

HAVEL Chris * OPRD

From: Diane and Dave Bilderback <dbilderback@mycomspan.com>
Sent: Wednesday, February 12, 2014 5:26 PM
To: oprd.publiccomment@state.or.us
Cc: Phillip Johnson; Fawn Custer
Subject: Comment on Bandon State Natural Exchange

February 12, 2014

Dear Oregon Parks and Recreation Commission,

I am a retired biologist and a Bandon resident who volunteers for the Marine Mammal Stranding Network, have volunteered for State Parks as a docent for the Whale Watch Spoken Here Program and my adopted CoastWatch mile is Mile 96, whose north boundary is about ¼ mile from the north shore of New River along the western edge of the Bandon State Natural Area (Bandon SNA). I am writing to urge you to vote “no” on the Bandon SNA exchange because the January 28, 2014 Wildlife Assessment for the Bandon Land Exchange Proposal, by Vanessa Blackstone, Wildlife Biologist for OPRD concludes, “Overall, the land exchange will have a demonstrable negative impact to at-risk species in the area without mitigation actions, especially the western snowy plover.” (under 6. Management Recommendations, page 14). The greatest threat to the western snowy plover are through increased disturbance from people on the new golf course, through unofficial beach access from the Bandon SNA parcel, and from the Oceanfront Parcel Service Road Access Easement, which all can lead to increased predation pressure. I have walked the shoreline of Bandon SNA since 2005 and so have a clear understanding of how important it is to not have additional people, predators, dogs, kites or other disturbances for the Western Snowy Plover’s survival as a species. I also have walked on the Lost Lake trail to the east shore of New River and know how many people use their ATV’s illegally in this area. How will this area be policed to prevent unauthorized access? The Oceanfront Parcel Service Road Access Easement could be particularly difficult to control access.

If this exchange is approved, I urge the Oregon Parks and Recreation Department to carefully follow the management recommendations that are listed in Section 6. Management Recommendations of the Wildlife Assessment for the Bandon Land Exchange.

Thank you for the opportunity to express my concerns.

Diane Bilderback

3830 Beach Loop DR SW

Bandon, OR 97411

dbilderback@mycomspan.com

HAVEL Chris * OPRD

From: Charlie and Cindy Bruce <ccbruce@peak.org>
Sent: Friday, February 14, 2014 1:23 PM
To: oprd.publiccomment@state.or.us
Subject: Bandon Land Exchange Comments

Dear Commissioners, I would like to voice again by opposition to the proposed exchange as I don't see how forgoing future public use options for very limited coastal lands and sacrificing known conservation values for the Bandon State Natural Area (BSNA) property is in the overwhelming public interest. As an aside, given Bandon has multiple golf courses already, including Bandon Crossing built only 7 years ago and one mile east of the BSNA, this is really absurd. I have nothing against Bandon Biota but from my perspective, OPRC is being overwhelmed with private money for private gain and I find that disgusting.

That said, since it appears from the record that OPRC will support this exchange it's important that you do the best possible job of assuring limited impact to remaining natural resources on BSNA into the future. As outlined in the natural resource assessments for plants and wildlife on the BSNA, there will be negative direct and indirect impacts from loss of the area (and assumed development). Mitigation for those losses should be identified and included as part of the land transactions along with long-term funding to implement mitigation actions. In addition to the Management Recommendations identified in the OPRD Wildlife Assessment, belatedly written for the land exchange, the entire beach area south of China Creek should be added the current Snowy Plover Management Area to help mitigate the likely increased negative impacts to the breeding population. As indicated in the 2013 annual monitoring report for snowy plovers, the entire area is being used now during the nesting season as the population recovers (Lauten et al. 2013). It's also important to note that the species is present year around so habitat is equally important outside the nesting season. It's important to point out again that this state park property (BSNA) is the only state park land along the entire coast that still has snowy plovers where historically they all had birds. In all likelihood, the other state park lands identified for restoration on the north coast for future plover recovery efforts will not be successful due to the small size, lack of any nearby plover breeding areas that would provide a source area for breeding birds, and heavy public pressures.

Until meaningful mitigation measures are identified for the negative impacts that are sure to occur if the traded property were to be developed, not to mention adjacent private lands already owned by Bandon Biota, the land exchange should not be approved. In addition, reasonable mitigation funding for at least the next 10 years should be quantified and paid for by Bandon Biota since the State of Oregon does not provide any general fund monies to OPRD for park management.

