

**U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
MILWAUKEE FIELD OFFICE**

**ENVIRONMENTAL ASSESSMENT FOR THE PROPOSED
CONVEYANCE OF PUBLIC LAND
EA Number ES-030-2009-0015**

DATE: June 5, 2009

PROJECT TITLE: Bayfield County WI Land Sale

TYPE OF ACTION: Modified Competitive Land Sale

SERIAL NUMBER: WIES-055403

BLM OFFICE: Milwaukee Field Office (MFO)
Bureau of Land Management (BLM)
626 East Wisconsin Avenue, Suite 200
Milwaukee, Wisconsin 53202

APPLICANT / PROPONENT: Bureau Motion

LOCATION OF PROPOSED ACTION: Bayfield County, Wisconsin
Township 45 North, Range 6 West
Section 33, Lots 8 thru 12
4th Principal Meridian

PROJECT ACREAGE: **92.26 acres of public lands**

LAND USE PLAN CONFORMANCE and Other Regulatory Compliance:

As provided by Section 203 of the Federal Land Policy and Management Act as amended and 43 Code of Federal Regulations 2710, the proposed action is to offer 92.26 acres of land for sale. The disposal of this property is in conformance with the Wisconsin Resource Management Plan Amendment approved March 2, 2001.

Preface

The Bureau of Land Management, Milwaukee Field Office has prepared this environmental assessment in compliance with the National Environmental Policy Act (NEPA). This environmental assessment discloses the direct, indirect, and cumulative environmental impacts that would result from the proposed action and the no action alternative. The document is organized into:

Chapter 1 – Introduction: This section includes information on the background of the proposed action, the purpose of and need for the project, and the agency’s proposal for achieving that purpose and need.

Chapter 2 – Description of Proposed Action and Alternatives: This section provides a more detailed description of the proposed action and alternatives for achieving the stated purpose including a no action alternative.

Chapter 3 – Affected Environment: This section describes the environmental effects of implementing the proposed action and other alternatives. This analysis is organized by resource area and significant issues.

Chapter 4 – Agencies and Persons Consulted: This section provides a list of preparers and agencies consulted during the development of the environmental assessment.

Appendices: The appendices provide additional information to support the analyses presented in the environmental assessment.

The case file is located in the Milwaukee Field Office.

Table of Contents

Page

Chapter 1 - Purpose and Need

1.0 Introduction and Background	1
1.1 Brief Description of Proposed Action	1
1.2 Purpose of and Need for Proposed Action	2
1.3 Project Area Description	2
1.4 Conformance with Land Use Plan.....	2
1.5 Relationship to Statutes, Regulations, or Other Plans.....	3
1.6 Decision to be Made.....	3

Chapter 2 - Description of Proposed Action and Alternatives

2.1 Proposed Action/Alternative 1	3
2.2 No Action Alternative	3

Chapter 3 - Affected Environment

3.1 General Setting.....	4
3.2 Critical Elements	4
3.3 Surrounding Land Ownership	6
3.4 Historic and Cultural Resources.....	6
3.5 Biological Resources	6
3.6 Mineral Potential	6
3.7 Vegetation	6

Chapter 4 - Environmental Consequences or Impacts

4.1 Proposed Action/Alternative 1	7
4.2 No Action	8

Chapter 5 - Consultation and Coordination

5.1 Agencies, Organization, Persons Consulted.....	8
5.2 List of Preparers.....	9

References	9
------------------	---

Appendix A – Location Map

Appendix B – Land Status Map

Appendix C – Zoning Classifications

Chapter 1. Purpose and Need

1.0 Introduction and Background

A parcel of land comprising approximately 92.26 acres adjacent to Lake Osborn in Bayfield County, Wisconsin, is being considered for disposal by the Bureau of Land Management (BLM). This parcel of public domain land was identified for disposal in the *Wisconsin Resource Management Plan Amendment* (RMPA), approved March 2, 2001. The RMPA identified a Federal Land Policy and Management Act (FLPMA) sale or lease as the preferred method of disposal because the land is completely surrounded by private property and has no legal access. During the Environmental Assessment (EA) for the RMPA, other Federal, state, and tribal agencies were contacted regarding the disposition of this land. During these consultations, no public sector agency expressed an interest in assuming ownership of the property. In January 2008, Federal, state, and local government agencies were again contacted regarding the acquisition of the property, but only the Township of Grand View replied with an expression of interest. The Township submitted a preliminary application under the Recreation and Public Purposes (R&PP) Act, however, this application was not considered complete because the Township was not able to obtain legal access to the property for public recreation.

