

**Voile Farmstead Land Sale  
OR 55881  
EA #OR-035-01-02**

**I. Introduction**

A. Purpose and Need for Proposed Action

The Bureau of Land Management proposes to sell about 10 acres of public land by direct sale to George and Joanne Voile. The purpose of the sale would be to resolve inadvertent unauthorized use which is many decades old, to protect equities resulting from that use, and to transfer title to land which should logically be in private ownership.

B. Conformance with BLM Land Use Plans

The proposed action is in conformance with the Baker Resource Management Plan (RMP), approved July 12, 1989. The site is within the Baker County Geographic Unit as designated in the RMP. A Management Action for this Unit is "Resolve unauthorized use of the public lands through termination, authorization by lease or permit, exchange or sale".

See also a document titled "Baker RMP Direction - Land Sales to Resolve Unauthorized Use", located in the Case File, which further explains the finding of conformance with the RMP.

C. Relationship to Other Plans

Baker County has zoned the area Exclusive Farm Use. The sale of this land and its continuing future use is an outright permitted use in this zone. A lot line adjustment to enclose the subject parcel within the adjoining private tax lot may be needed to avoid creating a sub-standard size tax lot.

D. Statutes, Laws, and Regulations Affecting the Proposal

The proposed action would be authorized by Section 203 and 209 of the Federal Land Policy and Management Act of 1976 (FLPMA) and regulations at 43 CFR 2700. Direct sale, rather than competitive or modified bidding, is appropriate in this case because of the "... need to resolve inadvertent unauthorized use or occupancy of the lands." (43 CFR 2711.3-3(a)(5)). Due to the location and orientation of the subject parcel in relation to the adjoining land owned by the Voiles, and its small size and historic use, it would be impractical for anyone else to own the parcel. Therefore, competitive or modified competitive bidding is believed to be inappropriate. Also, it would be impractical for the BLM to retain any

portion of the parcel.

E. General Setting, Description, and Background Information

The subject parcel is located about 14 miles east of Baker City and about two miles southeast of Keating. It lies on a gentle northeast facing slope along the south edge of the Lower Powder Valley (commonly called the Keating Valley). The parcel is somewhat irregular in shape and is formed by Ritter Loop Road #880, a gravel county road. The road runs through the northeast corner of a sizeable block of BLM land, thus isolating this portion from the remainder of the BLM land on the other side of the road. The north and east boundaries of the parcel are the straight section lines, while the other boundaries are created by the road as it curves into and then back out of the BLM land.

The Voiles' privately owned land adjoins the parcel on the east. This adjoining property includes their farmstead, which lies right next to the BLM land. The house sets just off the property line, facing the BLM land. The entrance into the garage appears to be on BLM land, and a barn is located a few feet from the line. Over the years, a portion of the BLM parcel has been incorporated into the farmstead. In addition to the garage which may be partially located on the BLM parcel, parking, storage, and a number of other typical ranch farmstead uses are occurring. The driveway crosses BLM land from the county road and ends at the house/garage, and because of that and the location and orientation of the farmstead, much of that use has been unavoidable.

When a field inspection of the parcel was made on June 29, 2000, the following was observed on BLM land (or suspected to be on BLM land):

- The entrance gate and driveway into the place.
- The front lawn extending out from the house to and beyond the line.
- A portion of a flower bed.
- Corrals running off the barn.
- Several vehicles, including a Bronco, three pickups, a truck, and a horse trailer.
- A tractor and several implements.
- A few bales of hay.
- The remains of a hay wagon.
- Various miscellaneous items, including a stack of railroad ties, fence posts, culvert pipe, a circular hay feeder, tires, gate panels, and a number of other items.

An administrative survey conducted on July 23, 2002 indicated even more of the farmstead may be on BLM than previously thought. According to

this survey, nearly all the front yard is on BLM land, including shade trees and ornamentals, as well as a portion of the stoop leading to the front door of the house. In addition, much of the garage is on the subject parcel and so also is a well recently drilled by the Voiles.

Just when the farmstead was established and the unauthorized use began occurring is not known, but it is believed to have been before 1920. The Voiles acquired the property in 1999.

The portion of the parcel not incorporated into the farmstead is open rangeland and has been pastured by cattle and horses by the Voiles and previous occupants. The parcel is bounded on the east, in addition to the farmstead, by irrigated fields, on the north by irrigated fields and some rangeland, and on the south and west by BLM rangeland across the county road. Elevation of the parcel is about 2720 to 2740 feet.

