

IN RE SEGREGATION APPEALS:
ANSELMO LAND
ORPHAN GIRL
NEVERSWEEP LAND.

NO. SG-12-00002
SG-12-00003
SG-12-00004

I. INTRODUCTION

Plum Creek Timber Company submitted an appeal of the administrative voiding of three of its administrative segregation applications. The administrative appeal was conducted according to the County's administrative appeal process as outlined in Ch. 15A.07 KCC. In that appeal, Plum Creek asserted four arguments for the reversal of voiding of its three administrative segregation applications. The Board of County Commissioners, after reviewing the administrative record and briefs deliberated and decided upon those four arguments as contained herein.

Plum Creek first argued that its applications were subject to vested rights and so not subject to the County’s newer regulation. The Board of County Commissioners finds that, because the required document submittals and review processes are so different between an administrative segregation and the “divisions of land” described in RCW 58.17.020, that an administrative segregation is not a “division of land, as defined in RCW 58.17.020” and so is not subject to

1 vested rights pursuant to RCW 58.17.033. Because there is no local regulation creating vested
2 rights for administrative segregation application, and because these applications, as just
3 explained, are not subject to vested rights under state law, this argument by Plum Creek fails.

4 Plum Creek next argues that its applications must be processed under the regulation in place
5 at the time of application submittal and so are not subject to the current regulation's sunset
6 provisions. This is another argument dependent upon the applications being subject to vested
7 rights, which, as explained above, the Board of County Commissioners has already determined
8 that these applications are not so subject. The Board of County Commissioners finds that the
9 County's sunset provisions in the current code, because they regulate time limits upon permit
10 processing and do not regulate what can or cannot be done upon land, are not "land use
11 controls." Because the current sunset regulation is not a "land use control," even if these
12 applications were subject to vested rights, which, as explained above, they are not, they would
13 remain subject to these current sunset regulations. One only vests to "land use controls" under
14 RCW 58.17.030(1), and sunset provisions are not "land use controls" and so are not something
15 that one vests to or vests to the absence of. This argument by Plum Creek fails.

16 Plum Creek next argues that the County improperly ceased processing its applications. The
17 Board of County Commissioners finds that the exemption from the statutory notice provisions in
18 KCC 15A.03.080(1) does not exempt administrative segregations from other statutory processing
19 provisions and deadlines found in both the KCC and RCW. The Board of County
20 Commissioners finds that, though the applications were never given a determination of
21 completeness, by operation of RCW 36.70B.070 and KCC 15A.03.040, they were "deemed
22 complete" 28 days after submission. The Board of County Commissioners finds that RCW
23 36.70B.080 and KCC 15A.03.090(7) provide for issuance of a decision 120 days after
24 completion of applications. Such decision did not issue, instead the County actually ceased
25 processing the applications. The Petitioner argued that "The Board should reverse the

Administrative Decision and instruct County Staff to complete processing of the applications.”
The Board of County Commissioners finds (1) no explanation why the applications’ processing
was ceased and a decision not rendered within the statutory timeframe, and (2) that the
appropriate remedy is as argued by Plum Creek-that the administrative decision voiding the
applications be reversed and that the County staff be directed to continue processing the
applications.

Plum Creek finally argued that the County’s regulation was vague and not applicable to its
applications. Because of the resolution of the third argument, the Board of County
Commissioners did not reach this issue and made no decision thereon.

III. ORDER

The Board of County Commissioners hereby reverses the administrative decision voiding the
applications that are the subject of this appeal and hereby directs staff to both consider them
“deemed complete” and to continue processing them subject to the County’s current regulation.

DATED this 1 day of October, 2013 at Ellensburg, Washington.

BOARD OF COUNTY COMMISSIONERS
KITITAS COUNTY, WASHINGTON



Obie O’Brien, Chairman



Paul Jewell, Vice- Chairman



Gary Berndt, Commissioner


Julie A. Kjorsvik