

Section 8(o): **Myszkowski** Property, Klickitat County

**FINAL ACQUISITION EVALUATION AND
FINAL GMA DESIGNATION DETERMINATION**

To: Interested Parties:

February 10, 2004

The Offer

The Forest Service has received an offer to sell property under the conditions of Section 8(o) of the Columbia River Gorge National Scenic Area Act. Alex Myszkowski offered three taxlots identified as T3N, R11E, Section 27, taxlots 0012 (10 acres), 52-0001 (10 acres), and 0010, (19.90 acres), Klickitat County, Washington. Taxlot 52-001 has been short-platted into two five-acre lots. The offer was made on February 23, 2001.

We have determined the offer to sell taxlot 0012 under Section 8(o) was not a bona-fide offer. A previous owner offered this property to the Forest Service under Section 8(o) on May 26, 1994. This property owner then withdrew the offer on December 18, 1996. A property may be offered to the Forest Service under Section 8(o) only one time. Therefore, it was not possible to offer the same taxlot under Section 8(o) a second time, and consequently the offer was not bona fide. Taxlot 0012 will remain subject to the Special Management Area (SMA) designation of SMA Agriculture.

Per provisions of Section 8(o), SMA land use ordinances are suspended if the Forest Service fails to purchase the property in accordance with the Act within 3 years of the offer. Lands for which SMA ordinances are suspended are subject to relevant General Management Area (GMA) ordinances. Three years will elapse on February 23, 2004 for the Myszkowski property offer.

The NSA Management Plan, Special Rule, SMA Policy Number 2 (page II-86) directs the Forest Service to "designate the appropriate GMA guidelines and designation as an administrative action." The policy further states, "Lands so designated shall follow the GMA Agricultural Land or Forest Land guidelines and designations".

While the land use ordinances for the subject property would potentially change from SMA to GMA, the property would still remain in the SMA and non-ordinance NSA Act provisions would still apply.

Public Comment

The Forest Service published on July 24, 2001 a draft determination of the acquisition priority and probable GMA guidelines and designation for Myszkowski property. The Forest Service took public comment on this draft determination until August 24, 2001.

Two comment letters specifically addressed this parcel. The property owner did not comment. The comments supported public acquisition of a conservation easement on taxlots 0012 and 52-0001, and raised no issues related to the proposed GMA designation. One of the commenters stated that the Forest Service should purchase the property for scenic resource protection as well as protection of agricultural lands. The Forest Service acknowledges the spirit of this issue, but does not analyze it in depth, as an analysis would not alter the high priority decision. These supportive comments do not change the evaluation, the significance and threat ratings, or the GMA land use designation.

One commenter stated that Klickitat County may one day vacate the Atwood Road, and therefore the Forest Service should purchase the land through which it passes to ensure the roadway is available for public recreation use (comment refers to taxlot 0010).

Forest Service Response: The Forest Service does not agree that taxlot 0010 should be purchased because Klickitat County may one day vacate the Atwood Road

One commenter asked if a conservation easement would restrict the building of all structures on the property.

Forest Service Response: The Forest Service would pursue a conservation easement that would not allow any further structures on the property, other than fences.

Acquisition Priority Evaluation

Myszkowski taxlot 52-0001 is a **HIGH** priority and taxlot 0010 is a **LOW** priority for acquisition by the Forest Service. The rating was done in accordance with direction found in "Policy Implementation of Section 8(o), CRGNSA Act," (May 9, 1994) and "Land Adjustment Strategy for the CRGNSA," (June 1, 1994). The analysis dealt with the significance of the resources on the property and the potential threats to those resources if the property were to become subject to GMA ordinances. The acquisition priority evaluation is enclosed (Appendix A).

While taxlot 54-0001 does not rate a high priority per the matrix, the Forest Service intends to pursue purchase of the development rights via a conservation easement in order to prevent future conversion of agricultural lands to residential lands.

GMA Guidelines and Designation Determination

It has been determined that the appropriate GMA guidelines and designation for the Myszkowski property is GMA Small-Scale Agriculture with an 80-acre minimum parcel size. Parties with questions or concerns regarding this GMA designation may call or request a meeting with the Forest Service to resolve, if possible, any outstanding issues. Contact Virginia Kelly at (541) 308-1720.