## **II. Description of the Alternatives**

### **A. Alternative A - Proposed Action**

The Proposed Action is to sell, by direct sale, approximately 10 acres of public land to George and Joanne Voile, under the authority of Section 203 and 209 of FLPMA. The land would be sold at fair market value, as determined by appraisal. The mineral estate would be included for an additional \$50.00 filing fee. The document transferring title would be subject to valid existing rights. A right-of-way for ditches and canals would be reserved to the United States under 43 U.S.C. 945.

The subject parcel is legally described as follows:

Willamette Meridian, Township Eight South, Range 42 East, section 28, that portion of the NE $\frac{1}{4}$ NE $\frac{1}{4}$  lying east and north of Ritter Loop Road, county road #880.

Following transfer of title, the uses previously described would continue as they have in the past. No significant change in use in the near future is anticipated.

### **B. Alternative B - No Action**

This is the No Action alternative required by the National Environmental Policy Act. If this alternative is chosen, the subject parcel would not be transferred and would remain in federal ownership. Eventually, the BLM would have to bring the unauthorized activities to a halt. The corrals would be dismantled and all items moved off of public land. Parking of vehicles and farm implements on public land would be discontinued, which

would probably force the user to relocate the driveway. The area immediately adjoining the house and outbuildings would be reclaimed as necessary.

C. Other Alternatives Noted But Not Given Further Consideration

1. Sell the parcel by competitive bidding. This was rejected because of the need to protect the equities that have resulted from the past use, and regulations permitting direct sale found at 43 CFR 2710.0-6(c)(3)(iii) and 2711.3-3(a)(5).
2. Authorize continued use of the property by permit or lease. This was rejected because of the impracticability of the BLM monitoring and administering such an authorization, and the workload it would create. The location of the parcel makes transfer of title more appropriate.

**III. Environmental Consequences of the Alternatives**

This section addresses the anticipated impacts to a checklist of resources resulting from the Proposed Action. It also describes the impacts of the No Action alternative.

The sale of the land and the transfer of title would have no physical impacts to the land or to any resources. Rather, the impacts are the loss to the public of whatever resources exist on the parcel. This section describes those resources.

Subsequent use of the parcel would have some physical impacts. Since the anticipated use is the same as the use for many years, there would be no effects to resources that have not already occurred. Nevertheless, this section addresses those impacts.

A. Alternative A - The Proposed Action

1. Critical Elements

The following Critical Elements are not present on the parcel or would not be affected by the Proposed Action, and therefore are not further discussed: Areas of Critical Environmental Concern, Drinking/Ground Water Quality, Environmental Justice, Floodplains, Threatened & Endangered Animals, Threatened & Endangered Fish, Threatened & Endangered Plants, Tribal Concerns & Treaty Rights, Wild & Scenic Rivers, and Wilderness Areas.

The remaining Critical Elements would be affected or otherwise merit additional discussion.

a. Air Quality

Air Quality over the parcel is generally very good. It may be affected on occasion from agricultural activities such as field work which raises dust and ditch burning, or from dust raised by traffic on the county road. It can also be affected by prescribed burning or wildfires in the nearby forests and rangeland.

There would be virtually no impact on Air Quality from any activities on the parcel.

b. Cultural/Historic Resources

A field survey was conducted and a report was submitted to the Oregon State Historic Preservation Office. No Native American archaeological sites or artifacts were found.

Some historic debris, consisting of a household refuse dump, was discovered on the parcel. Most of the dumping is believed to have occurred from the 1930s to the 1960s. The artifacts consist mostly of fragments of numerous domestic and agricultural items. There are also a few larger items, including a 2-bottom plow and a homemade single plow. The site is considered not eligible for the National Register of Historic Places.

The Duncan Irrigation Ditch and the Basche Irrigation Ditch, which cross the subject parcel, are considered to be historic sites. The Duncan Ditch is considered not eligible. The Basche Ditch may be potentially eligible but the proposed action would be subject to a right-of-way for the ditch and it would be unaffected.

Therefore, it has been determined that no historic properties would be affected by the proposed sale.

c. Prime/Unique Farmlands

Prime farmland soils are those that are best suited to producing food, seed, forage, fiber and oilseed crops. Such

soils have properties that are favorable for the economic production of sustained high yields of crops.