Last, multiple state and federal agencies have been working for several decades now on western snowy plover recovery. This has been a cooperative effort in many ways including personnel and funding and has been a success story for the Pacific coast. What happens on the Bandon State Natural Area into the future also affects recovery efforts along the entire south coast on all ownerships. If anything, OPRD needs to make sure the relationships built up over the years are not lost for just for 18 holes of golf.

Sincerely,

Charlie Bruce
1625 NW 17th.
Corvallis, OR. 97330

References

[The Distribution and Reproductive Success of the Western Snowy Plover along the Oregon Coast - 2013](#). 2013, 67 pg. David J. Lauten, Kathleen A. Castelein, J. Daniel Farrar, Melissa F. Breyer, and Eleanor P. Gaines. ORBIC. Available online: (PDF 7.8 MB).



OREGON SHORES CONSERVATION COALITION

February 14, 2014

Lisa Van Laanen, Interim Director
Oregon Parks and Recreation Department
Members of the Parks and Recreation Commission
Oregon Parks and Recreation Department
725 Summer St. N.E. Suite C
Salem, OR, 97301

Re: Proposed Land Exchange with Bandon Biota

Dear Chair Graves and Commissioners,

The Oregon Shores Conservation Coalition submits these comments on behalf of its members, to address the land exchange proposed by Bandon Biota. Oregon Shores appreciates the efforts of the Commission to gather the required and appropriate information prior to making a final decision. As noted by many participants and members of the Commission, this is the first-ever exchange proposed by a third-party, and the decision will set precedent for how future proposals are reviewed. During the February 5 Commission meeting, several commissioners made statements to the effect that the gathering and release of information in this process has been unprecedented for an acquisition, implying that this effort has gone above and beyond what is required. To the contrary, this process is unprecedented because it has never been done before, and the application of the standards and criteria for this exchange require the review of information that is not usually necessary or required in a typical acquisition process. The types of information made available to the public as part of this process should be the minimum standard for land exchanges (as opposed to simple acquisitions). Moreover, the precedent for such exchanges should include full disclosure of this information to the public far enough in advance to allow the public to study the information before commenting, and to allow the Commission and OPRD staff sufficient time to fully consider those comments. We do not believe that this minimum standard has been met to date.

Appraisals and the “Monetary Value of the Exchange”

“Overwhelming public benefit” in the context of this proposal means “a Commission determination in the approval of a property exchange that accounts for the natural, scenic, cultural, historic, recreational, and operational benefits of a proposal that are likely to be above and beyond the monetary value of the exchange.” OAR 736-019-0020(8). Therefore, the Commission must have information about the “monetary value of the exchange” prior to making a determination of overwhelming public benefit.

Here, the appraisals released on February 4, taken at face value, show that the value and acreage of the coastal parcels to come into the Parks System are considerably below the value and acreage that would go to Bandon Biota. Only the addition of cash (for the possible Grouse Mountain property acquisition, plus some funding for gorse control) balances out the monetary value of the exchange. As noted in previous comments, and as raised by members of the Commission, the exchange for cash, without being tied to a particular property, does not allow for meaningful consideration of compliance with the standards for an exchange. It is difficult, if not impossible, to evaluate the natural, scenic, cultural, historic, recreational, and operational benefits of a cash contribution, as opposed to a specific property acquisition. Oregon Shores understands that the final order for consideration will more clearly tie the Grouse Mountain property to this exchange proposal. For reasons already stated, Oregon Shores does not agree in principal with the trading of coastal lands in exchange for lands in Eastern Oregon.

Beyond these overarching issues, Oregon Shores is concerned about the valuations of the appraisals. For example, it is not clear why the absence of a water right results in de-valuation of the property by \$260,000 (a water right can be a valuable extra benefit, but water rights are not a standard property feature—and in this case there is no doubt that the would-be developer can obtain water for the development). It is also not clear why the valuation of the BSNA property dropped so dramatically from the \$1,960,000 in 2011 to almost one half of that at \$1,055,000 in 2014, despite the facts that land values have generally been increasing during this period, and that the land is now being appraised in light of its development potential as a golf course. The appraisal review documents do not explain this difference. It seems that the Commission would be well served to understand the reasons for the de-valuation of the Park property at such a dramatic rate over such a short period of time. It is also unclear why the lands to be conveyed to the state by Bandon Biota, which according to the appraisals are entirely undevelopable, are valued as highly as they are. Is a parcel on which no structure can be built really worth \$445,000 to anyone other than State Parks?

Even taking the appraisals at face value, the department would be receiving lands worth 60% of the value of the property to be traded away. This would be highly questionable—even if not technically unallowable—if this were a straight land exchange. Bandon Biota is making up the difference through a cash contribution (which may or may not go to Grouse Mountain), but this in itself creates a very dangerous precedent). We would urge the Commission to give very serious thought to whether exchanges should take place when the value of the actual lands being exchanged is not at least reasonably comparable.

