

Oregon Parks and Recreation Commission

September 24, 2013

Agenda Item: 6a Information

Topic: Proposed Exchange with Bandon Biota

Presented by: Jim Morgan

Background:

In consideration of an acquisition that includes sale or exchange of real property owned by Oregon Parks and Recreation Department (OPRD) that is initiated by another party, OPRD's land acquisition and exchange policy OAR 736-019-0070 provides criteria for consideration of approving an exchange only when it has provided for "overwhelming public benefit to the park system, its visitors, and the citizens of Oregon".

Bandon Biota LLC has submitted a proposal outlining acquisition of approximately 280 acres of Bandon State Natural Area in exchange for property, cash and in-kind services for controlling gorse. The Oregon Parks and Recreation Department first released an outline of the proposed Bandon State Natural Area exchange proposal on July 3, 2013 as part of the announcement for the Oregon State Parks and Recreation Commission meeting held July 16-17 in Coos Bay (Attached). The Commission solicited public comment at the meeting, by email, and in writing through August 9. The two areas of the state most directly affected by the exchange – Bandon, because 280 acres of a local state natural area would leave the system, and Grant County, because more than 6,100 acres would leave private ownership and enter the system – requested additional public meetings and opportunities to comment. The department responded by holding a meeting in Bandon August 16, and one in Mount Vernon August 19. Combined, more than 100 people attended. Written comments continued to come in by email and regular mail.

Background information – maps, acquisition priority decisions, general descriptions of the properties – are online, along with notes from the meetings and the public comments at <http://tinyurl.com/bandonexchange> . A summary of key points raised during the open house meetings is provided below.

Affected property	Summary from supporters	Summary from people who don't support proposal
Bandon State Natural Area	<p>This turns mostly unused land into something economically productive.</p> <p>The incoming properties and funds to fight gorse are worth giving up a portion of the Bandon property.</p>	<p>We don't really know enough about the natural resource and recreation value of the land we're giving up to judge whether the deal is worth it.</p> <p>Coastal land is too valuable to trade away, and there are other ways to acquire the incoming properties.</p>
Grouse Mt in Grant County	<p>A new state park will give people more reasons to visit the area, or to extend their visit, marginally improving the local economy.</p> <p>The current owner is motivated to sell to a buyer who shares similar conservation goals, and state parks is a good match.</p>	<p>Too much land is already public in the county, and adding more will be a drain on local finances.</p> <p>There's no compelling reason or vision for a park this large in this spot.</p> <p>The state can't guarantee it will have the money, time and expertise to manage the land properly.</p>

Next Steps:

There are other specific concerns and secondary themes raised during the public meetings that describe community views and are captured in notes from the Bandon and Mt. Vernon meetings (Exhibits A and B). The department recognizes it has an obligation to address both the large, principle-driven concerns and the specific, detailed questions from citizens on the coast and in Grant County before making a recommendation to the Commission for action. The department will continue to develop more details regarding the proposal and share it with the affected communities for their review and response.

Prior Presentation to the Commission:

September 22, 2010 - Bandon Biota presented initial exchange proposal

July 20, 2011 – Bandon Biota provided public comments on proposal

July 17, 2013 – Proposed exchange with Bandon Biota presented to Commission

Action Requested: None.

Attachments: Bandon and Mt. Vernon public meeting notes

Prepared by: Chris Havel and Jim Morgan

DRAFT 2013 Bandon Biota Exchange Proposal

	Property	Acres	Natural Resources and Recreational Values	Estimated Market Value* or Contribution	Notes
Bandon Biota Benefits	Bandon SNA	280	Stable and unstable dunes, rare native plant associations, gorse, seasonal wetlands	\$2,000,000 (~\$7,000/ac)	New appraisal needed; Satisfy BLM deed restriction; Final boundary to be determined
OPRD Benefits	Bandon Biota oceanfront property	111	~52 ac of upland with shore pine, gorse, wetlands; remaining is New River and ocean beach	\$800,000	New appraisal needed
	Bandon Biota at Bullards Beach	97	Improves management of Bullards Beach SP	\$200,000	New appraisal needed
	Whale Cove	11	Coastal forest and rocky headland; limited access	\$450,000 (match funds)	New appraisal needed; No purchase agreement; Future ownership not identified
	Coast Trail easement	NA	Links existing coast trail sections	Not determined	Final alignment not determined
	Gorse control @Bandon SNA, Bullards Beach SP, Cape Blanco SP, Floras Lake SNA		Can protect areas of high natural resource value. Provide greater recreational access Reduce volatile fuels	\$300,000	Gorse control agreement not finalized
	Grouse Mtn.	6,300	Forested and open ridges, grass prairie, canyons, springs and streams, riparian bottomland; scenic vistas in park-like setting	\$2,500,000 (contribution toward purchase)	In discussion

* Market value based on available appraisals that are out-of-date or not to standards.