The soil unit on the parcel is considered prime farmland where irrigated, according to the Soil Survey of Baker County Area, Oregon of June, 1997. Since it is anticipated that present use would continue, there would be no effect. Transferring this parcel into private ownership creates the potential for this land to be converted to high-quality crop production.

d. Solid/Hazardous Waste

An Initial Assessment was conducted using American Standard for Testing and Materials practices. A copy of the Initial Assessment Report is in the Case File.

The purpose of the Assessment was to identify Recognized Environmental Conditions on the parcel and adjoining properties, and to allow the BLM to qualify for the innocent landowner defense to liability pursuant to the Comprehensive Environmental Response, Compensation and Liability Act. The Assessment consisted of a physical inspection of the property, examination of appropriate records, and an interview with the adjoining land owner.

An underground storage tank was found on the parcel, apparently used at one time for gasoline or fuel oil. It was located alongside the garage and was initially thought to be on adjoining private property; however, the administrative survey of 7/23/02 indicated the location to be at the east edge of the subject parcel. The tank was empty and had not been used in many years.

The tank was excavated and disposed of at the Baker City Landfill. Although rusty, the tank appeared to be intact and there were no signs of leaks. Soil samples were taken and sent to a lab for testing. Results showed there was no contamination.

Some old, small trash scatterings were found in the north part of the parcel, consisting of household items. Nothing hazardous was indicated.

The Initial Assessment report concluded that there are no Recognized Environmental Conditions affecting the property.

e. Wetlands/Riparian

There are no natural wetlands or riparian areas within the parcel. Some riparian species are present along the Basche Irrigation Ditch, which runs through the parcel. These species include willow, cattail, teasel, and several grass and rush species. The vegetation is in good condition in the southeast corner of the parcel. Further north and west, where the parcel is heavily grazed, it is virtually non-existent.

Continued use of the parcel is not expected to result in any changes to the riparian vegetation.

## 2. Other Environmental Components

### a. Vegetation

Most of the parcel is shrub-annual grassland. Big sagebrush is the dominant shrub species and cheatgrass is the major understory species. Other species observed include gray rabbitbrush, green rabbitbrush, whitetop, and pepper weed. Some crested wheatgrass and a seeded ryegrass species is also present. Much of the area adjacent to the farmstead area is devoid of vegetation. At the very southeast end of the parcel, there are lawn grasses and ornamentals.

No change from the present conditions would be expected. Vegetation has been heavily impacted, and would continue to be, from traffic and other activity around the farmstead, and the grazing use elsewhere.

### b. Soils

The soil map unit on the parcel is Baker silt loam, according to the Soil Survey of Baker County. This soil is moderately deep and well drained. The hazard of water erosion is slight or moderate. The effective rooting depth is 20 to 40 inches. The soil is suitable for irrigated hay and pasture and small grain production, but it may be limited by the rooting depth.

Soils have been compacted in the vicinity of the farmstead, due to the traffic and intensive activity. This would continue under the Proposed Action, which will limit its vegetation production.

### c. Water Resources/Hydrology

There is no natural water on the parcel. The only water present flows in Basche Ditch, an irrigation canal. An intermittent drainage near the north end may carry water for short periods during storms or snow melt.

There would be no effect on any water resources from the Proposed Action.

d. Wildlife Habitat

Wildlife habitat on the parcel is minimal and limited to a few songbirds and small mammals. Species observed include house finch, house sparrow, Bullock's oriole, robin, red-winged blackbird, Brewer's blackbird, barn swallow, western meadowlark, killdeer, brownheaded cowbird, mourning dove, jackrabbit, and cottontail. Most of these were seen around the house or along the irrigation ditch.

There would be no impact from the Proposed Action.

e. Livestock Forage

The parcel does not have a grazing permit. Except for the southeast end, the parcel has received grazing use from cattle and horses. Forage consists of the cheatgrass vegetation and is suitable primarily for spring use. Grazing use in the past appears to have been quite heavy. The parcel is fenced.

There would be no effect to the forage resource or to any grazing permit from the Proposed Action.

f. Visual Resources

The visual resource management (VRM) classification for the area is Class II, due to the variety in vegetation created by the adjoining agricultural lands and the presence of the nearby Powder River. In this class, the objective is to retain the existing character of the landscape. The level of change to the characteristic landscape should be low. Management activities may be seen, but should not attract the attention of the casual observer.

The Proposed Action is not expected to result in any significant change in the use of the property. Therefore, there would not be any effect on the visual resource.

