

**BEFORE THE
PARKS AND RECREATION COMMISSION
OF THE STATE OF OREGON**

IN THE MATTER OF THE) APPROVAL
GROUSE MOUNTAIN RANCH) ORDER
ACQUISITION) 14-__-__

This matter came before the Oregon Parks and Recreation Commission (the “Commission”) on February 5, 2014, as a proposed acquisition of certain real property in Grant County commonly known as Grouse Mountain Ranch (“Grouse Mountain Ranch”), pursuant to ORS 390.112, ORS 390.121 and ORS 390.122, and OAR chapter 736, division 19. The proposal before the Commission concerns the acquisition of Grouse Mountain Ranch by the Department for \$4,500,000 (or less if appraised for less), pursuant to the terms of the PSA (as defined below).

The Commission fully considered the proposed acquisition, the oral and written comments of the public and the reports of the Oregon Parks and Recreation Department (the “Department”). The Commission makes the following findings of fact, conclusions of law and decision -- hereby approving the acquisition of Grouse Mountain Ranch by the Department for \$4,500,000 (or less if appraised for less), pursuant to the terms of the PSA.

I. History

ORS 390.010 establishes the State policy on outdoor recreation resources, including the provision of opportunities to meet growing needs. Further, the Commission is instructed to encourage public nominations of significant resources for acquisition as parks. ORS 390.122. The Department therefore was interested in hearing from George Meredith (on behalf of himself and his wife Priscilla) when they approached the Department on March 29, 2012, about a possible sale of Grouse Mountain Ranch, an approximately 6,300 acre property in Eastern Oregon.

The Department did its homework, visiting the property on several occasions and confirming its potential. The Department briefed the Commission about the possible opportunity in executive session on November 7, 2012, in Tillamook (on a confidential basis as part of a real estate negotiation pursuant to ORS 192.660(2)(e)). The Department staff report for the briefing stated:

The land is dominated by ponderosa pine forest in the upper elevation, descending to scattered juniper woodland and grassland communities, shrub lands, and valleys interspersed with perennial fish-bearing streams. While these landscape communities are not rare alone, collectively they provide representation of the larger surrounding landscape. Considerable restoration efforts by state, federal, and tribal agencies are occurring on the property.

The landscape form and large size offer a number of recreational opportunities such as wildlife viewing, hiking, horse-back riding, and camping with ample accessibility to John Day communities. The existing infrastructure is sufficient to make this a “turn-key park” with sufficient facilities and amenities for the public and park staff to utilize this property without significant investment.

On December 11, 2012, Grouse Mountain Ranch was first placed on an internal potential acquisitions list. Conversations between the Merediths and the Department continued over time, and the Commission continued to be briefed regularly in executive sessions. In March of 2013, the Department met with Judge Scott Myers of the Grant County Court (the governing body of Grant County) and disclosed the Department’s interest in acquiring the property.

As always, identifying funding was problematic. The Department let the Merediths know that they would likely need to split the transaction into two phases due to funding parameters – Phase I being the vast majority of the land (approximately 6100 acres) and Phase II being the remaining (approximately 200 acres) parcel on which the Merediths home is located. Meanwhile, as more fully described in the sister Bandon Exchange Order of this same date, the Department was communicating with Bandon Biota, LLC (“Biota”) about a possible Biota exchange request. The Department realized that looking at these two situations together could facilitate both of them -- by utilizing the acquisition of Phase I of Grouse Mountain Ranch as a component of a Bandon exchange. Once the Department recognized the possibility of combining the two potential transactions, it discussed the opportunity with the Commission in executive session on May 7, 2013, in Baker City.

Given time pressure on the potential transactions, the negotiations accelerated. Although incomplete, those negotiations reached a point where the Department deemed it appropriate to communicate about the opportunity at the next public Commission business meeting, rather than just in executive session. The matter of the Bandon exchange was placed on the agenda for the July Commission business meeting as an informational item, including the concept of

Biota providing, as part of an exchange, funding of \$2,500,000 for the Department to use to purchase Phase I of Grouse Mountain Ranch.

At the Commission's business meeting on July 17, 2013, in Coos Bay, the Department presented the matter and the Commission took public comment. Subsequently, the Department took additional public comment on August 16th in Bandon and August 19th in Mount Vernon. Also at the July business meeting, the Commission adopted its new Acquisition Priorities List for the 2013-15 biennium, which included both phases of Grouse Mountain Ranch. At the Commission's next business meeting on September 24, 2013, in Condon, the Department presented additional informational and the Commission took further public comment.