The determination has been completed in accordance with GMA Designation Policies defined in the NSA Management Plan. The analysis involved factors such as parcel size, surrounding land use, proximity to other resource lands, resource characteristics of the property (vegetation, etc.) and current or past use of the property. The evaluation to determine the appropriate GMA guidelines and designation is enclosed (Appendix B).

Next Steps

The Forest Service will convey this final determination to Mr. Myszkowski, adjacent landowners, interested parties, the Columbia River Gorge Commission and Klickitat County. The Gorge Commission will need to take action to apply its ordinances for Klickitat County commensurate with the GMA designation if the property is not purchased by February 23, 2004.

Daniel T. Harkenrider

DANIEL T. HARKENRIDER
Area Manager

Enclosures (2)

Columbia River Gorge National Scenic Area/Forest Service
Property Evaluation: **Significance and Threat**
Under Section 8(o), NSA Act

Date: February 10, 2004

The draft evaluation of July 24, 2001 has been modified to reflect that taxlot 0012 was not a bona-fide offer and is not subject to the Section 8(o) analysis. The only change to this analysis is the strikethrough of references to taxlot 0012, and subsequent grammatical changes.

Tax Lot Owner: Alex Myszkowski

Tax Lot Number: T3N, R11E, Section 27, taxlots ~~0012~~, 52-0001 and 0010, Klickitat County

Tax Lot Size: ~~40 acres~~, 10 acres and 19.9 acres respectively

Current Land Use Designation (SMA): Agriculture

Land Use Designation if change to GMA (see attached): Small-Scale Agriculture with an 80-acre minimum parcel size

Property Description: The property is above Coyote Wall and is a mix of pine/oak/fir woodland, grassland and vineyards. One lot is developed with a house.

Property Evaluation

Prioritization of federal acquisition of a parcel involves an evaluation of significance of resources and the threat to resources from potential future land uses or developments. Definitions of significance and threat are found in "Land Adjustment Strategy for the Columbia River Gorge National Scenic Area", (June 1, 1994) pages 6 and 7. All evaluations of the significance of resources of a given property are determined by the four elements of protection provided for in the NSA legislation:

- 1) Natural resources
- 2) Scenic resources
- 3) Cultural resources
- 4) Recreation resources

Significance:

This analysis determines the significance of resources on the property.

1). Natural Resources:

The property includes oak/conifer woodlands, with more Douglas fir than below Coyote Wall. This vegetation is priority habitat in Washington State and is moderate to good habitat for several sensitive species, such as the western gray squirrel and Lewis woodpecker. There are no known sightings for any other sensitive species. The area is considered deer and elk winter range. Intermittent streams are found. Two ponds are found on tax lot 0010. The habitat values have been impacted by houses and agriculture (vineyards) on the property.

Significance: Medium

2). Scenic Resources:

The property is visible in the middle-ground from the Key Viewing Areas of the Historic Columbia River Highway, Highway I-84, County Road 1230 and the Columbia River. Slopes are moderate. There are no significant scenic features. The parcel is rated medium significance due to visibility in the middle ground from several Key Viewing Areas.

Significance: Medium

3). Cultural Resources:

The area was not suitable for permanent habitation by Native Americans. Although the area may have been utilized for upland resource extraction, these activities are usually below the threshold of detection by usual archaeological survey techniques.

Significance: Low

4). Recreation Resources:

There are no proposed recreation developments in this vicinity in the Recreation Development Plan. There are a number of non-system (user) mountain biking trails in the vicinity. One trail is located adjacent to this property, but not apparently on the property. The Atwood Road, which traverses taxlot 0010, has potential recreation use.

Significance: Taxlot 0010 - Medium
Taxlots ~~0012 and~~ 52-0001- Low

Overall rating of Significance: **MEDIUM**

Threat:

This analysis determines the extent to which potentially allowed land uses would adversely affect NSA resources.

If this property were subject to GMA ordinances, it would be designated as Small-scale Agriculture with an 80-acre minimum parcel size. Since the properties are under 20 acres each, no land division would be allowed. Dwellings would be allowed on existing legally created parcels. These properties appear to be separate deeded parcels, and taxlot 52-0001 has been short-platted into two lots. (*Note:* the Forest Service does not claim to have conducted definitive analysis into the legal parcel status of this property.) Taxlot 0010 already has a house. For this analysis, it is assumed that ~~two~~ **three** additional houses could potentially be developed. GMA ordinances would more readily allow a quarry. State forest practice guidelines would apply to timber harvest.