Houses and farmsteads and related uses are a common sight in this vicinity.

g. Mineral Resources

A Mineral Report prepared for the subject parcel concluded that the mineral estate is of no apparent value. The tract has no, or negligible, potential for mineral, petroleum or geothermal resources. There have been no historic mining claims or prospecting activity on this or on nearby lands.

h. Noxious Weeds

Some thistle species and whitetop were observed on the property.

The Proposed Action is not expected to have any effect on the spread or control of noxious weeds.

i. Land Uses/Rights/Facilities

As indicated previously, Ritter Loop Road, a county road, forms the south and west boundary of the parcel. Half of its right-of-way is presumed to fall within the area that would be sold.

The Basche Ditch, an irrigation ditch, runs through the property. Another ditch, the Duncan Ditch, also runs through the property, but has been abandoned for many years. An electrical distribution line runs along the county road from the southeast, then crosses through the southeast end of the property to its east edge, and continues on north along the east edge. A buried telephone line runs along the county road at the west edge of the property. A 230-kV transmission line, constructed under a Federal Power Commission Order, runs along the north edge of the parcel, straddling the line between it and the adjoining private land.

All valid rights would be protected in the patent and there would be no effect. The United States would reserve the 230-kV line.

j. Access

Legal and physical access to the subject parcel is provided by the Ritter Loop Road. If the parcel is transferred into private ownership, access onto the parcel could be denied.

It is unlikely that any members of the general public make any use of this parcel. To the casual observer, it would appear that the parcel is already privately owned.

k. Socio-Economics

The Proposed Action would protect equities that have been created by the unauthorized use of past land owners. It would resolve an unauthorized use situation that the present users are uncomfortable with.

There would be a negligible increase in property tax revenue to Baker County by placing this parcel in private ownership. The Baker County Assessor's office calculated the increase in taxes to be \$1.41 annually.

3. Cumulative Impacts

Cumulative impacts are the combination of effects of past, present, and reasonable foreseeable future activities on the subject parcel and where they may exacerbate or add incrementally to the effects from activities on nearby areas.

There is not expected to be any physical changes in use that would result from the Proposed Action. Therefore, no cumulative impacts have been identified.

B. Alternative B - No Action Alternative

Under this alternative, the parcel and its resources would be retained in federal ownership. The existing uses would be discontinued and the small area next to the farmstead would be reclaimed, probably by ripping and seeding to native grass species. This would result in vegetation being established in this portion and providing improved soil protection. Discontinuing grazing use in the rest of the parcel may eventually result in some improvement in vegetation including riparian species along Basche Ditch, as well as soil protection, wildlife habitat, and noxious weed control.

There would no longer be any livestock forage available, if grazing use is halted. Access would be retained for the general public.

There would be negligible effect on air quality, water resources, visual resources, and other land uses.

There would be some considerable financial impact to the adjoining landowner. The corrals would be removed and constructed elsewhere. The garage would be dismantled or moved. The driveway would be relocated. Because of the orientation of the house and farmstead, this could be awkward.

No cumulative impacts have been identified that would result from the No Action Alternative.

#### **IV. Mitigation Measures**

All valid existing rights would be protected in the patent transferring title to the Voiles. No other mitigation measures or covenants are proposed.

#### **V. Residual Impacts**

Residual impacts would be as described in the Environmental Consequences section.

The transfer of public resources into private ownership is presumed to be irreversible.

#### **VI. Notification, Contacts, and Consultations**

Baker County Assessor's Office was contacted regarding effect on tax revenue.

Baker County Planning Office was contacted regarding compatibility with county zoning on adjoining private land.

Letters were sent to the following entities advising them of the proposal and inviting comment:

- Adjacent and nearby property owners
- Confederated Tribes of the Umatilla Indian Reservation
- Baker County Board of Commissioners
- Baker County Road Department
- Baker County Department of Planning
- Oregon Dept of Environmental Quality
- Oregon Division of State Lands
- Oregon Dept of Fish & Wildlife
- Idaho Power Company
- Qwest Communications
- Oregon Trail Electric Cooperative

Lower Powder River Irrigation District  
Blue Mountain Native Forest Alliance  
Oregon Natural Resources Council

When this Environmental Assessment is completed, a notice of its availability will be published in the Baker City Herald and the Record-Courier. The EA will also be posted on the Vale District internet sit. A public comment period of at least 30 days will be provided.

## **VII. Participating Staff**

The following members of the Baker Field Office staff contributed to the preparation of this Environmental Assessment:

Steve Davidson, Realty Specialist and principal author  
Dave Porterfield, Hazardous Materials Coordinator (Vale District staff)  
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