

Oregon Parks and Recreation Commission

November 18, 2015

Agenda Item:	6a	Information
Topic:	Bandon State Natural Area (update on proposed exchange)	
Presented by:	Chris Havel	

Since meeting in September 2015, a proposal to exchange a portion of the Bandon State Natural to Bandon Biota, a private business, has ended without resulting in the exchange of land.

The proposal, which would have traded 280 acres of the property for a sum of cash and other land in the county, ended when Bandon Biota withdrew their proposal (see attached letter). The people of Oregon had already received some benefits through a series of agreements relate to the proposal. Bandon Biota provided \$450,000 to match a federal grant awarded to acquire 13 acres at Whale Cove, and this property is now managed by the U.S. Fish and Wildlife Service as a wildlife refuge. The business also made two annual payments of \$60,000 each (\$120,000 total) to the Oregon Parks and Recreation Department to support its ongoing efforts to combat gorse, and invasive plant prevalent on the southern coast. The first \$60,000 payment was invested on several south coast properties, and the second payment is scheduled to be spent in the coming months. These benefits are not refundable to Bandon Biota even though they have withdrawn their proposal.

As of the date this brief is being written, two issues remain outstanding. First, in concert with the Department of Justice, we are discussing a few simple terms that will guide us to the final end of the project. Second, some repairs to the property are necessary since soils and plants were disturbed by Bandon Biota in mid-2014 as they gathered information from the park. The way the department and Bandon Biota share the expense of those repairs will be included in the final terms. If this separation document, and a report describing the disturbance, are final before the commission meeting, they will be added to this brief.

Attachment: Exhibit A – Letter from Bandon Biota withdrawing proposal

Action Requested: None.

Prior Action by Commission: Issuance of the Bandon Exchange order through agenda item 7a on April 9, 2014.

Prepared by: Chris Havel

Oregon State Parks and Recreation Commission Bandon Update letter
Nov. 18, 2015 Commission meeting // Agenda Item 6(a)

COREY, BYLER & REW, L.L.P.
ATTORNEYS AT LAW

STEVEN H. COREY*
DAVID M. BLANC*
TIMOTHY P. O'ROURKE
STEVEN N. THOMAS
KARIN E. DALLAS
JENNIFER E. CURRIN
PATRICK M. GREGG
NICHOLAS R. BLANC°

222 S.E. DORION AVENUE
P.O. BOX 218
PENDLETON, OREGON 97801-0218

TELEPHONE (541) 276-3331
FAX (541) 276-3148

DOUGLAS E. HOJEM, OF COUNSEL
HENRY C. LORENZEN, OF COUNSEL

ROBERT E. O'ROURKE, RETIRED

GEORGE H. COREY, DECEASED
ALEX M. BYLER, DECEASED
LAWRENCE B. REW, DECEASED

Email: corey@corey-byler.com

*Admitted in Oregon and Washington
°Admitted in Oregon and California

September 30, 2015

Oregon Parks and Recreation Department
Attn: Ms. Lisa Sumption, Director
725 Summer Street N.E., Suite C
Salem, OR 97301-1266

Re: Exchange Agreement
Oregon Parks & Recreation Dept.
Bandon Biota, LLC

Dear Ms. Sumption:

As you know, I represent Bandon Biota, LLC. I write to you on its behalf.

Seven years ago Mike Keiser hired Gil Hanse, a world renowned golf course designer, to plan a destination golf course near Bandon, Oregon to be called Bandon Links. Coos and Curry County residents would play a world class golf course for greens fees as little as \$10 a round. And up to 200 high school students annually would earn money by caddying, and they would be able to apply for college scholarships in association with the Western Golf Association, whose mission is to fund scholarships for young caddies. The project also included funding for gorse removal in the south coast area. Importantly, these programs would only be made possible by charging out-of-state tourists \$200 to \$250 per round.

The Bureau of Land Management, the federal agency with jurisdiction over a portion of the lands which would be devoted to the project, has just advised that in keeping with federal regulations the fees charged must be commensurate with other golf courses on BLM lands, and that revenues would have to be devoted to use on the property. That eliminates the funding source for

Oregon Parks and Recreation Department
Attn: Ms. Lisa Sumption, Director
September 30, 2015
Page 2

subsidizing the low local rates, for the scholarship program, and for the off-site gorse control. Additionally, recent well testing has met with disappointing results; and that in turn creates difficulties for meeting certain Oregon land use requirements which protect lands designated as farmland.

While the Exchange Agreement contemplated moving the right of reverter of the BLM to other property of State Parks, the BLM now proposes Bandon Biota purchase the land from the BLM at a fair market value less 50 percent, less the small amount of the original purchase price by State Parks to BLM.

In short, it is clear the BLM reverter restriction is not able to be addressed in a manner satisfactory to Bandon Biota. Further, it is clear Bandon Biota will not be able to successfully complete the county, state, and federal permitting in the fashion intended by Bandon Biota, including in the time contemplated by the parties.