Traditionally, the acquisition of property for park purposes and the creation of new parks have been perceived locally as a positive, or at least as benign. Some of the local residents, however, reacted negatively to the idea of making Grouse Mountain Ranch a part of the state park system. Many of the concerns raised were beyond the purview of the Department, as they addressed overarching policy issues about public and private land holdings and other unrelated matters. Given this developing political situation, the Governor's Office became involved. Working with all concerned, the Governor's Office identified a path towards resolution of the opponents' concerns through, among other things, certain potential commitments to the County by the Department going forward.

As negotiations between the Department and the Merediths continued, it became clear that certain contingencies in the Bandon exchange might delay the Phase I acquisition beyond the time frame desired by the Merediths. They therefore proposed financing the transaction themselves. With seller financing (100% and no interest), it became possible for the Department to acquire the entire property at once rather than in phases (and to do so prior to consummation of the Bandon exchange); the deal was restructured accordingly.

On November 8, 2013, the Department and the Merediths¹ executed a Purchase and Sale Agreement (the "PSA"), subject to Commission approval. On November 14, 2013, the Department deposited \$10,000 earnest money in escrow, as required by the terms of the PSA.

¹ The Merediths executed the PSA as "W. George Meredith and Priscilla M. Meredith, as Co-Trustees of the W. George Meredith Revocable Trust U/T/A dated February 1, 2007, as to an undivided one-half (1/2) interest, and Priscilla M. Meredith and W. George Meredith, as Co-Trustees of the Priscilla M. Meredith Revocable Trust U/T/A dated February 1, 2007, as to an undivided one-half (1/2) interest, as tenants in common."

This restructuring of the deal also affected its procedural stance in front of the Commission, requiring it to be disconnected from the Bandon exchange and addressed separately. At the Commission's business meeting on November 20, 2013, in Corvallis, the Department presented information about the restructuring and the new procedural posture, and took further public comment. A letter from the Governor was received that suggested commitments the Department might make (as negotiated by the Governor's Office) in response to the political situation. Two of the three members of the Grant County Court (in their comments and upon questioning by the Commission) expressed a willingness to work with the Department to define and memorialize those commitments. Those commitments are not addressed in this Order.

On November 20, 2013, the Commission passed a motion finding that the Grouse Mountain Ranch acquisition meets the acquisition criteria and instructed the Department to prepare a proposed final order for Commission approval.

II. Facts and Findings

The Commission notes that many of the applicable criteria address or contain similar or related concepts. In the interest of brevity (as well as organization), the Commission does not reiterate relevant facts for each criteria. Instead, the Commission has sought to mention them where they seem most apt, but intends that all facts in this Order be applied to all criteria, as applicable.

The Commission also notes, as a general matter, with respect to all the criteria, that the acquisition process is only the first step in a much larger process that the Department engages in to create a new state park. In order to make its acquisition decision, the Department performs preliminary site scoping and due diligence for potential uses of the property. If a property is then acquired, the Department undertakes a comprehensive master planning process (with a significant public input and review component). Ultimately, the Department seeks plan approval from the Commission and the approved plan is submitted to the local governing body for its approval.

The foregoing is by way of acknowledging that the acquisition decision, like any real estate transaction, is by nature speculative and based on incomplete information. The subsequent steps provide for additional, appropriate process prior to transforming a purchase into a park.

The Commission is authorized by statute to acquire new park and recreation areas. ORS 390.112, ORS 390.121 and ORS 390.122. Specifically, ORS 390.121(1) authorizes the Commission to:

Acquire by purchase . . . real property or any right or interest therein deemed necessary for the operation and development of state parks, roads, trails, campgrounds, picnic areas, boat ramps, nature study areas, waysides, relaxation areas, visitor and interpretive centers, department management facilities, such as shops, equipment sheds, office buildings, park ranger residences or other real property or any right or interest because of its natural, scenic, cultural, historic or recreational value, or any other places of attraction and scenic or historic value which in the judgment of the State Parks and Recreation Department will contribute to the general welfare, enjoyment and pleasure of the public.

In addition, pursuant to ORS 390.112, ORS 390.121 and ORS 390.122, the Commission's evaluation of properties for possible acquisition shall include, in relevant part, the consideration of opportunities that may be lost to the Department if acquisition is delayed.

These factors are reiterated in the acquisition criteria set forth in OAR chapter 736, division 19, which establishes certain policies, criteria and practices relating to the acquisition of real property, which in relevant part are more particularly discussed below.

