am in the process of haveing a TMP prepared.

9. If you have no timber management plan, specifically detail the use of this property to show that it "is devoted primarily to the growth and harvest of forest crops".

The property is currently zoned Forestry and has always been managed as a commercial timber crop. The property has been re-planted in Douglas Fir

10. Describe the present current use of each parcel of land listed in this application.

Forestry

11. Describe the present improvements on this property (buildings, etc.) The property is currently vacant

12. Attach a map of the property to show an outline of current uses of the property and indicate location of all buildings.

13. Is this land subject to a lease or agreement which permits any other use than its present use? ☐ Yes ☒ No

If yes, attach a copy of the lease or agreement.

NOTICE: The assessor may require owners to submit pertinent data regarding the use of classified land.

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OPEN SPACE LAND MEANS:

- (a) Any land area so designated by an official comprehensible land use plan adopted by any city or county and zoned accordingly; or
- (b) Any land area, the preservation of which in its present use would (i) conserve and enhance natural or scenic resources, or (ii) protect streams or water supply, or (iii) preserve soils, wetlands, beaches or tidal marshes, or (iv) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space, or (v) enhance recreation opportunities or (vi) preserve historic sites, or (vii) retain in its natural state tracts of land not less than five acres situated in an urban area and open to public use on such conditions as may be reasonably required by the legislative body granting the open space classification.

TIMBER LAND MEANS:

Land in one ownership consisting of five or more acres in contiguous parcels devoted primarily to the growth and harvest of forest crops and which is not classified or designated as forest land under Chapter 84.33 RCW. Timber land means the land only.

STATEMENT OF ADDITIONAL TAX, INTEREST, AND PENALTY DUE UPON REMOVAL OF CLASSIFICATION

1. Upon removal of classification, an additional tax shall be imposed which shall be due and payable to the county treasurer 30 days after removal or upon sale or transfer, unless the new owner has signed the Notice of Continuance. The additional tax shall be the sum of the following:
 - (a) The difference between the property tax paid as "Open Space Land" or "Timber Land" and the amount of property tax otherwise due and payable for the last seven years had the land not been so classified; plus
 - (b) Interest upon the amounts of the difference (a), paid at the same statutory rate charged on delinquent property taxes.
 - (c) A penalty of 20 % shall be applied to the additional tax if the classified land is applied to some other use, except through compliance with the property owner's request for withdrawal process, or except as a result of those conditions listed in (2) below.
2. The additional tax, interest, and penalty specified in (1) above shall not be imposed if removal resulted solely from:
 - (a) Transfer to a governmental entity in exchange for other land located within the State of Washington.
 - (b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power.
 - (c) Sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in such land.
 - (d) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the landowner changing the use of such property.
 - (e) Official action by an agency of the State of Washington or by the county or city where the land is located disallowing the present use of such land.
 - (f) Transfer to a church when such land would qualify for property tax exemption pursuant to RCW 84.36.020.
 - (g) Acquisition of property interests by State agencies or agencies or organizations qualified under RCW 84.34.210 and 64.04.130 (See RCW 84.34.108(5)(g)).

AFFIRMATION

As owner(s) of the land described in this application, I hereby indicate by my signature that I am aware of the potential tax liability involved when the land ceases to be classified under provisions of CH. 84.34 RCW. I also declare under the penalties for false swearing that this application and any accompanying documents have been examined by me and to the best of my knowledge it is a true, correct, and complete statement.

Signature of all Owner(s) or Contract Purchaser(s)

Robert James
Robert James

All owners and purchasers must sign.

FOR LEGISLATIVE AUTHORITY USE ONLY

Date application received _____ By _____

Amount of processing fee collected \$ _____ Transmitted to _____ Date _____

FOR GRANTING AUTHORITY USE ONLY

Date received _____ By _____

Application approved _____ Approved in part _____ Denied _____ Owner notified of denial on _____

Agreement executed on _____ Mailed _____

OPEN SPACE TAXATION AGREEMENT

RCW 84.34

(TO BE USED FOR "OPEN SPACE" OR "TIMBER LAND" CLASSIFICATION ONLY)

This Agreement between ROBERT JAMES

hereinafter called the "Owner", and SKAGIT COUNTY

hereinafter called the "Granting Authority".

Whereas the owner of the following described real property having made application for classification of that property under the provisions of RCW 84.34:

Assessor's Parcel or Account Numbers: 350624-0-001-0103

Legal Description of Classified Land: A portion of LOT 4 of Survey recorded under AF# 9005070053, lying within NE 1/4 of Section 24, Township 35 NORTH, RANGE 6 EAST, W.M. SKAGIT COUNTY, WA.