The land proposed for sale was determined to be public domain land in 1987 as a result of a dependent resurvey and survey of omitted lands. Seven lots were created by the 1987 resurvey and two were subsequently acquired by an adjacent landowner under the O’Konski Act. The O’Konski Act allowed adjacent landowners an opportunity to purchase omitted lands in the same manner as the lands would have been acquired if the original survey had been accurate. Landowners had one year from the date of the official filing of the plat to apply for the lands. Five of the original seven lots of omitted land remain in Federal ownership and comprise the 92.26 acres proposed for disposal.

In 1996, adjacent landowners Joseph and Julia Martell applied for this parcel under the Color of Title Acts, but this application was later denied in 1998. Mr. Martell has remained in contact with the Milwaukee Field Office about the disposition of the land and has expressed an interest in a direct sale.

Because the land is an isolated tract of public land that is difficult and uneconomic to manage under the public land laws, the RMPA identified this parcel for disposal to improve land ownership patterns and to eliminate a scattered tract of public land. Without legal access, no other public agency was interested in obtaining ownership of the land.

1.1 Brief Description of Proposed Action

The Bureau of Land Management (BLM) Milwaukee Field Office (MFO) proposes to dispose of 92.26 acres of public land in Bayfield County, Wisconsin under the public sale provisions of the Federal Land Policy and Management Act of 1976. The land will first be offered for sale by modified competitive sale procedures to the adjacent landowners.

1.2 Purpose of and Need for Proposed Action

The purpose of the action is to dispose of an isolated tract of public land that is difficult and uneconomic to manage under the public land laws.

The proposed action will eliminate an in-holding that has no legal access and it has the potential to improve land ownership patterns by consolidating the land with adjacent landowners.

1.3 Project Area Description

The 92.26 acres of land proposed for sale is located in one of Wisconsin's most northern counties along the southern shore of Lake Superior. Bayfield County is a favorite state tourist destination because of its proximity to Lake Superior and because of its many inland lakes. The land in the project area contains Lake Osborn, a small kettle lake typical of bog lakes in northern Wisconsin. Extensive wetlands surround Lake Osborn and encompassing much of the project area. The upland areas of the parcel contain a mixture of open and forested land. The 92.26 acres is vacant, undisturbed land that has no public access. (See Appendix A for map)

1.4 Conformance with Land Use Plan

Conveying the Bayfield parcel out of Federal ownership is in conformance with the *Wisconsin Resource Management Plan Amendment*, approved March 2, 2001. The RMPA identified the Bayfield property for disposal based on the following disposal criteria (RMPA, Page 21):

1. Disposal Criteria

All BLM surface tracts are categorized for disposal and will be evaluated on a tract-by-tract basis against the following set of criteria:

- a. Where possible, the preferred method of disposal will be by transfer to another public agency or non-profit body. (The exception would be in cases where an applicant fails to acquire a parcel under the Color-of-Title Act and wishes to purchase the land under a FLPMA sale.)
- b. Where site-specific analysis reveals no interest by another public or non-profit body, BLM tracts may be offered through sale or exchange to a private body. Tracts will be retained under BLM administration only where management and no other public or non-profit body is available or willing to assume jurisdiction. Preference for sale or transfer may be readjusted based on policy changes, as well as on site-specific analysis. If additional BLM surface tracts are discovered in the future they will also be evaluated and categorized for disposal, through the RMP amendment process.