OAR 736-019-0060(1)(a) requires the Department to maintain a list of real properties and areas of interest, and authorizes the Department to acquire properties on the list as they become available.

The Department prepared, and the Commission adopted, the Department's 2013-15 Land Acquisition Priorities list (the "Acquisition Priorities List") on July 17, 2013, which included both phases of Grouse Mountain Ranch. The acquisition of Grouse Mountain Ranch complies with OAR 736-019-0060(1)(a).

OAR 736-019-0060(2): The Department's acquisition of real property must meet *one* of the criteria set forth in OAR 736-019-0060(2), which includes serving the Department's purposes and the public's interest by doing the following:

OAR 736-019-0060(2)(a) - protecting areas of outstanding natural, scenic, cultural, historical and recreational significance for the enjoyment and education of present and future generations

OAR 736-019-0060(2)(e) - addressing opportunities that may be lost to the Department if acquisition is delayed

There are myriad examples in the record of how these criteria are met. Some of the more significant ones are set forth below:

- “[N]o other park in the system provides as complete of a combination of diverse habitats within an accessible context that is well-suited to back-country recreation and enjoyment.” (“Vegetation and Habitat of Grouse Mt. Property: An OPRD Assessment of Natural Resource Values,” p. 19, Department’s website²)
- Grouse Mountain Ranch “provides ample representation of natural features that characterize the region, including geologic features, the variety of plant communities, the rich wildlife habitat, and the scenic vistas” that attract visitors to the region. (“Land Acquisition in Grant County,” p. 1, Department’s website)
- Grouse Mountain Ranch is comprised of Ponderosa pine forest, bunchgrass prairie, and riparian bottomlands. Beech Creek, a tributary of the John Day River, and other streams on the property provide salmonid habitat. (Department’s November 20 Staff Report, Ex. A, p. 2, Department’s website)
- The Merediths have performed substantial restoration work on Grouse Mountain Ranch, including the discontinuation of grazing, the exclusion of livestock from the creeks, conversion of some of the bottomlands to wildlife forage, fuels reduction thinning and reclaiming Beech Creek floodplain. (“Vegetation and Habitat of Grouse Mt. Property: An OPRD Assessment of Natural Resource Values,” p. 17, Department’s website) This restoration work has advanced the natural and scenic significance of Grouse Mountain Ranch.
- Grouse Mountain Ranch will provide opportunities for interpretation of local cultural as well as educational programs accessible to a wide range of users. (“Land Acquisition in Grant County,” p. 1, Department’s website)
- Grouse Mountain Ranch includes a historic log cabin that was constructed around 1868 by Andrew Anderson, a Swedish immigrant. The cabin may be eligible for listing in the National Register of Historic Places. Additionally, a significant amount of information about the cabin is

² In this report, Grouse Mountain Ranch was compared to current Department properties on the basis of scenic quality, topographic variation, potential back-country experience and habitat diversity.

available through Anderson's descendants, which will provide a strong foundation on which to develop the necessary historical narrative for a National Register nomination, as well as cultural and historical interpretation opportunities for visitors to Grouse Mountain Ranch.

- Grouse Mountain Ranch contains two archaeological sites on what is part of the ceded lands of the Confederated Tribes of Warm Springs, as well as the aboriginal territory of the Burns Paiute Tribe and the Confederated Tribes of the Umatilla Indian Reservation. A BLM inholding near the center of the property also contains a protected archaeological site.
- Based on recreational surveys in the region, and the landscape and existing facilities, the Department has identified potential recreational uses for Grouse Mountain Ranch “that include camping, hiking, horseback riding, wildlife-viewing, fishing, environmental education, and agricultural uses.” (“Land Acquisition in Grant County,” p. 1, Department’s website)
- The region in which Grouse Mountain Ranch is located shows a need for drive-in tent sites and soft surface trails in the region that includes Grant County. (Oregon Resident Outdoor Recreation Demand Analysis – SCOPR Planning Region 10 Summary, Nov. 12, 2012, pp. 5, 6) Grouse Mountain Ranch has the potential to provide drive-in tent sites and soft surface trails. (Map: “Grouse Mountain Acquisition - Existing Facilities & Potential Park Uses”)
- The Department has not identified any other similar properties and is not aware of any willing seller of same.
- The PSA includes a June 30, 2014 closing date. If the transaction is not timely closed, this opportunity may be lost.

While the Department’s acquisition of real property must meet one of the criteria set forth in OAR 736-019-0060(2), based on the above it in fact meets many of the criteria. The acquisition of Grouse Mountain Ranch complies with OAR 736-019-0060(2).