Oregon Shores comment
Bandon Biota Exchange Proposal
Parks Commission – February 14, 2014

If the Commission does proceed with this exchange, one way to reduce the disparity would be to remove the northern corridor or “chimney” (as it has been described) of the Bandon SNA land that runs up to Twomile Creek (without adding back land elsewhere—it is beneficial that the western boundary of the parcel to be traded has been pulled back further from the shore). That would somewhat reduce the acreage to be traded, thus reducing the difference in value. This would also assure that the creek and its riparian zone, and the wetlands that lie within this corridor, will be protected. Among other things, this would help to preserve habitat for migratory birds, another concern raised by the wildlife assessment.

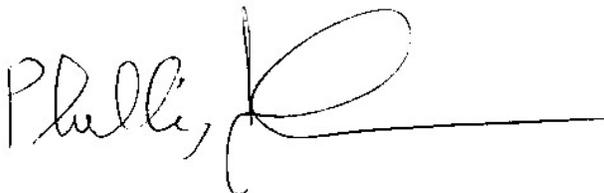
Western snowy plover

The “Wildlife Assessment for the Bandon Exchange” was only released on Jan. 28, a week prior to the Commission meeting. This did not allow sufficient time to analysis and comment by the public (which the Commission acknowledged by providing an all-too-brief additional nine days for comment). The assessment raised serious questions about potential impacts to the federally listed Western snowy plover. The department went to considerable lengths to develop a Habitat Conservation Plan for the management of the snowy plover (a public process in which Oregon Shores invested a great deal of time). It is absolutely essential that the department and Commission fully consider the implications, and develop a clear plan to respond to the concerns raised by the assessment and assure that the HCP will be maintained. And it is essential that this information be released with adequate time for public consideration in advance of any vote to accept the property exchange. This, again, should be part of the precedent-setting process for consideration of this and all future land exchanges.

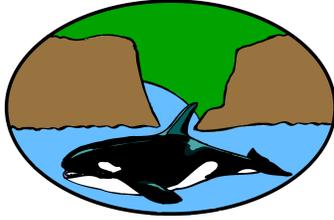
Conclusion

Because the BSNA property is part of the management area for Western snowy plover required for compliance with federal law, the property cannot be deemed “no longer useful, needed or required for Parks purposes.” Further, in the absence of the cash contribution, the proposal does not meet the criteria for exchange. Oregon Shores believes that cash, without connection to a particular property, cannot be evaluated for compliance with the applicable criteria. If the cash contribution is tied to the Grouse Mountain acquisition, Oregon Shores believes that the exchange does not meet the overwhelming public benefit standard because the loss of coastal acreage cannot be adequately compensated by the acquisition of land in Eastern Oregon. Thank you for the opportunity to provide these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Phillip Johnson", followed by a long horizontal line extending to the right.

Phillip Johnson
Executive Director



ORCA: Oregon Coast Alliance

P.O. Box 857, Astoria OR 97103

(503) 391-0210 <http://www.oregoncoastalliance.org>

Protecting the Oregon Coast

Feb. 14, 2014

Via Email

Oregon Park and Recreation Department Communications Director Chris Havel:
Chris.havel@oregon.gov

Oregon Parks and Recreation Assistant Vanessa DeMoe:
Vanessa.demoe@state.or.us

Oregon Parks and Recreation Department
725 Summer St. NE, Suite C
Salem, OR 97301

Re: Proposed Land Exchange between OPRD and Bandon Biota

Dear Communications Director and Commissioners,

Oregon Coast Alliance offers the following brief comments on the materials recently made available to the public concerning the Bandon Biota exchange and related Grouse Mountain acquisition.

BSNA 280 Acres Appraisal

The BSNA appraisal in particular makes no effort at all to identify and account for ecosystem values -- yet that is the essence of what the Oregon public would be losing if the Biota exchange takes place. The appraisal uses only the assumption, as required in OAR 736-019-0100 (1) (j) that the appraiser base the appraisal on the highest and best use for which the potential buyer wants to use it.

But the Parks rules do not require the appraisal to be *limited* to the purchaser's highest and best use goal. Give the high value of ecosystem services, including ecological integrity, solitude, wildlife habitat, unspoiled viewshed, silence, sand dune experience and similar values inherent in the 280 acres of BSNA, the appraisal should have made some effort to estimate ecosystem values.