1.5 Relationship to Statutes, Regulations or Other Plans

The proposed action is consistent with Section 203 of the Federal Land Policy and Management Act of 1976 (FLPMA), and implementing regulations at 43 Code of Federal Regulations (CFR) 2710, which allow for the sale of public land that is difficult and uneconomic to manage and is not suitable for management by another Federal department or agency. Because the land has no legal access and is completely surrounded by private ownership, the proposed sale meets the criteria for modified bidding procedures found at 43 CFR 2711.3-2.

1.6 Decision to be Made

This Environmental Analysis (EA) discloses the environmental consequences of implementing the proposed action and the no action alternative. The Finding of No Significant Impact (FONSI) describes the findings of the analysis in this EA. The BLM Milwaukee Field Manager is the Deciding Official. His decision and the rationale for that decision will be stated in the attached Decision Record. Based on the information provided in this EA, the BLM Manager will decide whether to approve the proposed sale of public land or whether to reject the proposal.

Chapter 2. Description of Proposed Action and Alternatives

2.1 Proposed Action/Alternative 1

The proposed action is to offer 92.26 acres of vacant public domain land in Bayfield County, Wisconsin for sale by modified competitive bidding to adjoining landowners in accordance with the policy outlined at 43 CFR 2710.0-6 (c)(3)(ii). This method of sale will allow for the protection of on-going uses and compatibility with possible adjacent land uses. If the land offered for sale under modified competitive procedures remains unsold, the land will continue to be offered for sale under competitive procedures found at 43 CFR 2711.3-1 until the land is sold or the offer is cancelled.

The patent when issued will be subject to valid existing rights, the requirements of Section 120 (h) of the Comprehensive Environmental Response Compensation and Liability Act as amended, and an indemnification agreement which will hold harmless the United States from any costs, damages, claims of any kind arising out of or in connection with the uses, occupancy, or operations on the patented real property.

2.2 No Action Alternative

Under the No Action Alternative, the Federal government would retain title to the land, and the BLM would continue non-custodial management of the parcel. The land would remain isolated and uneconomical to manage, and adjacent landowners would not be given the opportunity to acquire the property and consolidate the land ownership pattern around Lake Osborn.

Chapter 3. Affected Environment

3.1 General Setting

Bayfield County is located in the northwest corner of the state along the southern shore of Lake Superior (map attached, see Appendix A). Median income and population in the county are below the state average. Leisure and hospitality is the leading industry for Bayfield County, which relies heavily on tourism to support its economy. The largest community and the county seat of government is the city of Washburn. The city of Bayfield on Lake Superior is the next largest community; however, most of the communities in the county have a small population of around 100 residents. Although population in the county has remained relatively stable over the last decade, the median age has been increasing as more people find the area attractive for retirement.

The 92.26 acres of land proposed for sale is located in a rural area of Bayfield County southwest of the small community of Grand View. The 92.26 acres is divided by 5 separate lots (lots 8 through 12) with varying acreage. Lots 10 and 12 contain approximately a quarter mile of frontage on Lake Osborn. Lake Osborn is a 16 acre bog lake with no sport fishery and limited boating opportunities. Approximately half of the parcel is marsh, bog, and open water. Some of the remaining upland areas contain a mixture of hardwoods and conifers. The open upland areas historically supported some limited agriculture, but this area is reverting to pioneering species of woody vegetation. The property is vacant, accessible only by foot over a small creek bed, and has been left undisturbed for over 20 years. The land is legally landlocked by four private property owners.

Lots 8 and 9 in the northern portion of the parcel are zoned for agriculture (Agriculture-1). The central and southern areas of the parcel contain lots 10 through 12 and are zoned for forestry (Forestry-1). Both zoning districts restrict residential and commercial development. The wetlands are concentrated in the eastern and central portions of the property lying around Lake Osborn. A shoreline zoning district overlays this area and precludes construction of any structural improvements for residential or commercial use.

3.2 Critical Elements

BLM is required to assess whether impacts to certain critical elements of the human environment could occur under the proposed alternative. The following table indicates which elements are not present and which would have no impact and therefore will not be further discussed in this EA.