OAR 736-019-0060(3) requires that the acquisition of real property:

be “consistent with the Department’s purpose and its long range planning goals”; and

be prioritized through a rating system that evaluates an acquisition's significance "as it relates to the Department's mission, development and operational costs, geographic distribution, diversity of values, public demand, and other factors connected to its feasibility as a state park."

Department's purpose and long-range planning goals. The Department's purpose is, in relevant part, to implement the policy of the state with regard to outdoor recreation resources by supplying the outdoor recreation areas, facilities, and opportunities needed to meet growing needs. (ORS 390.010) The Commission has adopted the overarching 2008 Centennial Horizon plan, which contains the following long-term Department strategies, among others, relating to this purpose:

- "Secure outstanding habitats, historic places and scenic settings"
- "Protect important vistas, viewpoints, and scenery"
- "Acquire and restore marginal lands that have the potential to become special places"
- "Prioritize properties for State Park acquisition or development that serve as portals to Oregon's significant recreation, cultural or scenic resources"

There are many examples in the record of how these strategies are met, including those already cited above, and in particular with regard to how Grouse Mountain Ranch's unique location may allow it to serve as a portal to other resources, given that it is adjacent to Malheur National Forest.

Rating and evaluation system. In creating its Acquisition Priorities List, the Department analyzes potential acquisitions through a rating system that includes the factors set forth in OAR 736-019-0060(3). In its determination to include Grouse Mountain Ranch on the 2013-15 Acquisition Priorities List, and in the Commission's adoption of that list, this criteria has been met.

The acquisition of Grouse Mountain Ranch complies with OAR 736-019-0060(3).

OAR 736-019-0060(4) requires the Department to "look favorably at opportunities for acquisitions and exchanges that enhance the overall management of existing park lands."

- Grouse Mountain Ranch can accommodate overflow camping demand from nearby Clyde Holliday State Recreation Site by providing camping sites. (Personal communication from Clyde Holliday Park Manager)
- Grouse Mountain Ranch has an office and an outbuilding that the Department may be able to integrate into Department operations in the region to allow for more efficient management and administration. (“Land Acquisition in Grant County,” p. 1, Department’s website)
- The existing infrastructure at Grouse Mountain Ranch may provide additional material and equipment storage space, repair facilities and management unit facilities for Department operations.

Since the above examples evidence such potential management enhancement, the acquisition of Grouse Mountain Ranch complies with OAR 736-019-0060(4).

OAR 736-019-0040(4) states that the Department will aspire to “[b]alance the need for and benefits of public open space with impacts on local tax revenue and private economic opportunity.”

OAR 736-019-0040 is aspirational and therefore not a criteria. The Commission does not construe these aspirations to establish approval criterion. The aspirations provide guidance to the Department in conducting real property transactions. Nevertheless, the Commission acknowledges that “impacts on local tax revenue and private economic opportunity” have been raised in public comment. The Commission has considered these competing concerns, and has directed the Department to continue its good faith efforts to address these issues, among others, with the Grant County Court. By so directing the Department, the Commission has met the aspirational goal of balancing those interests. The acquisition of Grouse Mountain Ranch complies with OAR 736-019-0040(4).

OAR 736-019-0100(1)(a), (b) and (i) require the Department to follow certain appraisal practices in its acquisition of real property.

By the Commission’s February 5, 2014 meeting, an appraisal of Grouse Mountain Ranch will have been completed in compliance with OAR 736-019-0100(1)(a), (b) and (i). By the Commission’s February 5, 2014 meeting, the acquisition of Grouse Mountain Ranch will comply with OAR 736-019-0100(1)(a), (b) and (i).

OAR 736-019-0100(1)(c) requires the Department to “[c]onsult with local taxing entities of government when a land purchase has potential to cause a significant loss of property tax revenue.”

On March 12, 2013, when Department Director Tim Wood and Assistant Director John Potter met with Grant County Judge Scott Myers to convey the Department’s potential interest in acquiring Grouse Mountain Ranch, Judge Myers raised concerns over possible lost property tax revenue and revenue from other taxing districts, and the Department began considering how to address this issue. The acquisition of Grouse Mountain Ranch complies with OAR 736-019-0100(1)(c).

OAR 736-019-0100(1)(d) and (e) require the Department to “[s]eek to purchase from willing sellers as the preferred method of buying land,” and “[e]xercise the greatest of restraint in using the power of eminent domain consistent with the spirit and intent of the laws authorizing such power.”