Evaluation:

1). Natural Resources:

The threat from residential development and its associated structures and uses has already been realized on tax lot 0010. For tax lots ~~0012~~ and 52-0001, new houses would not threaten resource values since there are already a number of houses in the vicinity, and the properties have already been converted to agriculture. There is little commercial timber due to conversion to agriculture. A quarry must meet GMA resource protection guidelines.

Threat: Low

2). Scenic Resources:

Taxlot 0010 is built, so residential threat has already been realized. ~~Taxlot 0012 is a mix of forest and vineyard and location of a house in the trees would achieve visual subordination.~~ Taxlot 52-0001 has very little screening since it is primarily vineyard. Residential threat would be medium on taxlot 52-0001 due to little existing screening. However, given distance to Key Viewing Areas, careful application of GMA guidelines would mitigate scenic impacts of two new residences to medium. Timber harvest on these moderately-sloped parcels would not be a high threat. A quarry must meet GMA resource protection guidelines, or would not be allowed.

Threat: 0010 – Low
~~0012 – Low~~
52-0001 - Medium

3). Cultural Resources:

Since probability for significant cultural resources is low, timber harvest or development poses low threat. GMA ordinances would protect any cultural resources that may be discovered during development review.

Threat: Low

4). Recreation Resources:

The Atwood Road is a public road, (although that may not be readily apparent to recreationists as the county does not appear to actively manage it as a public road). Since there are no user trails on the property, and the Atwood Road is already legally open to the public, recreation threat is low.

Threat: Low

Overall rating of Threat: 0010 – Low
~~0012 – Low~~

52-0001 - Medium

Matrix Evaluation and Conclusion

Acquisition priority was determined using the matrix described in "POLICY: Implementation of Section 8(o) CRGNSA (May 9, 1994)" (Figure 1)

The matrix leads to an overall acquisition priority of:

0010 – Low

~~**0012 – Low**~~

52-0001 - Medium

However, the Forest Service desires to purchase the development rights, via a conservation easement, on taxlots ~~0012~~ and 52-0001 in order to prevent future conversion of agricultural lands to residential lands.

Columbia River Gorge National Scenic Area/Forest Service

Section 8(o) Property Evaluation: **GMA Designation**

Tax Lot Owner: Alex Myszkowski

Tax Lot Number: T3N, R11E, Section 27, taxlots ~~0012~~, 52-0001, and 0010, Klickitat County

Property size: ~~10 acres~~, 10 acres and 19.9 acres respectively

SMA Land Use Designation: SMA Agriculture

Landscape Setting: Oak Woodlands

Section 8(o) of the National Scenic Area (NSA) Act requires that if certain land acquisition conditions have not been met, then Special Management Area (SMA) ordinances shall be suspended and the parcel shall be subject to the relevant General Management Area (GMA) ordinance. The NSA Management Plan, page II-86, provided that the Forest Service would designate the appropriate GMA guidelines and designation as an administrative action. Lands so designated follow the GMA Agricultural or Forest Land guidelines and designations. The following evaluation is a determination of the appropriate GMA guideline and land use designation.

GMA Designation Policies

Determination of the appropriate GMA guidelines and designation involves application of the NSA Management Plan Agricultural Land Designation Policies from pages II-4 and 5 and/or Forest Land Designation Policies from pages II-24 and 25 and other applicable resource protection policies such as number 6 on page I-104. A first basic determination must be made as to whether Agricultural or Forest Land Policies apply to the property. That evaluation looks at inherent vegetation characteristics of the property and at how the land is currently used.

Subject Property Analysis

Based on site inspection, aerial photo interpretation, and inventory examination, it was determined that one of the Myszkowski properties is a developed residential/agricultural property located in oak/pine woodlands, and the other lots are undeveloped and actively farmed (vineyards). Agricultural Land Policy 4 requires that lands interspersed among lands suitable or used for agriculture shall be designated as Large-Scale or Small-Scale Agriculture. As the property is in a primarily agricultural landscape, it was determined that Agricultural Land Policies apply to this property.

Agricultural Land Designation Policies

Agricultural Land designation possibilities include Large-Scale Agriculture and Small-Scale Agriculture. Management Plan policies on page II-4 through 6 must be applied to guide the

choice. Policy number 7 directs considering such factors as ownership class, size of ownership, surrounding land use and proximity of other types of agricultural land.