Though the appraisal does make a passing reference, stating at p. 29, “it is evident that the highest and best use of the subject property in a legal context is almost certainly that of low intensity recreational uses and/or conservation,” this does not go nearly far enough. There is no effort to evaluate in market terms the cluster of values such as those enumerated above that define low intensity recreation and conservation. Thus, the appraisal fails to present a true picture of the BSNA acreage’s values to the Oregon citizenry, or to evaluate them monetarily.

The four comparables are similar: largely ‘unimproved’ parcels, though likely having less ecosystem integrity than BSNA’s parcels – one of them being the Bandon Crossings golf course. In none of these comparables was any attempt made to estimate the ecosystem values involved, which were apparently not well reflected in the actual market transactions either.

Grouse Mountain Ranch Appraisal

ORCA notes that the initial OPRD Staff Report dated July 17, 2013 described the Grouse Mountain Ranch as a property of 6,100 acres. The *Vegetation and Habitat of Grouse Mountain Property: An OPRD Assessment of Natural Resource Values*, dated October 4, 2012, states that it is “approximately 6,524 acres of land.” The IRR-Boise review appraisal (January 18, 2014) and the AgVantage appraisal (Aug. 20, 2013) describe Grouse Mountain Ranch as a 6,476 acre property. The proposed *Draft Final Order* before the Parks Commission prepared in January 2014 for the Commission’s consideration describes the property as “an approximately 6,300 acre property,” i.e., a 176 acre difference.

We point this out to show that the public has every right to be confused about how much land is being purchased, where exactly it is, and which portions of the property will be purchased with public money. Most importantly, the appraisals cover 176 acres of land more than that described in the Draft Final Order. What does this mean – will OPRD be purchasing 6,300 acres of land or 6,476 acres of land? Or will Parks be purchasing the larger amount of land, with the 176-acre difference going for some other, unspecified, purpose than a state park?

The Biota exchange money will cover only \$2.5 million of the purchase price; the remainder of the \$4.5 million price (nearly half) from public funds. These matters are currently opaque, have been from the beginning, and apparently will remain so.

However, it is clear from the Review Appraisal that the Meredith house and adjacent small acreages by themselves will cost \$2 million. OPRD staff are quoted as saying, “The House Parcel [approximately 200 acres] will remain encumbered by a Deed of Trust requiring OPRD to pay another \$2 million in the timeframe specified.” (Grouse Mountain Review Appraisal, p. 8). ORCA is opposed to use of any public monies whatsoever to purchase a mansion for grossly inflated values, for which no reasonable public purpose can be determined, and which has no historic value.

Values between the appraisal and the review appraisal differ significantly. The IRR-

Boise review appraisal gave Grouse Mountain a value of \$4.55 million; the AgVantage appraisal of \$3.95 million. ORCA raises this point as a question of public policy in relation to public monies to be extended purchasing this property. Surely the lower value should be the one accepted by OPRD.

It has recently become known that the mineral rights were severed from Grouse Mountain rights, approximately a third of which inhere separately in a corporation called EOM Ltd (*see* letter from Thomas Lowther, EOM Principal, to OPRD Commission, dated November 27, 2013, *and* letter from Martin Conway, representing EOM Ltd., to OPRD Commission dated February 4, 2014). OPRD did not publicly acknowledge having received any letters on this subject until February 7, 2014, nor has conducted any kind of title analysis of the property that has been made available to the public.

The AgVantage appraisal (prepared August 20, 2013, but made available to the public February 7, 2014) dismissively says (p. 22), “Mineral rights typically are not a factor in this market. Most minerals are intact with the surface and there has been no commercial leasing or production activity in the area. Sub-surface mineral and geothermal rights were not investigated within the appraisal process.”

The only mention of mineral rights in the Boise review appraisal (dated January 18, 2014) is, “No opinion is expressed as to the value of subsurface oil, gas or mineral rights, if any, and we have assumed that the property is not subject to surface entry for the exploration or removal of such materials, unless otherwise noted in our appraisal.” (p. 37).

Yet the initial letter from EOM Ltd. To the Parks Department was dated November 27, 2013. Why did the appraisal and appraisal review mention mineral rights so dismissively, given that the Department already knew about them *before* the appraisal and review appraisal were completed – or at least, in plenty of time for both to be amended to include mineral rights before public release?

In fact, it was stated at the February 7, 2014 Parks Commission meeting by staff from the Oregon Department of Justice that severed mineral rights need not be considered at the time of purchase, but rather *after purchase is complete*. This seems a cavalier way of using state monies for purchase of land for public use. As pointed out by the Feb. 4, 2014 EOM letter, such mineral rights are entirely inconsistent with the acquisition criteria in OAR 736-019-0060, as mineral rights are considered the “dominant estate” in Oregon law.

