

BEFORE THE IDAHO BOARD OF TAX APPEALS

SUMMERS TRUST CONSOLIDATED,	)	
	)	
Appellant,	)	APPEAL NOS. 22-A-1222
	)	through 22-A-1228
v.	)	
	)	FINAL DECISION AND ORDER
BANNOCK COUNTY,	)	
	)	
Respondent.	)	
	)	
_____	)	

**FOREST LAND EXEMPTION APPEAL**

This appeal is taken from a decision of the Bannock County Board of Equalization denying a forest land exemption for taxing purposes on property described by parcel number on Attachment A. The appeals concern the 2022 tax year.

These matters came on for consolidated hearing January 10, 2023, in Pocatello, Idaho, before Board Member Doug Wallis. Trustee Jack Summers appeared at hearing for Appellant. Bannock County Assessor Anita Hymas represented Respondent.

Board Members Kenneth Nuhn and Doug Wallis join in issuing this decision.

**The issue on appeal concerns whether the subject properties qualify for special valuation treatment as forest land pursuant to Title 63, Chapter 17, Idaho Code, commonly referred to as the Forest Land Exemption.**

**The decisions of the Bannock County Board of Equalization are reversed.**

FINDINGS OF FACT

Assessed values and lot sizes for the respective subject parcels are detailed in Attachment A.

The subject properties are contiguous rural parcels located approximately eight (8) miles east of Pocatello, Idaho. The lots range in size from 2.55 to 6.27 acres, and with the exception of the 5.18 acre homesite parcel, all are unimproved.

A couple years ago Appellant began pursuing a forest land exemption for the subject properties. As part of this effort, Appellant worked with the Idaho Department of Lands through its Fellowship Program to develop a forest management plan for the subject parcels. This resulted in what Appellant referred to as the One Plan which is a general-type plan available to small private forest landowners. The management plan identified twenty (20) acres with a productivity classification of Medium and twelve (12) acres of Poor. Appellant attached the forest management plan to the application form (FT-101) filed with Bannock County Assessor's office some time prior to the April 15, 2022 deadline, though the precise filing date was not shared.

Respondent reviewed Appellant's application materials and ultimately concluded the subject properties did not qualify for the forest land exemption for 2022, primarily because no commercial harvest has ever occurred. Respondent contended some of the language in the management plan appeared to be aimed more at conservation than forest land production or harvest. In Respondent's opinion, Appellant's use of the subject properties did not align with the intent of the forest land exemption, and therefore the properties did not qualify for the exemption. Having resolved to deny Appellant's forest land exemption application, the subject parcels were instead assessed at market value as rural residential subdivision lots.

Appellant maintained Respondent's denial of the exemption was contrary to the requirements of the relevant statutes and was thus improper. Appellant stressed the

forest management plan was developed by the Idaho Department of Lands (IDL) following a review and inspection of the properties and therefore adheres to the requirements necessary for a proper management plan. The plan was certified by IDL to meet “. . . the requirements of the National and Idaho Forest Stewardship Program.” The plan was additionally certified by the USDA’s National Resource Conservation Service that “. . . this forest management plan meets the requirements to apply and participate in the USDA/NRCS Environmental Quality Incentives Program (EQIP).” Appellant contended these certifications alone from the USDA and IDL should alleviate any concerns Respondent had with the management plan.

In further support of the management plan, Appellant provided an email from the Forest Tax Administrator with the Idaho State Tax Commission stating, “The plan meets the requirements set out in IDAPA 960.04. The plan would indicate that there are 20 acres of the property which would have a productivity classification of Good and 12 acres with a productivity classification of Poor.” Lastly, Appellant furnished a letter dated December 13, 2022, from the IDL’s Forester/Resource Supervisor for the Eastern Supervisory Area stating, “. . . I have determined that the productivity classification for the forested acres should be medium and for the non-forested acres should be poor. For medium productivity class, two hundred thirteen board feet per acre, mean annual increment (MAI), shall be used in the valuation process.” Based on these statements, Appellant contended the forest management plan aligned with the requirements of the statute and the subject properties otherwise qualify for the forest land exemption.

## CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of market value in fee simple interest or, as applicable, a property's exempt status. This Board, giving full opportunity for all arguments and having considered all the testimony and documentary evidence submitted by the parties, hereby enters the following.

The issue in this matter is whether the subject properties qualify for the special valuation treatment afforded under the forest land exemption.

The forest land exemption is governed by the provisions of Title 63, Chapter 17, Idaho Code. Land parcels less than five (5) contiguous acres in size are not eligible for the forest land designation, however;

For the purposes of appraisal, assessment and taxation under the provisions of this chapter, all forest lands in parcels of five (5) or more acres but less than five thousand (5,000), whether contiguous or not, as long as such parcels are held in common ownership, *must be designated by the forest landowner* to be subject to the provisions of either subsection (a) or (b) of this section. A forest landowner cannot have parcels designated under the provisions of both subsections (a) and (b) of this section at one (1) time  
.....

