

Taxpayer Petition to the
CLALLAM County Board of Equalization for
Review of Current Use or Designated Forest Land Determination

Office Use Only	
Petition No:	<u>2020 24</u>
Date Received:	<u>OCT 19 2020</u>

NOV 19 2020

Tax Parcel No: 043010 520040 36372

☒ I request the information used by the assessor in valuing my property.

Assessor's "Change of Value Notice" or other determination notice was dated 9/30/20

If appealing the true and fair (market) value for land classified under chapter 84.34 RCW (Current Use) or chapter 84.33 RCW (Designated Forest Land), do not complete this form. Instead, complete form REV 64 0075, *Taxpayer Petition to the County Board of Equalization for Review of Real Property Valuation Determination*.

The undersigned petitions the Board of Equalization to:

- ☐ Change the current use or forest land valuation of the following described property as shown on the assessment rolls for the year 2020 to the amount shown in Item 7.
- ☒ Reverse the assessor's decision to remove classification/designation from the following described land. The statement supporting continued classification/designation is shown in Item 6.
- ☐ Reverse the denial of application for current use farm and agricultural land classification. I have attached a copy of the application form, REV 64 0024 or REV 64 0108.
- ☐ Reverse the denial of application for designated forest land. I have attached a copy of the application form, REV 62 0021 or REV 62 0110.

All Items Must Be Completed (Please print)

- Account/Parcel Number: Enter this number in the space provided at the top right-hand corner of this petition. Your account or parcel number appears on both your determination notice and your tax statement. If you are appealing multiple parcels, you must submit separate petitions for each parcel.
- Owner: Bruce L & Bonnie D McCloskey
Mailing address for all correspondence relating to appeal:
Street Address: 5883 Old Olympic Hwy
City, State, Zip Code: Sequim, WA. 98382
Daytime Phone No: 719 237 5669 Fax No: NA
Name of Petitioner or Authorized Agent: Bruce McCloskey
- Present classification/designation of the property which is the subject of this petition is: (check one):
☒ Farm and agricultural land ☐ Open space ☐ Timber land ☐ Designated forest land
- General description of property:
a. Address/Location: 5837 Old Olympic Hwy, Sequim, WA. 98382
b. Zoning or Permitted Use: NC
- General description of property and use:

Present Use

Acres

Lavender Farm	10.75
Owner Residence	.25

This petition must be filed with the County Board of Equalization on or before July 1 of the year of the assessment or determination, or within 30 days (or up to 60 days if the county legislative authority has adopted it) after the date an assessment, value change notice, or other notice has been mailed, whichever is later.

6. Reasons why assessor's valuation of property is being challenged, why classification/designation should be continued, or why application for classification/designation should not be denied.

When the property was purchased in 2013, we signed and agreed with the Clallam County Notice of Continuance, Land Classification as Current Use or Forest Land (attached). On page 3, paragraph 3. g clearly states "the additional tax, interest, and/or penalty shall not be imposed if the withdrawal or removal from classification resulted from: removal of classified farm land and agriculture land on which the principal residence of the farm operator or owner or housing for employees". That applies directly to this situation. We built and now live in the only residence on the 11 acres. The remaining acreage use has not changed and continues to be a lavender farm.

7. If you are appealing the assessor's determination of current use/designated forest land assessed value, complete the following:

(a) Assessor's determination of current use/designated forest land value:

Land.....\$ _____
Improvements/Bldgs\$ _____
Crops/Minerals\$ _____
TOTAL.....\$ _____

(b) Your estimate of current use/designated forest land value:

Land\$ _____
Improvements/Bldgs\$ _____
Crops/Minerals\$ _____
TOTAL.....\$ _____

8. Land And Crop Information (Farm and agricultural land only)

Attach copies of signed leases of comparable properties to support your opinion of rental values:

(WAC 458-30-260 – Valuation procedures – Says in part "only leases of land that is available for rent for a period of at least three years . . . may be used.")

Average income and/or production records of subject property and comparable properties:

Parcel No.	Year _____	Year _____	Year _____	Year _____	Year _____
Subj _____	_____	_____	_____	_____	_____
Comp _____	_____	_____	_____	_____	_____
Comp _____	_____	_____	_____	_____	_____
Comp _____	_____	_____	_____	_____	_____

Average Expense Records

Subj _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Comp _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Comp _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Comp _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

9. Describe non-typical property conditions: See attached

Attach any supporting documentation, such as maps, photographs, letters, appraisals, and/or other documentary evidence to support your petition.

10. Check one of the following statements that applies:

- ☒ I intend to submit **additional** documentary evidence to the Board of Equalization and the assessor **no later** than twenty-one business days prior to my scheduled hearing.
- ☐ My petition is complete. I have provided all the documentary evidence that I intend to submit and I request a hearing before the Board of Equalization as soon as possible.

11. Power of Attorney: If power of attorney has been given, the taxpayer must so indicate by signing the statement appearing below or attaching a signed power of attorney.