The Merediths approached the Departments as willing sellers. The acquisition of Grouse Mountain Ranch does not include exercise of eminent domain power. The acquisition of Grouse Mountain Ranch complies with OAR 736-019-0100(1)(d) and (e).

OAR 736-019-0100(1)(f) requires the Department to make acquisitions of real property only with approval of the Commission.

The PSA between the Department and the Merediths is contingent upon Commission approval, pursuant to Section 3.1.3 of the PSA. The acquisition of Grouse Mountain Ranch complies with OAR 736-019-0100(1)(f).

OAR 736-019-0100(1)(g) authorizes the Director to pay up to \$10,000.00 as earnest money for the acquisition of real property.

The Department has deposited \$10,000 in escrow as earnest money, pursuant to Section 2.2 of the PSA. The acquisition of Grouse Mountain Ranch complies with OAR 736-019-0100(1)(g).

OAR 736-019-0100(1)(h) requires the Department to “utilize sound business principles in securing appraisals and conducting negotiations, and shall complete its due diligence in connection with all real property acquisitions and exchanges, including the request for and review of title searches, hazardous material assessments, agreements with third parties intended to facilitate an acquisition by the Department, and any other documents necessary to make the best decision regarding a land purchase or exchange.”

The Department has performed considerable due diligence to date, all in accordance with its standard practices and will continue to do so as contemplated by Section 3.1 of the PSA. The acquisition of Grouse Mountain Ranch complies with OAR 736-019-0100(1)(h).

OAR 736-019-0100(1)(l) requires the Department to “[c]onduct a visual inspection and check the records for historical uses of any land considered for acquisition. If either the visual inspection or historic records provide information the Department determines merits further investigation of environmental issues, the Department will engage in additional environmental review.”

The Department conducted visual inspections of Grouse Mountain Ranch in 2012 on June 7, July 31, and August 1; and in 2013 on March 11 and 12. Additionally, the Department has checked the records for historical uses of the property. The Department received information in the form of a public comment about a former asbestos mine in the area, and determined that the former asbestos mine is located on property adjacent to Grouse Mountain Ranch. The Department obtained information from the Oregon Department of Geology and Mineral Industries about the mine, which shows that it has been closed. The Department will, however, work with the appropriate agencies to ensure that the former asbestos mine does not interfere with anticipated park uses. The Department will also engage in further environmental review of Grouse Mountain Ranch as part of its ongoing due diligence as necessary. The acquisition of Grouse Mountain Ranch complies with OAR 736-019-0100(1)(l).

III. Additional Findings and Conclusion

As described above, the applicable criteria have been met for the Commission’s approval of the acquisition of Grouse Mountain Ranch. But there is no requirement that the Commission must approve an acquisition just because the criteria are met. Rather, the criteria help frame, inform and permit a subjective, discretionary decision that is the Commission’s to make. There are several reasons why the Commission is choosing to approve this particular

acquisition that run as threads through and relate to many of the criteria, but they are worth stating on their own.

First, the Commission believes that there is real and significant value in preserving the thirteen years of thoughtful restoration work already done by the Merediths on the property, value to the State that might be lost if the Department does not acquire Grouse Mountain Ranch. In addition, that same restoration work is of value to the Department in jumpstarting the Department's stewardship of the site. In addition to the value of the restoration work, the property also includes significant value in its existing infrastructure. The amount of funding necessary to implement a plan going forward (after the planning process and all necessary approvals) is likely to be manageable.

As noted earlier, the Department's Land Acquisition and Exchange Rules (OAR 736-019) state that their purpose is to, among other things "[i]dentify and acquire the best representative landscapes...in Oregon." The Commission recognizes that some members of the public have commented that this Grouse Mountain Ranch is not unique or special enough to be a state park. While the Commission does not share that sentiment, it does understand its mission to include the preservation of "representative landscapes" that may exist elsewhere today but that are not protected resources. The day may come when this property is actually unique, and at that time the public may be thankful for the Commission's foresight.

This acquisition is about opportunity. The Merediths saw an opportunity for exceptional natural resource restoration. They recognized the Department as the logical choice for continuing that commitment as good stewards. The Department saw the opportunity to preserve and restore a place that encompasses the diversity of the surrounding unprotected landscape. The Commission sees a further opportunity in the near future – a destination state park that will contribute significantly to a developing critical mass of Eastern Oregon attractions that will help draw more people to the area.

For the reasons set forth above, the Commission hereby approves the acquisition of Grouse Mountain Ranch by the Department for \$4,500,000 (or less if appraised for less), pursuant to the terms of the PSA.