ORCA doubts it is in the public interest to purchase a large parcel of land under the OPRD acquisition criteria with the severed mineral rights *completely* unaccounted for as they have been in both the policy debate and the appraisals. Conservation values would be heavily impacted if mineral extraction took place at Grouse Mountain subsequent to purchase; and substantial public money could be implicated in purchasing such rights to avoid extraction. Why has not even a cursory review of mineral rights been undertaken, and made public, on Grouse Mountain Ranch?

Conclusion

As stated often before, Oregon Coast Alliance opposes the Bandon Biota exchange and acquisition of Grouse Mountain Ranch to fulfill the requirements of the exchange. As the process continues towards Commission approval of the proposed exchange/acquisition, ORCA's concerns only grow. This is a very unsound use of State funds, and sets a terrible precedent of approving purchase of cherished coastal state park lands by a private developer to develop for-profit uses.

Thank you,

/s/ Cameron La Follette

Cameron La Follette

Land Use Director

HAVEL Chris * OPRD

From: <crawlindirt@gmail.com>
Sent: Friday, February 14, 2014 3:22 PM
To: oprd.publiccomment@state.or.us
Subject: Bandon; Say No

Dear Commissioners:

On behalf of nature lovers everywhere, I implore you to reject the transfer of Bandon State Natural Area to a golf course developer. The state got this land in a bargain sale from the federal government with the promise it would be managed on behalf of the public. The current proposal is for a municipal course but does not provide any long-term assurance against further developed. Once the developer buys his way out of the BLM interest, there will be no restrictions on how it is developed or managed. The idea that Parks will be able to buy back the property if the developer sells in the future is not realistic. And if the property is important enough for Parks to want an option to buy it back then why in heck are you letting it go now? It makes no sense.

Please, just say no to a golf course on the Bandon State Natural Area. Golf Travel Magazine quoted the developer as saying he already has enough land for a "pretty good" golf course, he just wants our public land to make it superlative. He can already create jobs and opportunities for young caddies without this public land. To approve this transfer would be terrible public policy and set a precedent that will make the commission entertain all manner of future proposals.

I am glad the decisions on Bandon State Natural Area and Grouse Mountain are separate. I support a new state park at Grouse Mountain - find another way to fund it.

Your vote on trading away public land with no strings attached will go down in history. It may be viewed as either the beginning of a land grab for well-connected developers, or the end of private interests attempting to take from the public that which belongs to us all. The dunal system at Bandon State Natural Area is not just some grassy field. It contains rare plants and provides an important buffer for snowy plovers. It should remain a natural area owned and managed by State Parks.

Thank You,

Greg Combs
Salem, Oregon



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Oregon Fish and Wildlife Office

2600 SE 98th Avenue, Suite 100

Portland, Oregon 97266

Phone: (503) 231-6179 FAX: (503) 231-6195

Reply To: 8539.1001(03)

File Name: Bandon Biota Land Exchange Proposal

TS Number: 14-336

FEB 14 2014

Lisa Van Laanen
Interim Director
Oregon Parks and Recreation Department
725 Summer St. N.E. Suite C
Salem, OR 97301

Subject: Public Comments on Bandon State Natural Area Exchange Proposal

Dear Ms. Laanen and OPRD Commission,

We are submitting the following comments regarding the land trade proposal from Bandon Biota that involves Bandon State Natural Area (SNA) and adjacent lands within the range of the federally threatened Pacific Coast population of the western snowy plover (*Charadrius nivosus nivosus*).

Our review of the OPRD wildlife assessment for the Bandon land exchange proposal resulted in four main concerns about potential impacts to snowy plovers and commitments outlined in OPRD's Habitat Conservation Plan (HCP):

1. We are concerned that predators may increase within the areas managed for snowy plovers (SPMA) on Bandon SNA due to development of golf course and recreational uses on the exchanged lands.
2. We are concerned that disturbance of nesting plovers may increase due to greater access to the Bandon SNA from the adjacent lands proposed for recreational development, including greater use of trails to the beach, through occupied snowy plover habitat.
3. Modifications to the HCP may be necessary to address snowy plover habitat, currently classified as RMA, to consider reclassification as SPMA, if OPRD gains ownership.
4. We are concerned about the stated uncertainty regarding funding and ability to meet HCP commitments and maintain compliance under the associated Incidental Take Permit, if additional predation and human disturbance redirects funding from necessary habitat management.

We look forward to working with OPRD on any measures to conserve snowy plovers and their habitat, and incorporating any necessary modifications to the HCP.

Sincerely,

Paul Henson, PhD
State Supervisor

Acting
for