The person whose name appears as authorized agent has full authority to act on my behalf on all matters pertaining to this appeal.

Date _____

Signature of Petitioner (Taxpayer) _____

12. I hereby certify I have read the above petition and that it is true and correct to the best of my knowledge.

10/19/20
Date

Bruce R. M. [Signature]
Signature of Taxpayer or Agent

Attachment A
Appeal of Notice of Removal of Current Use Classification
Bruce & Bonnie McCloskey
10/20/20

9. Describe the non-typical property conditions:

When we purchased the property in 2013, we signed and agreed to the understanding the property was taxed as agriculture farm land and if we changed that use, there would be property tax consequences. We also read on the Clallam County Notice of Continuance Land Classification as Current Use of Forest Land form, **the exception for building our house on the property (see attached). There is also an exemption for farm homesite value (see attached).**

Mr. Podlesny's letter to me (9/30/20, attached) states on page 2, 4. G " The additional tax specified in 1 and 2 (above) will not be imposed if removal from classification resulted solely from : g) **Removal of land classified as farm and agriculture land under RCW 84.34.020 (2)(e) (farm homesite value);**

That is exactly what has happened. With no prior notice or discussion, we receive notice we now owe \$10,062.46 for change of use for the past 7 years, a penalty, and interest with payment due in 16 days from receipt of the Corrected Property Tax Statement from the Clallam County Treasurer.

The remaining 10.85 acres of land continues to be a lavender farm, in fact with many more lavender plants in the ground than when the property was purchased. We have more than tripled the number of plants and are committed to farming lavender for the long term. We have 2 full time employees plus up to 4 part time employees working with us on the farm. The 2 full time employees have the farm as their only source of income for their family of 4. In other words, this is a real working farm and will continue as such, hopefully.

The previous owners of the property went through the sub-development process with the county and considered breaking out the farm into small parcels for development. That is not our intention. We will continue farming, but also needed to get out of the trailer into a stick-built home.

It appears there are 3 different specific exceptions that apply to our circumstances that are intended to allow for a farm homesite for the owners of the farm. The exceptions are listed in the form we signed and also in the RCW code. We think we are in compliance with both the letter of the law and notifications we agreed to, plus the spirit and intention of the laws to encourage long term farming and agricultural practices.


Bruce L. McCloskey



Clallam County Assessor's Department

223 East 4th Street, Suite 2,
Port Angeles, WA 98362
Phone: 360-417-2400 Fax: 360-417-2299
Web: www.clallam.net

Pam Rushton, Assessor
Lorrie Kuss, Chief Deputy Assessor
Dan Childress, Chief Appraiser

September 30, 2020

Bruce and Bonnie McCloskey

5883 Old Olympic Hwy

Sequim, WA 98382

RE: One acre home site removal from Farm and Agriculture classification on parcel 043010-520040, Lot 4 of Angel Plat V14 P36

Dear Bruce and Bonnie,

This letter serves to inform you that as a result of residential construction under BPT2019-222 on the above-cited parcel, one acre has been removed from Farm and Agriculture classification as stipulated by RCW 84.34.080 **Change in use**. Compensating tax is owed as required by law (RCW 83.34.108(3)&(4)) and a billing statement in the amount shown on the attached Worksheet is being sent by the Treasurer's office within the next few weeks. This Worksheet may serve as an invoice for payment at any time prior.

This action gives you Appeal Rights as mentioned on page two of the Notice of Removal. Please note also that this removal does not apply to the remainder of the acreage (10.04) in Farm and Agriculture classification. Be aware this office is planning to audit farm parcels shortly and will be asking for proof of the parcel's farming income for the last 5 years. Refer to RCW 84.34.020(2)(d) **Definitions** for more information.

Contact me if you have any questions.

Regards,

A handwritten signature in cursive script that reads "Jim Podlesny".

Jim Podlesny

Current Use Programs



JIM PODLESNY
Current Use-Customer Service
Phone: 360-417-2203
Fax: 360-417-2299
Email: jpodlesny@co.clallam.wa.us

CLALLAM COUNTY ASSESSOR'S OFFICE
223 E 4th St, Ste 2
Port Angeles, WA 98362
www.clallam.net

Reclassification Option

You may apply to have the land reclassified into one of the other current used classifications under Chapter 84.34 RCW or forest land designation under Chapter 84.33 RCW. If an application for reclassification is received within 30 days of this notice, no additional tax, interest, or penalty are due until the application is denied. If an application for reclassification under 84.34 RCW was previously denied, a reapplication covering the same parcel of land, or a portion thereof, may not be submitted to the granting authority until 365 days have elapsed from the date of the initial application for reclassification was received. WAC 458-30-215(8).

