



# Oregon

Kate Brown, Governor

## Parks and Recreation Department

725 Summer St. NE, Suite C

Salem, OR 97301-1271

(503) 986-0707

Fax (503) 986-0794

[www.oregonstateparks.org](http://www.oregonstateparks.org)

August 28, 2015



Bandon Biota, LLC  
c/o Steven H. Corey, Esq.  
Corey, Byler, Rew, Lorenzen, & Hojem  
PO Box 218  
Pendleton OR 97801

Dear Mr. Corey,

Thank you for your letter dated August 24, 2016 on behalf of Bandon Biota responding to the department's request for information about ground disturbances inside the Bandon State Natural Area. The department now understands that Bandon Biota representatives and contractors entered the property in May and June 2014, without notice to the department, removed vegetation, and excavated two holes. The Geotechnical Hole Reports filed with the Oregon Water Resources Department for these holes, one 169 feet deep and the other 234 feet deep, identify their purpose as geologic formation investigations. The department has determined that a third hole for a well was excavated outside the Bandon State Natural Area boundary, and, as such is not of concern to this department.

The department understands and accepts Bandon Biota's assertion that section 7 of the Exchange Agreement that we entered into in November 2013 affords Bandon Biota access to conduct these activities. Section 7 provides:

*"Possession of the real property exchanged under this Agreement will pass to the other party upon Closing. Notwithstanding, pursuant to this Agreement, Biota, at its expense, may conduct non-intrusive testings on the Bandon Parcel in connection with its project, including without limitation golf course layout, environmental testings, soil suitability testings, water well testings, and wildlife habitat testings, necessary for land use and other regulatory permitting as required by the county, state, and federal governments."*  
[emphasis added]

While the department has agreed to allow Bandon Biota to perform certain tests and other activities as described in section 7 in a non-intrusive way, arranging any action under section 7 within the Bandon State Natural Area will require close cooperation between our field staffs. Such coordination did not occur before Bandon Biota entered the property in May and June 2014.

Unless and until the property is transferred out of public ownership, it is state park property. The department has a responsibility to treat the natural and cultural resources with care, and has policies and procedures in place to further those objectives. The department has agreed to allow Bandon Biota to enter the property as necessary to gather information for certain purposes, including its part of an upcoming federal application, but any time Bandon Biota intends to engage in activities pursuant to section 7, it must first notify local state park staff and afford the department the opportunity to follow our established policies and procedures in order to protect the natural and cultural resources of the Bandon State Natural Area. Working together with local field staff, Bandon Biota may carry out activities pursuant to section 7 while avoiding sensitive natural and cultural resources.

A notification condition should have been expressly included in the original agreement, and the department appreciates Bandon Biota's expressed willingness to add such an addendum to the Exchange Agreement. I have instructed the Department of Justice to prepare an amendment for these notice and operations clarifications as provided in section 15 of our agreement.

I have also dispatched natural and cultural resource staff to the site to examine the disturbed areas. The department will share the results of that examination with Bandon Biota and will expect to work cooperatively as necessary to address any concerns identified. Finally, within three days of receipt of this letter, please identify a local Bandon Biota field contact. All future Bandon Biota entry to the Bandon State Natural Area will be coordinated between your contact and District Manager Larry Becker, 541-888-9268 ext. 222, [larry.becker@oregon.gov](mailto:larry.becker@oregon.gov).

Our department remains committed to the Exchange Agreement and the exchange order signed by the Oregon State Parks and Recreation Commission in April 2014. The public benefit to the State Parks system from this proposal remains strong. We must not lose sight of the fact that Bandon State Natural Area is public property, however, and that any activity under the agreement must follow department policies and procedures established to protect its natural and cultural resources. We look forward to receiving both the local field contact information and the management plan document from Bandon Biota so we may submit this application to the Bureau of Land Management.

Sincerely,

A handwritten signature in cursive script that reads "Lisa Sumption".

Lisa Sumption, Director  
Oregon Parks and Recreation Department

Cc:  
Governor Kate Brown, c/o Natural Resource Policy Office  
Coos County Commission  
Representative Krieger  
Senator Kruse  
Senator Roblan  
BLM District office