(a) A forest landowner may choose to have his forest land assessed, appraised and taxed under the provisions of 63-1705, Idaho Code, by filing such choice with the county assessor on a form prescribed by the state tax commission. Designation filed pursuant to section 63-1705, Idaho Code, shall become effective the first day of January following the year of designation.

(b) A forest landowner may choose to have his forest land assessed, appraised and taxed under the provisions of 63-1706, Idaho Code, by filing such choice with the county assessor on a form prescribed by the state tax commission. Designation filed pursuant to section 63-1706, Idaho Code, shall become effective the first day of January following the year of designation.

(Emphasis added).

Qualification for the forest land exemption is fairly straight-forward: the forest landowner designates to the county assessor [on a form prescribed by the state tax commission], to have his forest land assessed, appraised, and taxed pursuant to either section 63-1705 or 63-1706, Idaho Code. There are, however, a couple key terms in the above code section which are specially defined in Idaho Code § 63-1701, as follows:

(3) “Forest” means forest land and the timber thereon.

(4) “Forest land” means privately owned land being held and used primarily for the continuous purpose of growing and harvesting trees of a marketable species. Having met the above criteria, forest land may be further identified by the consideration of any of the following criteria:

(a) Forest land is land evidenced by present use and silvicultural treatment.

(b) Forest land is land which has a dedicated use that is further evidenced by a forest land management plan that includes eventual harvest of the forest crop.

(c) Forest land is land bearing forest growth or land which has not been converted to another use.

(d) Forest land is land which has had the trees removed by man through harvest, including clear-cuts or by natural disaster, such as but not limited to fire, and which within five (5) years after harvest or initial assessment will be reforested as specified in the forest practices act (chapter 13, title 38, Idaho Code).

The first inquiry is whether the subject properties are forest land as defined in the statute. The parcels are privately held lots upon which marketable species of trees are growing and which have been growing for more than 200 years by Appellant’s estimate. The dedicated use of the subject properties is further evidenced by a forest management plan as described in subsection (b). Though there was a lot of discussion about subjects’ forest land management plan, neither party shared a copy. The management plan presumably includes the eventual harvest of a forest crop, as the Forest Tax Administrator

for the Idaho State Tax Commission clearly stated in an email, “The plan meets the requirements set out in IDAPA 960.04.” Nothing in the record suggested the plan did not include provisions related to an eventual harvest, so the Board will accept that this element is satisfied.

Though the record was somewhat thin, the subject properties would likely also satisfy the conditions described in subsection (c) because the land is bearing forest growth and the land has not been converted to another use. In the Board’s view, the subject properties clearly meet the definition of “forest land” and are thus eligible for the forest land exemption, provided the remaining qualifying conditions are satisfied.

Having determined the subject properties are forest land under the controlling statute, the only other necessary element to qualify for the exemption is for Appellant to designate which valuation method will be used for purposes of assessment. Though a copy of Appellant’s Form FT-101 was not provided, both parties indicated Appellant did designate the subject properties be assessed under Idaho Code § 63-1705, also known as the productivity option, which means this statutory requirement was likewise satisfied.

The full rationale for Respondent’s denial of the forest land exemption was unclear, but based on the factual record, the Board was strained to reach the same conclusion. A forest land management plan was developed for the subject properties which identifies the productivity classifications of the acreage. This plan was developed by IDL, which is preeminently qualified to assess whether a particular parcel is forest land. A copy of the management plan was provided with a completed Form FT-101 filed with the assessor’s office, on which Appellant chose to have the properties assessed under the productivity option. These are the only requirements to qualify for the forest land exemption, and

where such requirements were satisfied, the Board finds the subject properties qualify for the forest land exemption.

Based on the above, the decisions of the Bannock County Board of Equalization are reversed.

#### FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decisions of the Bannock County Board of Equalization concerning the subject parcels be, and the same hereby are, REVERSED. The subject acreage shall be valued for assessment purposes pursuant to the productivity option in Idaho Code § 63-1705, except for the one (1) acre homesite on Parcel No. RPR3851021700, which shall be assessed at market value, with the remaining acreage on the homesite parcel assessed under the productivity option.

IT IS FURTHER ORDERED, pursuant to Idaho Code § 63-1305, any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

Idaho Code § 63-3813 provides that under certain circumstances the above ordered value for the current tax year shall not be increased in the subsequent assessment year.

DATED this 26<sup>th</sup> day of April, 2023.

IDAHO BOARD OF TAX APPEALS