Appeal Rights

The property owner or the person responsible for the payment of taxes may appeal the assessor's removal of classification to the County Board of Equalization. Said Board may be reconvened to consider the appeal. The petition must be filed with the board on or before July 1 of the year of the determination, or within thirty days after the date the notice has been mailed. A petition form may be obtained by either contacting the assessor or the county board of equalization in the county in which the land is located. County contact information can be found at the following website: <http://dor.wa.gov/Content/FindTaxesAndRates/PropertyTax/Links.aspx>.

Additional Tax, interest and Penalty upon Removal

Upon removal of classification from this property, an additional tax shall be imposed equal to the sum of the following:

1. The difference between the property tax that was levied upon the current use value and the tax that would have been levied upon the fair market value for the seven tax years preceding removal in addition to the portion of the tax year when the removal takes place; plus
2. Interest at the statutory rate charged on delinquent property taxes specified in RCW 84.56.020 from April 30 of the year the tax would have been paid without penalty to the date of removal; plus
3. A penalty of 20% added to the total amount computed in 1 and 2 above, **except** when the property owner complies with the withdrawal procedure specified in RCW 84.34.070, or when the removal is not subject to the additional tax, interest, and penalty, as provided in 4 (below).
4. The additional tax specified in 1 and 2 (above) will not be imposed if removal from classification 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, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;
 - c) 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;
 - d) 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;
 - e) Transfer of land to a church when such land would qualify for exemption pursuant to RCW 84.36.020;
 - f) Acquisition of property interests by State agencies or organizations qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections (see RCW 84.34.108(5)(f));
 - * g) Removal of land classified as farm and agricultural land under RCW 84.34.020(2)(e) (farm homesite value);
 - h) Removal of land from classification after enactment of a statutory exemption that qualifies the land for exemption and receipt of notice from the owner to remove the land from classification;
 - i) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;
 - j) The creation, sale, or transfer of a conservation easement of private forest lands within unconfined channel migration zones or containing critical habitat for threatened or endangered species under RCW 76.09.040;
 - k) The sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in the land if the land has been assessed and valued as designated as forest land under chapter 84.33 RCW, or under chapter 84.34 RCW, continuously since 1993, and the individual(s) or entity(ies) who received the land from the deceased owner is(are) selling or transferring the land. The date of death shown on the death certificate is the date used; or
 - l) The discovery that the land was classified in error through no fault of the owner.

James F. Podlesny

County Assessor or Deputy

9/30/2020

Date

ADDITIONAL TAX \$10,062.46- DATE PAID _invoiced_____

When Recorded Return to:

Bruce L. McCloskey

Bonnie D. McCloskey

5883 Old Olympic Highway

Sequim, WA 98382

Notice of Continuance
Land Classified as Current Use or Forest Land
Chapter 84.34 and 84.33 Revised Code of Washington

Grantor(s)/Sellers: G. Leeon Angel and Catherine E. Angel, as Co-Trustees

Grantee(s) Purchasers: Bruce L. McCloskey and Bonnie D. McCloskey, husband and wife

Mailing address: 5883 Old Olympic Highway

City, State, Zip: Sequim, WA 98382

Phone No: _____

Assessor's Parcel No: 043010 520040

Levy code: 0202

Property address: 5883 Old Olympic Highway, Sequim, WA 98382

Legal description: Lot 4 of Angel Plat as recorded in Volume 14 of Plats, Page 36, records of Clallam County, Washington.
Situate in the County of Clallam, State of Washington..

Date of sale or transfer: 11/27/2013

Date of notice: 11/27/2013

Reference numbers of documents assigned or released: _____

Interest in property: ☒ Fee Owner ☐ Contract Purchaser ☐ Other

If the new owner(s) of land that is classified as current use or designated as forest land wish to continue the classification or designation of this land, the new owner(s) must sign below. All new owners must sign. If the new owner(s) do(es) not desire to continue the classification or designation, all additional or compensating tax calculated pursuant to RCW 84.34.108 or RCW 84.33.140, shall be due and payable by the seller or transferor at the time of sale. To determine if the land qualifies for continued classification or designation, the county assessor will be consulted.

For Official Office Use Only

Auditor's Recording No: _____

Excise Tax No: _____

For tax assistance, visit <http://dor.wa.gov/content/taxes/property/default.aspx> or call (360) 570-5900. To inquire about the availability of this document in an alternate format for the visually impaired, please call (360) 705-6715. Teletype (TTY) users may call 1-800-451-7985.

A. CLASSIFICATION UNDER CHAPTER 84.34 RCW. I/we request that this land retain the current use classification as ☐ Open Space Land ☒ Farm & Agricultural Land ☐ Timberland and I am/we are aware of the following land use classifications;

1. OPEN SPACE LAND MEANS EITHER:

- a. any land area so designated by an official comprehensive 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; (ii) protect streams or water supply; (iii) promote conservation of soils, wetland, beaches, or tidal marshes; (iv) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space; (v) enhance recreation opportunities; (vi) preserve historic sites; (vii) preserve visual quality along highway, road, and street corridors or scenic vistas; or (viii) retain in its natural state tracts of land not less than one acre 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; or
- c. any land that meets the definition of farm and agricultural conservation land. "Farm and agricultural conservation land" is either: (i) land that was previously classified as open space farm and agricultural land that no longer meets the criteria of farm and agricultural land, and that is reclassified as open space and under RCW 84.34.020(1); or (ii) land that is traditional farmland that is not classified under chapter 84.33 or 84.34 RCW, that has not been irrevocably devoted to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agriculture.