Agricultural Land Policy #7(A) allows lands to be designated Large-Scale Agriculture if they:

- 1) are currently devoted to agriculture of a scale that is land intensive, employs workers, or provides significant products to market or processors, or
- 2) have a combination of soil capability, size or freedom from conflicting use that renders it suitable for large scale agriculture or farm forestry.

Policy 7(B) allows lands to be designated Small-Scale Agriculture if they:

- 1) have little potential for consolidation with large scale agricultural lands and are currently devoted to agriculture of a scale too small to support workers or provide a significant volume of products for markets or processors, and
- 2) have a combination of soil capability and size that provides an opportunity for direct marketing or part-time/second income agriculture.

Policy 7(C) allows small blocks of land that by themselves may be deemed Small-Scale Agriculture to be designated as Large-Scale Agriculture if residential development of them would conflict with resource use of adjacent lands designated Large-Scale Agriculture or Commercial Forest. Further, Policy 7(C) allows small blocks of land adjacent to Urban Areas, Residential or Small Woodland land use designations or that are physically buffered by natural or man-made barriers from adjacent Large-Scale Agricultural and Commercial Forest Land to be considered for a Small-Scale Agriculture designation.

Agriculture Land Designation Analysis

One ~~Two~~ of the Myszkowski properties is ~~are~~ 10 acres and is ~~are~~ undeveloped, the other is 19.9 acres and is developed with a residence. The following table displays the Myszkowski property in context with surrounding tax lot sizes and land use designations:

Tax Lot #	Acres	Land Use Designation
26/0010	20	SMA Agriculture, dwelling
26/0014	40	SMA Agriculture, dwelling
27/0010	19.9	SMA Agriculture, dwelling
27/0012	10	SMA Agriculture
52-0001	10	SMA Agriculture
0009	20	SMA Agriculture
0011	20	SMA Agriculture, dwelling
USFS (to north)	75	SMA Agriculture
USFS (west, south, east)	Hundreds	SMA Agriculture/Open Space

Large-Scale Agriculture: The Myszkowski property does not meet policy 7A (Large-Scale Agriculture). While the land is currently devoted to agriculture that is land intensive and provides products to market; the properties, and surrounding properties, are too small to be considered Large-Scale agricultural lands.

The Myszkowski property was not considered to meet the first part of Policy 7C (Management Plan, page II-5), which allows small blocks of land that by themselves may be deemed Small-Scale Agriculture to be designated as Large-Scale Agriculture if residential development of them would conflict with resource use of adjacent lands designated Large-Scale Agriculture or Commercial Forest. Residential development of this property would not conflict with resource use of adjacent lands since one of the properties is already developed and there are not Large-Scale Agriculture or Commercial Forest designated-lands.

The property **does not meet** the criteria for Large-Scale Agriculture

Small-Scale Agriculture: The Myszkowski property meets one criteria of policy 7B (Management Plan, page II-4, Small-Scale Agriculture), in that it does not have the potential for consolidation with large scale agricultural lands, unless acquired by the Forest Service. The property meets the criteria of policy 7B that require the land to be currently devoted to agriculture, and it does have a combination of soil capability and size that provides an opportunity for direct marketing or part-time/second income agriculture.

The property does not meet any criteria for Large-Scale Agriculture, but meets criteria for Small-Scale Agriculture. Therefore, this property best **meets** the criteria for Small-Scale Agriculture.

Minimum parcel size: Minimum parcel size was determined using Policies 5 and 6 (Management Plan, pages II-5 and 6). The minimum parcel size on lands designated Small-Scale Agriculture is determined by considering the common field size for crops or livestock, adjacent uses, common size or economic unit for farms and ranches in the area, management efficiency, the existing landscape setting, wildlife habitat, scenic sensitivity, and other resource factors. The minimum size for Small-Scale Agriculture is 20 acres. However, the property is located in deer and elk winter range (see NSA inventory), which is protected by larger parcels of 80 acres (see Management Plan p. I-104). A similar situation is found west of Lyle where Small-scale Agriculture lands have an 80-acre minimum lot size due to deer and elk winter range. An 80-acre minimum parcel size was determined appropriate for the Myszkowski property.

Conclusion

Based on the analysis of surrounding parcel sizes, ownership types, land use and proximity to other types of agricultural lands, and location of deer and elk winter range, GMA Small-Scale Agriculture with an 80-acre minimum parcel size was considered most applicable to the Myszkowski property.