As a result of these problems, Bandon Biota terminates the Exchange Agreement and is abandoning the Bandon Links project.

The above is with great disappointment on the part of Bandon Biota. Notwithstanding, it appreciates your support as the Director of the Oregon Parks and Recreation Department, as well as the hard work of your staff in pursuit of this project. Bandon Biota also is thankful for the pleasant and welcoming attitude of the local staff at the Bureau of Land Management office in Coos Bay as it and State Parks sought to work through the federal regulatory process.

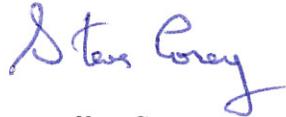
Bandon Biota does need to comment that the project met several of the mutual goals of State Parks and Bandon Biota. Bandon Biota contributed \$450,000 to the acquisition of Whales Cove near Depot Bay; that parcel is now owned by the United States Fish and Game Department for public use into perpetuity. Bandon Biota, along with Ecotrust, facilitated the State of Oregon's acquisition of a highly ecologically significant 357 acre parcel known as "Sand Lake" or "Beltz Farm," one of the last remaining undeveloped estuaries on the Oregon coast. And in keeping with Bandon Biota's

Oregon Parks and Recreation Department
Attn: Ms. Lisa Sumption, Director
September 30, 2015
Page 3

commitment to controlling gorse, Bandon Biota contributed \$120,000 to the State of Oregon for its gorse control efforts. Bandon Biota had hoped for additional benefits of this project which would have included its contributions of additional lands to the state park system and of money for the acquisition of other park properties.

Thank you, and please have Steve Shipsey, the attorney for State Parks, call me with any questions.

Sincerely yours,



Steven H. Corey

SHC:m

cc: Mr. Steven Shipsey
Assistant Attorney General
Oregon Department of Justice
Business Transactions Section
1162 Court Street, N.E.
Salem, OR 97301

Oregon Parks and Recreation Commission

November 18, 2015

Agenda Item: 6b

Information

Topic: Floras Lake State Natural Area – Sixes Ranch Property Acquisition

Presented by: Kammie Bunes

Background

The Sixes Ranch is located immediately south of Floras Lake State Natural Area (SNA) in Curry County. The ranch is also bordered by the Pacific Ocean to the west, and the Sixes River to the south. Cape Blanco State Park lies immediately south of the Sixes River. In effect, the ranch lies between the two state park holdings. It has been a property of interest to state parks for many years; however, the landowners had been uninterested in a sale, until now. The current owners wish to begin estate planning, which necessitates sale of a portion of the ranch, with the intent to continue farm and ranch operations on their remaining property.

Property Characteristics

After several months of dialogue and due diligence, department staff and the landowners are in final negotiations. If negotiations are successful and the transaction is approved by the Commission, OPRD will acquire fee simple title to approximately 88 acres of forested oceanfront, combined with additional deed restrictions. Although the property is zoned Forest Grazing and Beaches and Dunes Conservation, the landowners are eligible for homesite development through Measure 49. Acquisition would secure one-half-mile of shoreline; the only private oceanfront property for a stretch of approximately eight miles. Private development of estate homes would forever change the view from the Oregon Coast Trail and Cape Blanco State Park, and introduce the possibility of conflicts between private owners and public use.

The property provides the only opportunity for physical connectivity between Cape Blanco State Park to the south and Floras Lake SNA to the north. The fee title property will be absorbed into Floras Lake SNA via property line adjustments and managed for natural resource values, including a seral stage Sitka Spruce forest, which is potential habitat for the endangered Marbled Murrelett. Connections could be made to an existing trail within Floras Lake SNA if desired and determined to be compatible with natural resource values. This would create opportunity for a loop trail that would traverse the Sixes River headland and undulating bluff. Public access will be via the beach or these trails. Vehicular upland access through the landowners remaining ranch will be limited to park staff for management or emergency purposes only.

Acquisition of this property has been recommended or supported in the following documents:

- 2008 Cape Blanco Conservation Action Plan (TNC)
- 2006 Acquisition Priorities Report (Oregon Parks and Recreation Department)
- 2006 Oregon Conservation Strategy (Oregon Department of Fish and Wildlife)
- 2003 Curry County State Parks Master Plan (Oregon Parks and Recreation Department)
- 2001 Western Snowy Plover Recovery Plan (US Fish and Wildlife Service)
- 2001 Sixes River Watershed Action Plan (South Coast Watershed Council)

Acquisition Plan

Due to budgetary constraints, the transaction has been structured in two phases, allowing for acquisition over two biennia. The phases are conceptually depicted on the attached map and summarized below:

Phase 1: Acquire fee title to 44 acres, a deed restriction on an additional 116 acres, and an Option to acquire Phase 2 by December 31, 2017.