2. FARM AND AGRICULTURAL LAND MEANS EITHER:

- a. any parcel of land or contiguous parcels of land in the same ownership of twenty or more acres: (i) devoted primarily to the production of livestock or agricultural commodities, for commercial purposes; or (ii) enrolled in the federal conservation reserve program or its successor administered by the United States department of agriculture; or (iii) other similar commercial activities as may be established by rule; or
- b. any parcel of land or contiguous parcels of land in the same ownership of at least five acres but less than twenty acres devoted primarily to agricultural uses which has:
Produced a gross income equal to two hundred dollars or more per acre per year for three out of the five calendar years preceding the date of application for classification under chapter 84.34 RCW;
Standing crops with an expectation of harvest within seven years and a demonstrable investment in the production of those crops equivalent to one hundred dollars or more per acre in the current or previous year;
Standing crop of short rotation hardwoods with an expectation of harvest within fifteen years and a demonstrable investment in the production of those crops equivalent to one hundred dollars or more per acre in the current or previous year;
For the purposes of (b) above, "gross income from agricultural uses" includes, but is not limited to, the wholesale value of agricultural products donated to nonprofit food banks or feeding programs;
- c. any parcel of land that is less than five acres devoted primarily to agricultural uses which has produced a gross income equal to fifteen hundred dollars or more per year for three out of the five calendar years preceding the date of application for classification under chapter 84.34 RCW;
- d. Agricultural land also includes noncontiguous parcels from one to five acres, but otherwise constituting an integral part of farming operations conducted on the land.
Agricultural lands also include land, not to exceed twenty percent of classified land, that has incidental uses compatible with agricultural purposes, and also the land on which appurtenances necessary to the production, preparation or sale of the agricultural products exist in conjunction with the lands producing such products.
Agricultural lands also include land used primarily for equestrian-related activities including, but not limited to, stabling, training, riding, clinics, schooling, shows, or grazing for feed. The land must also meet the requirements of (a), (b), or (c) listed above.
- ☒ e. any land on which the principal place of residence of the farm operator or owner of land or housing for employees is sited if the farm and agricultural land is classified pursuant to RCW 84.34.020 (e) if the residence or housing is on or contiguous to the classified parcel, and the use of the residence or housing is integral to the use of the classified land for agricultural purposes.

3. **TIMBER LAND MEANS** any parcel or contiguous parcels of land in the same ownership of five or more acres devoted primarily to the growing and harvesting of forest crops for commercial purposes. Timber land means the land only and does not include a residential home site. The term includes land used for incidental uses that are compatible with the growing and harvesting of timber but no more than ten percent of the land may be used for such incidental uses. It also includes the land on which appurtenances necessary for the production, preparation, or sale of the timber products exist in conjunction with land producing these products.

I/we declare that I am/we are aware of the liability of withdrawal or removal of this land from classification to the following extent:

1. If the owner has filed the proper notice of request to withdraw the classified land and the land has been classified for a minimum of ten years he/she shall pay an amount equal to the difference between the tax computed on the basis of "current use" and the tax computed on the basis of true and fair value plus interest at the same statutory rate charged on delinquent property taxes. The additional tax and interest shall be paid for the preceding seven years.
2. If land is removed from classification because of a change to a non-conforming use, land is removed prior to the minimum ten year period, or land is removed because the owner(s) failed to comply with the two year notice of withdrawal he/she shall be liable to pay the additional tax and interest described in 1 above plus a penalty of twenty percent of the additional tax and interest. The additional tax, interest, and penalty shall be paid for the preceding seven years.
3. The additional tax, interest, and/or penalty shall not be imposed if the withdrawal or removal from classification 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, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of this power, said entity having manifested its intent in writing or by other official action;
 - c. a natural disaster such as a flood, windstorm, earthquake, or other calamity rather than by virtue of the act of the landowner changing the use of the classified land;
 - d. official action by an agency of the state of Washington or by the county or city within which the land is located that disallows the present classified use of the land;
 - e. transfer of land to a church when the land would qualify for exemption pursuant to RCW 84.36.020;
 - f. acquisition of property interests by a state or federal agency, county, city, town, metropolitan park district; metropolitan municipal corporation, nonprofit historic preservation corporation as defined in RCW 64.04.130, or nonprofit nature conservancy corporation or association as defined in RCW 84.34.250;
 - * g. removal of classified farm and agricultural land on which the principal residence of the farm operator or owner or housing for employees;
 - h. removal of land from classification after enactment of a statutory exemption that qualifies the land for exemption and receipt of notice from the owner to remove the land from classification;
 - i. the creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;
 - j. the creation, sale, or transfer of a conservation easement of private forest lands within unconfined channel migration zones or containing critical habitat for threatened or endangered species under RCW 76.09.040;
 - k. The sale or transfer within two years after the death of an owner with at least a fifty percent interest in the land if the land has been continuously assessed and valued as designated forest land under chapter 84.33 RCW or classified under chapter 84.34 RCW since 1993. The date of death shown on a death certificate is the date used; or
 - l. The discovery that the land was classified in error through no fault of the owner.