Critical Elements	Not Present	No Impact	May Impact	Rationale
Air Quality		x		No disturbance impacting air quality would result from the sale of the land
Areas of Critical Environmental Concern	x			Not identified in the Land Use Plan as an ACEC

Cultural Resources		x		No impact per cultural survey and letter from Wisconsin SHPO
Environmental Justice	x			There are no environmental justice issues to consider because the property is vacant rural land that is legally landlocked by private property.
Farm Lands (prime or unique)	x			None present per soil survey information
Floodplains	x			A floodplain does not exist beyond the immediate wetlands surrounding the lake.
Invasive, Nonnative Species	x			None present per consultation
Native American Religious Concerns	x			No concerns raised during consultation for the Wisconsin Resource Management Plan Amendment
Threatened or Endangered Species		x		No impact per informal consultation with the U.S. Fish & Wildlife Service (FWS) and Wisconsin Department of Natural Resources (DNR)
Wastes, Hazardous or Solid	x			None present per Wisconsin DNR and Environmental Protection Agency (EPA) website
Water Quality, Surface & Ground	x			No impacts would result from the sale of the land
Wetlands/Riparian Zones		x		No impact would result from the sale of the land because development is prohibited by local ordinances
Wild and Scenic Rivers	x			Not identified in Land Use Plan
Wilderness	x			Not identified in Land Use Plan
Coastal Zones	x			Not applicable because the property is not located along the shores of the Great Lakes
Socio-economics	x			There are no socio-economic issues to consider because the property is vacant rural land with minimum development potential

Other Affected Components of the Environment

3.3 Surrounding Land Ownership

The 92.26 acre parcel is completely surrounded by private land with no legal access. There are four private adjacent landowners; Joseph and Julie Martell, Christopher and Polly Pendergrass, Mark and Kathryn Hanson, and Donald Thorp. (See Appendix B for map)

3.4 Historic and Cultural Resources

Historical and archaeological evidence suggests that the land was historically used for logging prior to the 1930's and later for agricultural purposes. Like many farming attempts in the area, it was eventually abandoned, most likely the result of poor soils, climate and growing conditions. An early-mid 20th century farmstead (47-Ba-250) was recorded during archaeological surveys performed in 2004 by Commonwealth Cultural Resources Group, Inc. This survey identified the remnants of a structural foundation, pit features, remnant apple orchard and domestic refuse from the post1930's. Further consultation between the BLM and the State Historical Society of Wisconsin (SHSW#: 05-0487) determined that this site does not meet the standards of eligibility for listing on the National Register of Historic Places, as per 36 CFR 800.4(d). Therefore, the BLM has no further management recommendations or prescriptions concerning this parcel of land.

3.5 Biological Resources

The land is a mixture of open water, marshy lowlands, and open and forested uplands. The majority of the land is a marshy bog or wetland that provides nesting habitat for loons, ducks, geese, sandhill cranes, a variety of songbirds, and aquatic communities. The area also supports woodland species such as the whitetail deer. The land adjoins Lake Osborn on its western shore. Lake Osborn is a kettle lake with steeply sloped sides and extensive wetlands. A small creek to the south drains into the lake and drainage out of the lake is on the northeast side through the White River. At one time Lake Osborn was a much larger lake, but today it is approximately 16 acres with a maximum depth of 11 feet that does not support a fishery. The Wisconsin DNR did not find any state listed species or other important resources that would be affected by the sale of the land. A review of the Wisconsin Natural Heritage Inventory by the FWS did not find any occurrences of threatened or endangered species (T&E) in the project area.

3.6 Mineral Potential

The Mineral Report dated June 5, 2009 concluded that there is no known mineral potential for the land.

3.7 Vegetation

There are medium to well stocked stands of mixed hardwoods and conifers, but no significant volume of hardwoods suitable for timber harvest. The silviculture consists of white birch, red maple, aspen,

balsam fir, white spruce and hemlock. The upland open areas were once used for agriculture but without active development they are now reverting to pioneering species of woody vegetation. As stated under Biological Resources, the Wisconsin DNR did not find any state listed species or other important resource that would be affected by the sale of the land, and the FWS did not find any T&E species in the area.