And whereas, both the owner and granting authority desire to limit the use of said property, recognizing that such land has substantial public value as open space and that the preservation of such land constitutes an important physical, social, esthetic, and economic asset to the public, and both parties agree that the classification of the property during the life of this Agreement shall be for:

☐ OPEN SPACE LAND ☒ TIMBER LAND

Now, therefore, the parties, in consideration of the mutual covenants and conditions set forth herein, do agree as follows:

1. During the term of this Agreement, the land shall only be used in accordance with the preservation of its classified use.
2. No structures shall be erected upon such land except those directly related to, and compatible with the classified use of the land.
3. This Agreement shall be effective commencing on the date the legislative body receives the signed Agreement from the property owner, and shall remain in effect for a period of at least ten (10) years.
4. This Agreement shall run with the land described herein and shall be binding upon the heirs, successors and assigns of the parties hereto.
5. Withdrawal: The land owner may withdraw from this Agreement if after a period of eight years the land owner makes a withdrawal request, which request is irrevocable, to the assessor. Two years from the date of that request the assessor shall withdraw the land from the classification, and the applicable taxes and interest shall be imposed as provided in RCW 84.34.070.
6. Breach: After land has been classified and as Agreement executed, any change of use of the land, except through compliance with items (5) or (7) of this Agreement, shall be considered a breach of this Agreement, and subject to applicable taxes, penalties and interest as provided in RCW 84.34.080 and 84.34.108.
7. A breach of Agreement shall not occur and the additional tax shall not be imposed if the removal of designation resulted solely from:
 - (a) Transfer to a government entity in exchange for other land located within the State of Washington;
 - (b) A taking through the exercise of the power of eminent domain, in anticipation of the exercise of such power;
 - (c) Sale or transfer of land within two years after the death of the owner of at least fifty percent interest in such land.
 - (d) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the land-owner changing the use of such property.
 - (e) Official action by an agency of the State of Washington or by the county or city within which the land is located which disallows the present use of such land.
 - (f) Transfer to a church and such land would qualify for property tax exemption pursuant to RCW 84.36.020.
 - (g) Acquisition of property interests by State agencies or agencies or organizations qualified under RCW 84.34.210 and 64.04.130 (See RCW 84.34.108 (5g)).
8. The county assessor may require classified land owners to submit pertinent data regarding the use of the land, and such similar information pertinent to continued classification and appraisal of the land.

This Agreement shall be subject to the following conditions:

Applicant will comply with TIMBER MANAGEMENT Plan as prepared by PAUL Kriegal, Forester with Port Susan Forest MANAGEMENT.

It is declared that this Agreement contains the classification and conditions as provided for in RCW 84.34 and the conditions imposed by this Granting Authority.

Granting Authority:

Dated June 7, 1993

Robert L. Hays RR AW
City or County

Chair, Skagit County Board of Commissioners
Title

As owner(s) of the herein described land I (we) indicated by my (our) signature(s) that I (we) are aware of the potential tax liability hereby accept the classification and conditions of this Agreement.

Dated 5-18-93

Robert M. James
Owner(s)
Robert M. James
(Must be signed by all owners)

Date signed Agreement received by Legislative Authority _____

Prepare in triplicate with one completed copy to each of the following:

Owner(s)
Legislative Authority
County Assessor

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RESOLUTION NO. _____

11893

A RESOLUTION CONCERNING A TIMBER OPEN SPACE APPLICATION
OF ROBERT JAMES

WHEREAS, a public hearing was held on May 12, 1991 to review the Open Space Timber application of applicant and the accompanying Staff Report of the Department of Planning and Community Development, and subsequently Findings of Fact and a Recommendation were submitted to the Skagit County Board of Commissioners by the Hearing Examiner; and

WHEREAS, in open session, The Skagit County Board of Commissioners has reviewed the application and Staff Report, Findings and Recommendation of the Hearing Examiner, and any public testimony and correspondence in this matter; and

WHEREAS, the applicant has had prepared a Timber Management Plan for logging and reforestation of the property; and

WHEREAS, Chapter 8.34.020, Revised Code of Washington, provides that:

- (1) "Open Space Land" means (a) any land area so designated by an official comprehensive land use plan adopted by any city or county accordingly or (b) any land area, the preservation of which in its present use would (i) conserve and enhance natural or scenic resources, or (ii) protect streams or water supply, (iii) promote conservation of soils, wetland, beaches, or tidal marshes, or (iv) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space, or (v) enhance recreation opportunities, or (vi) preserve historic sites, or (vii) retain in its natural state tracts of land not less than five acres situated in an urban area and open to public use on such conditions as may be reasonably required by the legislative body granting the open space classification.;

NOW THEREFORE, BE IT RESOLVED, that The Skagit County Board of Commissioners hereby accepts the Hearing Examiner Recommendation and approves the Timber Open Space application of ROBERT JAMES subject to any conditions recommended by the Hearing Examiner and the Planning Staff.

WITNESS our hands and official seal this 7th day of June, 1993.

BOARD OF COMMISSIONERS
SKAGIT COUNTY, WASHINGTON

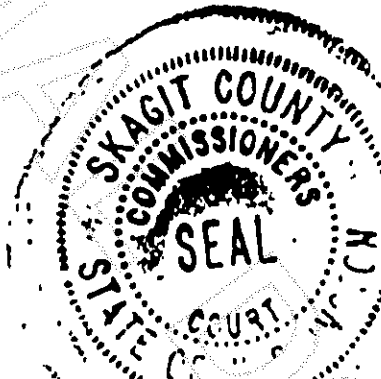
Bob Hart
BOB HART, Chairman

Harvey Wolden
HARVEY WOLDEN, Commissioner

Robb Robinson
ROBBY ROBINSON, Commissioner

ATTEST:

Connie Carter
Connie Carter
Clerk of the Board



cc: HE, James.

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