B. CLASSIFICATION UNDER CHAPTER 84.33 RCW. ☐ I/we request that this land retains its designation as forest land and I am/we are aware of the following definition of forest land.

FOREST LAND is synonymous with designated forest land and means all contiguous land in the same ownership of at least twenty acres that is primarily devoted to and used for growing and harvesting timber and means the land only.

I/we declare that I am/we are aware of the liability of removal of this land from designated forest land and upon removal a compensating tax shall be imposed that shall be equal to the difference between the amount of tax last levied on the land as forest land and an amount equal to the new assessed valuation of the land multiplied by the dollar rate of the last levy extended against the land, multiplied by a number, not greater than nine, equal to the number of years the land was designated as forest land.

The compensating tax shall not be imposed if the removal of designation resulted solely from:

- a. transfer to a government entity in exchange for other forest 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 this power;
- c. a donation of fee title, development rights, or the right to harvest timber, to a government agency or organization qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections or the sale or transfer of fee title to a governmental entity or a nonprofit nature conservancy corporation, as defined in RCW 64.04.130, exclusively for the protection and conservation of lands recommended for state natural area preserve purposes by the natural heritage council and natural heritage plan as defined in chapter 79.70 RCW or approved for state natural resources conservation area purposes as defined in chapter 79.71 RCW. At such time as the land is not used for the purposes enumerated, the compensating tax shall be imposed upon the current owner;
- d. the sale or transfer of fee title to the parks and recreation commission for park and recreation purposes;
- e. official action by an agency of the state of Washington or by the county or city within which the land is located that disallows the present use of such land;
- f. the creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;
- g. the creation, sale, or transfer of a conservation easement of private forest lands within unconfined channel migration zones or containing critical habitat for threatened or endangered species under RCW 76.09.040;
- h. the sale or transfer within two years after the death of an owner with at least a fifty percent interest in the land if the land has been continuously assessed and valued as designated forest land under chapter 84.33 RCW or classified under chapter 84.34 RCW since 1993. The date of death shown on a death certificate is the date used;
- i. The discovery that the land was designated in error through no fault of the owner; or
- j. A transfer of a property interest, in a county with a population of more than six hundred thousand inhabitants, to a government entity, or to a nonprofit historic preservation corporation or nonprofit nature conservancy corporation, as defined in RCW 64.04.130, to protect or enhance public resources, or to preserve, maintain improve, restore, limit the future use of, or otherwise to conserve for public use or enjoyment, the property interest being transferred. At such time as the land is not used for the purposes enumerated, the compensating tax shall be imposed upon the current owner.

The agreement to tax according to use of the property is not a contract and can be annulled or canceled at any time by the Legislature (RCW 84.34.070).

Donnie D. McCloskey
Property Owner

11/25/13
Date

5883 Old Olympic Highway, Sequim, WA 98382
Address

Donnie D. McCloskey
Property Owner

11.25.13
Date

5883 Old Olympic Highway, Sequim, WA 98382
Address

2020-21

JAN 04 2021

Clallam County Board of Equalization

1/4/2021

Board Members:

I trust you have received copies of previous documents explaining my reasons for appealing the Assessors determination. In the interest of your time and avoiding duplication, I will not repeat all those arguments and details here. I received the Assessor's response to my petition and am not in agreement with their reaffirming their original determination. The response merely restated their original findings with minimal acknowledgment of my concerns.

I understand the intention of the county code, RCW and WAC with regards to removing agriculture land from production with the intended property tax consequences. I understand the Assessor's position of adequately informing landowners of those consequences at the time of purchase, therefore taking appropriate enforcement action when land is removed from production, including the 7 years penalty, plus interest.

My issue is the county failing to properly and accurately notify me of the requirements and consequences at time of purchase. Had I been aware of those extreme consequences I would have acted differently.

I acknowledge the county attempted to notify me at the time of purchase, but their own documents did not accurately do so. That is unfortunate. I understand the Assessor's concern about setting precedent should my appeal be successful. However, I followed the rules as presented. I understand our property taxes should and will increase after building our residence on the property. I strongly disagree we violated the rules we were provided at the time of purchase and therefore need to be penalized.