Phase 2: Acquire fee title to 44 acres plus a deed restriction on an additional 116 acres.

Prior Action by Commission: Addition of the Sixes Ranch to the list of acquisition priorities, April 2014, Informational Item June 2015.

Action Requested: None.

Attachment 1: Map

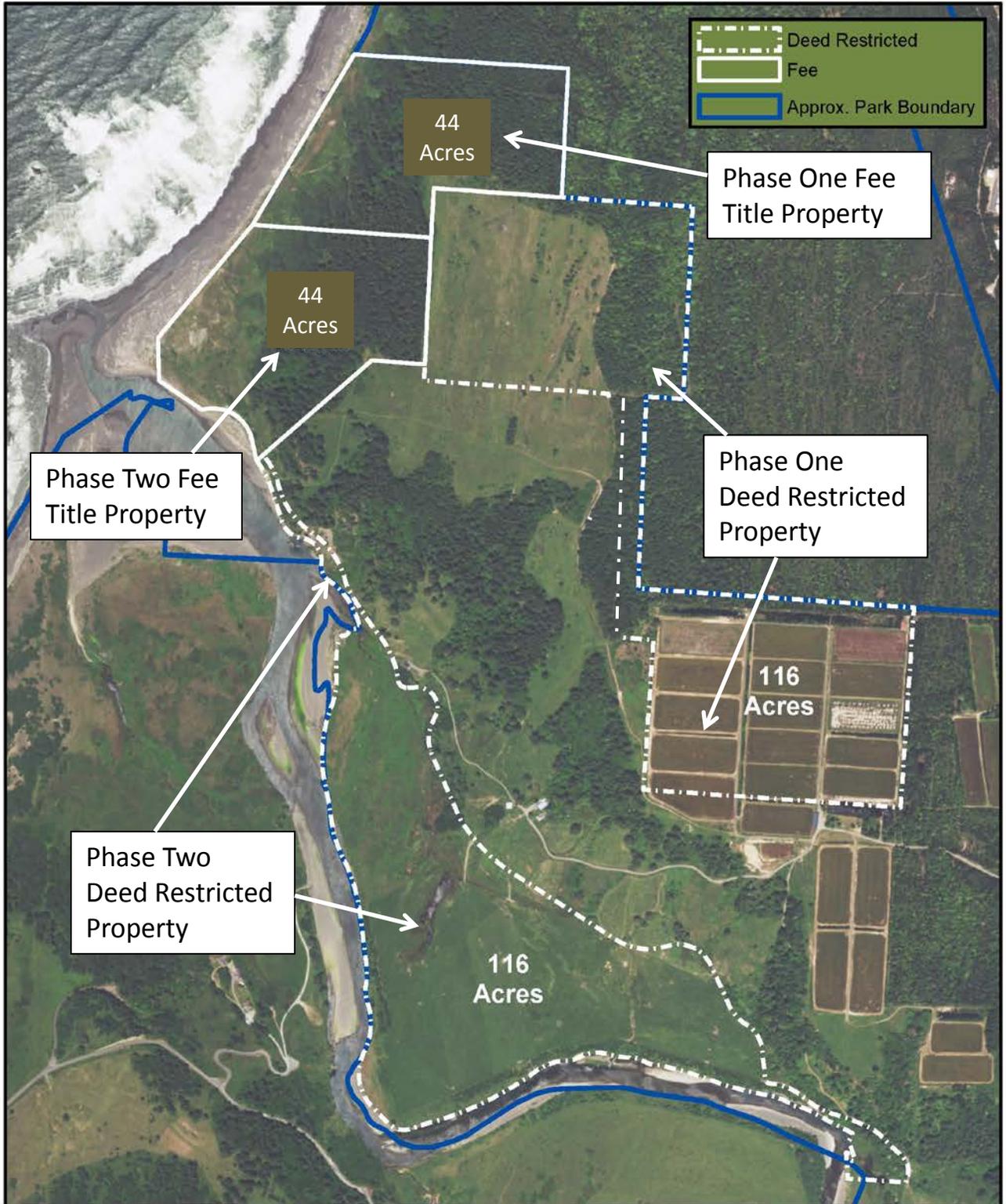
Prepared by: Kammie Bunes

Floras Lake SNA - Sixes Ranch Acquisition
 November 18, 2015: Agenda Item 6b, Attachment 1

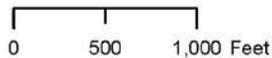
Oregon Parks & Recreation Dept.
 725 Summer St. NE, Suite C
 Salem OR, 97301



Nature
 HISTORY
 Discovery



This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.



NAD 1983 2011 Oregon Statewide Lambert Ft Intl



NMOB3991 06/2015

E:6/6/2015

P:never

H:\Parks\FlorasLakeSixes Ranch\Parcels\Sixes_2015.mxd