Chapter 4. Environmental Consequences or Impacts

4.1 Proposed Action/ Alternative #1

The proposed action alternative would not result in any adverse effects to the environment because the land has limited potential for development and can be offered first to adjoining landowners to add to their existing land base. Three of the four adjacent landowners already have permanent improvements or residences on their property. Because much of the land is unsuitable for building, and local ordinances would limit development, conveying the land into private ownership should not substantially change the existing uses of the land.

Any potential development of the land would require local approval because lots 8 & 9 are zoned for Agriculture-1 (A-1) and lots 10 through 12 are zoned Forestry-1 (F-1). Both areas contain substantial wetland classifications, either as forested or scrub/shrub wetlands. (See Appendix C for zoning map) Construction of non-farm residences in the A-1 district or permanent residences in the F-1 district requires town board approval. These zones carry the following definitions:

F-1 Forestry-1. This district is to provide continuation for forestry programs and to permit compatible recreational development. Permanent residences in this district shall require Town Board approval.

Agricultural-1. This district is designed to provide areas for general agriculture and to prevent the encroachment of scattered commercial and industrial enterprises, and small lot residential development. Non-farm residences in this district shall require Town Board approval.

Although approving construction of a permanent residence is a possibility, the abundance of wetlands would make it difficult and uneconomical to develop more than one home if an adjacent landowner would choose to pursue that option. If the parcel was sold to a non-adjacent landowner, the likelihood of building anything on the land diminishes greatly because of the lack of access to the property.

Vegetative and Biological Factors

The proposed action would not have a direct, indirect, or cumulative effect on physical and biological factors because development is unlikely and would be restricted by local ordinances. Both the U.S. Fish & Wildlife Service and the Wisconsin Department of Natural Resources determined that there were no special resource stipulations required for the protection of wetlands or Threatened and Endangered species for the proposed sale of this land.

Social Factors

BLM does not have any surface land responsibilities or a presence in the area. Changing the ownership status of the land would not negatively impact the community. Conveying the land out of Federal ownership would allow land that is not actively monitored or managed by a Federal agency to be governed by local regulations. Conveying land into private ownership would also increase the area's local tax base and contribute to the community's overall resources.

4.2 No Action Alternative

The no action alternative would result in a continuation of the present non-custodial administration of the land. The land would remain in Federal ownership. There would be no apparent direct, indirect, or cumulative impacts to the environment. The land would continue in its natural state. However, there would be no consolidation of land ownership and elimination of an isolated tract of public land. The land would continue to lack legal access for local fire and safety officials, would not be subject to local ordinances, and would not be added to the local tax base.

Chapter 5. Consultation and Coordination

5.1 Agencies, Organization, Persons Consulted

- U.S. Fish and Wildlife Service Ft. Snelling, Minnesota
- Environmental Protection Agency New Franken, Wisconsin
- Wisconsin Department of Natural Resources web-site
- Wisconsin Geological Survey Madison, Wisconsin
- Wisconsin State Historical Preservation Office Park Falls, Wisconsin
- Bayfield County Government Madison, Wisconsin
- Grand View Town Board Madison, Wisconsin
- Joe Martell (adjacent landowner) Washburn, Wisconsin
- Grand View, Wisconsin
- Grand View, Wisconsin

5.2 List of Preparers

Name	Responsibility	Initials	Date
Carol Grundman	Realty Specialist		
Troy Ferone	Archeologist		
Singh Ahuja	Physical Scientist		
Derek Strohl	Natural Resource Specialist		
Marcia Sieckman	Planning and Environmental Coordinator		

References

Wisconsin Resource Management Plan Amendment, approved March 2001

Wisconsin Resource Management Plan Amendment Environmental Assessment: Disposition of Public Domain Properties, August 2000

Phase 1 Archaeological Surveys: Five Tracts of Public (BLM) Lands Bayfield, Vilas, and Waupaca Counties, Wisconsin, June 2005

Mineral Report dated June 5, 2009

Wisconsin State Historic Preservation Officer, Sherman Banker, letter dated December 7, 2007

Consultation with the Wisconsin Department of Natural Resources, letter dated March 7, 2008

Section 7 Consultation with the U.S. Fish & Wildlife Service, email dated February 28, 2008