According to the county-provided documents my wife and I signed at time of purchase (attached), we have fully complied. Specifically, our farm is properly classified as farm and agriculture land as described on page 2, 2. (b). We agreed with and understood the specific language on page 3, 3 (g) stating "additional tax, interest, and/or penalty shall not be imposed if the withdrawal or removal from classification resulted solely fromremoval of classified farm and agriculture land on which the principal residence of the farm operator or owner or housing for employees". My wife and I are full time farm operators and owners. We live in our home full time.

I am not alleging arbitrary or capricious action by the Assessor's office.

The Assessor's letter acknowledges "confusion may exist in the public's mind about the home site exemption regarding farm sizes". There is no confusion in my mind, given the documents provided by the county at time of purchase. They are clear and understandable. They were in error, but I had no way of knowing that and should not be penalized for someone else's mistake.

Simply put, there are 2 separate issues here:

1. Removing the 1 acre from the Ag classification

My position is it is not fair to remove it since the paperwork I signed when purchasing the property was in error by referencing the wrong part of the RCW and WAC, as addressed in the Assessor's response. The State Notice of Continuation from was technically in error. That is what we relied on.

That said, I understand there was a clerical error. Those things happen. I now understand the intent of the laws and regulations. I have no problem having the homesite taxed differently going forward. One acre seems excessive considering it actually is less than $\frac{1}{4}$ of an acre, including the driveway, but I understand the need for consistency and simplification.

2. Assessment of back taxes, penalty and interest

Because the paperwork was in error I had no idea I would be subject to back taxes, penalty and interest totaling \$10,062.46. That was not pointed out to me anywhere in the original purchase or home permitting process. I relied on the paper work provided by the county at time of purchase which stated differently. The rules should not be retroactive through no fault of mine. Had we known, we would have taken that into consideration at the time of purchase and negotiated differently on the terms of sale. Our intent all along was to build a home on the property, leaving the other 10+ acres in agriculture production. I had anticipated an increase in property taxes to reflect the additional value of the house starting in 2020, but never expected to be subject to the back taxes, penalty and interest.

In Summary:

- At the time of purchase we signed the county-provided documents and understood the consequences of removing land from agricultural production when we built our home to be minimal, as described in those documents. Errors were made in the county-provided documents, unknown to the Assessor's office evidently. We should not be penalized for those errors.
- Our lavender farm has more than doubled in agricultural production (income wise) and has more land under active agriculture production than before we purchased the farm, employs 2 full time and several part time employees, in addition to my wife and me, and hopefully will continue so in the future. We have 3 generations involved with our farm now.
- The home we have built on the property is our only residence.

Understanding the situation the Assessor's office and your Board face with regards to consistency and precedence setting, I propose the following:

1. We not be subject to 7 years past tax, penalties, plus interest, but rather subject only to the increase taxes for the standard one-acre removal and reclassification for our residence in the future.
2. If it has not already happened, the language on the documents needs to be corrected to avoid similar situations in the future.
3. At the time a building permit is issued on agriculture land, the Assessor's office should be included in the notification process to avoid last minute, after the fact consequences for well-intentioned citizens.

As I read it, RCW 84.34.108 allows for this action to be taken when "removal is reversed on appeal" (84.34.108 (4)), or "discovery that the land was classified under this chapter in error through no fault of the owner" (84.34.108 (6)(i) (i)).

We are not trying to cause a problem for the County or Assessor's office, but also want to be treated fairly, given the county-provided documents we signed at the time of purchase.

Sincerely,

A handwritten signature in dark ink, appearing to read "Bruce McCloskey". The signature is fluid and cursive, with the first name "Bruce" and last name "McCloskey" clearly distinguishable.

Bruce McCloskey
5883 Old Olympic Hwy
Sequim, WA. 98382

When Recorded Return to:

Bruce L. McCloskey

Bonnie D. McCloskey

5883 Old Olympic Highway

Sequim, WA 98382

Notice of Continuance
Land Classified as Current Use or Forest Land
Chapter 84.34 and 84.33 Revised Code of Washington

Grantor(s)/Sellers: G. Leon Angel and Catherine E. Angel, as Co-Trustees

Grantee(s) Purchasers: Bruce L. McCloskey and Bonnie D. McCloskey, husband and wife

Mailing address: 5883 Old Olympic Highway

City, State, Zip: Sequim, WA 98382

Phone No: _____

Assessor's Parcel No: 043010 520040

Levy code: 0202

Property address: 5883 Old Olympic Highway, Sequim, WA 98382

Legal description: Lot 4 of Angel Plat as recorded in Volume 14 of Plats, Page 36, records of Clallam County, Washington.
Situate in the County of Clallam, State of Washington..

Date of sale or transfer: 11/27/2013

Date of notice: 11/27/2013

Reference numbers of documents assigned or released: _____

Interest in property: ☒ Fee Owner ☐ Contract Purchaser ☐ Other

If the new owner(s) of land that is classified as current use or designated as forest land wish to continue the classification or designation of this land, the new owner(s) must sign below. All new owners must sign. If the new owner(s) do(es) not desire to continue the classification or designation, all additional or compensating tax calculated pursuant to RCW 84.34.108 or RCW 84.33.140, shall be due and payable by the seller or transferor at the time of sale. To determine if the land qualifies for continued classification or designation, the county assessor will be consulted.

For Official Office Use Only

Auditor's Recording No: _____

Excise Tax No: _____

For tax assistance, visit <http://dor.wa.gov/content/taxes/property/default.aspx> or call (360) 570-5900. To inquire about the availability of this document in an alternate format for the visually impaired, please call (360) 705-6715. Teletype (TTY) users may call 1-800-451-7985.

A. CLASSIFICATION UNDER CHAPTER 84.34 RCW. I/we request that this land retain the current use classification as ☐ Open Space Land ☒ Farm & Agricultural Land ☐ Timberland and I am/we are aware of the following land use classifications;

1. OPEN SPACE LAND MEANS EITHER:

- a. any land area so designated by an official comprehensive 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; (ii) protect streams or water supply; (iii) promote conservation of soils, wetland, beaches, or tidal marshes; (iv) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space; (v) enhance recreation opportunities; (vi) preserve historic sites; (vii) preserve visual quality along highway, road, and street corridors or scenic vistas; or (viii) retain in its natural state tracts of land not less than one acre 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; or
- c. any land that meets the definition of farm and agricultural conservation land. "Farm and agricultural conservation land" is either: (i) land that was previously classified as open space farm and agricultural land that no longer meets the criteria of farm and agricultural land, and that is reclassified as open space and under RCW 84.34.020(1); or (ii) land that is traditional farmland that is not classified under chapter 84.33 or 84.34 RCW, that has not been irrevocably devoted to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agriculture.

2. FARM AND AGRICULTURAL LAND MEANS EITHER:

- a. any parcel of land or contiguous parcels of land in the same ownership of twenty or more acres: (i) devoted primarily to the production of livestock or agricultural commodities, for commercial purposes; or (ii) enrolled in the federal conservation reserve program or its successor administered by the United States department of agriculture; or (iii) other similar commercial activities as may be established by rule; or
- (b)** any parcel of land or contiguous parcels of land in the same ownership of at least five acres but less than twenty acres devoted primarily to agricultural uses which has:
Produced a gross income equal to two hundred dollars or more per acre per year for three out of the five calendar years preceding the date of application for classification under chapter 84.34 RCW;
Standing crops with an expectation of harvest within seven years and a demonstrable investment in the production of those crops equivalent to one hundred dollars or more per acre in the current or previous year;
Standing crop of short rotation hardwoods with an expectation of harvest within fifteen years and a demonstrable investment in the production of those crops equivalent to one hundred dollars or more per acre in the current or previous year;
For the purposes of (b) above, "gross income from agricultural uses" includes, but is not limited to, the wholesale value of agricultural products donated to nonprofit food banks or feeding programs;
- c. any parcel of land that is less than five acres devoted primarily to agricultural uses which has produced a gross income equal to fifteen hundred dollars or more per year for three out of the five calendar years preceding the date of application for classification under chapter 84.34 RCW;
- d. Agricultural land also includes noncontiguous parcels from one to five acres, but otherwise constituting an integral part of farming operations conducted on the land.
Agricultural lands also include land, not to exceed twenty percent of classified land, that has incidental uses compatible with agricultural purposes, and also the land on which appurtenances necessary to the production, preparation or sale of the agricultural products exist in conjunction with the lands producing such products.
Agricultural lands also include land used primarily for equestrian-related activities including, but not limited to, stabling, training, riding, clinics, schooling, shows, or grazing for feed. The land must also meet the requirements of (a), (b), or (c) listed above.
- e. any land on which the principal place of residence of the farm operator or owner of land or housing for employees is sited if the farm and agricultural land is classified pursuant to RCW 84.34.020 (e) if the residence or housing is on or contiguous to the classified parcel, and the use of the residence or housing is integral to the use of the classified land for agricultural purposes.

3. **TIMBER LAND MEANS** any parcel or contiguous parcels of land in the same ownership of five or more acres devoted primarily to the growing and harvesting of forest crops for commercial purposes. Timber land means the land only and does not include a residential home site. The term includes land used for incidental uses that are compatible with the growing and harvesting of timber but no more than ten percent of the land may be used for such incidental uses. It also includes the land on which appurtenances necessary for the production, preparation, or sale of the timber products exist in conjunction with land producing these products.

I/we declare that I am/we are aware of the liability of withdrawal or removal of this land from classification to the following extent:

1. If the owner has filed the proper notice of request to withdraw the classified land and the land has been classified for a minimum of ten years he/she shall pay an amount equal to the difference between the tax computed on the basis of "current use" and the tax computed on the basis of true and fair value plus interest at the same statutory rate charged on delinquent property taxes. The additional tax and interest shall be paid for the preceding seven years.
2. If land is removed from classification because of a change to a non-conforming use, land is removed prior to the minimum ten year period, or land is removed because the owner(s) failed to comply with the two year notice of withdrawal he/she shall be liable to pay the additional tax and interest described in 1 above plus a penalty of twenty percent of the additional tax and interest. The additional tax, interest, and penalty shall be paid for the preceding seven years.
3. The additional tax, interest, and/or penalty shall not be imposed if the withdrawal or removal from classification 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, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of this power, said entity having manifested its intent in writing or by other official action;
 - c. a natural disaster such as a flood, windstorm, earthquake, or other calamity rather than by virtue of the act of the landowner changing the use of the classified land;
 - d. official action by an agency of the state of Washington or by the county or city within which the land is located that disallows the present classified use of the land;
 - e. transfer of land to a church when the land would qualify for exemption pursuant to RCW 84.36.020;
 - f. acquisition of property interests by a state or federal agency, county, city, town, metropolitan park district, metropolitan municipal corporation, nonprofit historic preservation corporation as defined in RCW 64.04.130, or nonprofit nature conservancy corporation or association as defined in RCW 84.34.250;
 - g. removal of classified farm and agricultural land on which the principal residence of the farm operator or owner or housing for employees;
 - h. removal of land from classification after enactment of a statutory exemption that qualifies the land for exemption and receipt of notice from the owner to remove the land from classification;
 - i. the creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;
 - j. the creation, sale, or transfer of a conservation easement of private forest lands within *unconfined channel migration zones or containing critical habitat for threatened or endangered species* under RCW 76.09.040;
 - k. The sale or transfer within two years after the death of an owner with at least a fifty percent interest in the land if the land has been continuously assessed and valued as designated forest land under chapter 84.33 RCW or classified under chapter 84.34 RCW since 1993. The date of death shown on a death certificate is the date used; or
 - l. The discovery that the land was classified in error through no fault of the owner.

B. CLASSIFICATION UNDER CHAPTER 84.33 RCW. ☐ I/we request that this land retains its designation as forest land and I am/we are aware of the following definition of forest land.

FOREST LAND is synonymous with designated forest land and means all contiguous land in the same ownership of at least twenty acres that is primarily devoted to and used for growing and harvesting timber and means the land only.

I/we declare that I am/we are aware of the liability of removal of this land from designated forest land and upon removal a compensating tax shall be imposed that shall be equal to the difference between the amount of tax last levied on the land as forest land and an amount equal to the new assessed valuation of the land multiplied by the dollar rate of the last levy extended against the land, multiplied by a number, not greater than nine, equal to the number of years the land was designated as forest land.

The compensating tax shall not be imposed if the removal of designation resulted solely from:

- a. transfer to a government entity in exchange for other forest 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 this power;
- c. a donation of fee title, development rights, or the right to harvest timber, to a government agency or organization qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections or the sale or transfer of fee title to a governmental entity or a nonprofit nature conservancy corporation, as defined in RCW 64.04.130, exclusively for the protection and conservation of lands recommended for state natural area preserve purposes by the natural heritage council and natural heritage plan as defined in chapter 79.70 RCW or approved for state natural resources conservation area purposes as defined in chapter 79.71 RCW. At such time as the land is not used for the purposes enumerated, the compensating tax shall be imposed upon the current owner;
- d. the sale or transfer of fee title to the parks and recreation commission for park and recreation purposes;
- e. official action by an agency of the state of Washington or by the county or city within which the land is located that disallows the present use of such land;
- f. the creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;
- g. the creation, sale, or transfer of a conservation easement of private forest lands within unconfined channel migration zones or containing critical habitat for threatened or endangered species under RCW 76.09.040;
- h. the sale or transfer within two years after the death of an owner with at least a fifty percent interest in the land if the land has been continuously assessed and valued as designated forest land under chapter 84.33 RCW or classified under chapter 84.34 RCW since 1993. The date of death shown on a death certificate is the date used;
- i. The discovery that the land was designated in error through no fault of the owner; or
- j. A transfer of a property interest, in a county with a population of more than six hundred thousand inhabitants, to a government entity, or to a nonprofit historic preservation corporation or nonprofit nature conservancy corporation, as defined in RCW 64.04.130, to protect or enhance public resources, or to preserve, maintain improve, restore, limit the future use of, or otherwise to conserve for public use or enjoyment, the property interest being transferred. At such time as the land is not used for the purposes enumerated, the compensating tax shall be imposed upon the current owner.

The agreement to tax according to use of the property is not a contract and can be annulled or canceled at any time by the Legislature (RCW 84.34.070).

<u>Donnie D. McCoskey</u> Property Owner	<u>11/25/13</u> Date
<u>5883 Old Olympic Highway, Sequim, WA 98382</u> Address	
<u>Donnie D. McCoskey</u> Property Owner	<u>11.25.13</u> Date
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