Bandon Exchange ~ Bandon Open House, Aug. 16, 2013

For final staff report to Oregon State Parks and Recreation Commission

Jim Morgan: OPRD stewardship manager.

Audience: There's no public value to Bullard's from the 97 acres on the spit.

Audience: what is outgoing property zoned now, and what will be afterward? Recreation now, and Bandon Biota would have to request a change if the transaction goes through.

Audience: What about water use for the future property? Has OPRD done any due diligence to examine water? Jim: Unknown water rights. Audience: water table drops measurably with water use.

Audience: What is the public benefit? If measured by level of use, the 280 acres will get more use as a golf course. The remaining BSNA will also see more use.

Audience: Coastal park system is probably the highest-use statewide. Should any coastal property ever be transferred out? Coastal systems are rare.

Overwhelming public benefit should be taken more seriously when dealing with

Bandon Exchange ~ Bandon Open House, Aug. 16, 2013

For final staff report to Oregon State Parks and Recreation Commission

coastal property. Natural resource land should require even more benefit. Does Whale Cove make this trade even?

Audience: Is there any other park property with the same natural features as Bandon State Natural Area that is equal in size? Jim: might be the largest dunal system in state parks. Audience: because these kinds of systems are threatened and fragmented, why would you make the situation worse by fragmenting it even more? Jim: we did try to consider both the loss and gain. Audience: trading a unique property for a common property doesn't make sense.

Audience: Even gorse infested, the property is too valuable to release. Jim: natural resource values are not the only ones considered. Cultural, recreational and scenic values are also included as a balancing act.

Audience: Will carving out 280 acres from BSNA change its character or value?

Audience: Gorse can be removed to restore this property. Are there any restrictions on what Bandon can do with this property? What benefits will residents get on the golf course if it opens?

Bandon Exchange ~ Bandon Open House, Aug. 16, 2013

For final staff report to Oregon State Parks and Recreation Commission

Audience: There are two other state parks, plus federal land, already in Grant County. Why do we need more? Does a new park here provide overwhelming benefit? Audience: no. Audience: entire package has to provide overwhelming benefit, not each part.

Audience: If you haven't done a complete natural resource inventory, how can you know whether the trade is worth it? What if you don't do the thorough review until after the commission acts. Jim: We have some review – if the commission acts to move forward, there is still room to complete the thorough review before the deal is done. A fatal flaw can still stop the deal. Audience: who bears the cost. Jim: We write the scope, Bandon Biota funds it.

Audience: The property acquisition standards say buffer state park land from development. Why sell land for development next to a state park?

Audience: While it's OK for the state to sell land, this deal will change the character of the land around the park. Number of people coming into this spot will increase, and the increase will affect the beach and neighboring property. That will put pressure on the commission to spend more money and develop the remaining area further. Consider these secondary effects.

Bandon Exchange ~ Bandon Open House, Aug. 16, 2013

For final staff report to Oregon State Parks and Recreation Commission

Audience: Consider the loss of taxes to Grant County when you buy private land.

Jim: we will make the county whole until the park opens. After it opens, parks provide economic benefit.

Audience: Who makes the decision? Jim: The Commission. Audience: Who makes the recommendation? Jim: Staff.

Audience: What could happen in November? Jim: Commission could act to direct staff to develop a series of agreements, appraisals and other actions to execute some part of the deal. No clear whether this would be the only commission action on the topic.

Audience: Will someone be presenting the other side when the commission is asked to act? Jim: the commission meeting includes public comment.

Audience: Bandon Biota has improved local land values and improved the job situation.

Bandon Exchange ~ Bandon Open House, Aug. 16, 2013

For final staff report to Oregon State Parks and Recreation Commission

Audience: Does commission plan out far enough? Sea levels are rising. Trading high ground for low ground could mean public property will be under water, and Bandon Biota will have beachfront property.

Audience: How do you plan on minimizing expenses and produce revenue from the incoming properties? Jim: business plan isn't done on Grouse Mt, but we have initial ideas. For Whale Cove, emphasis is on scenic protection, not public access. Audience: What about increasing access to Bandon State Natural Area? Jim: no plans for improving access at BSNA.

Audience: Bandon SNA is already outstanding. This sets a precedent – taking public land trading it a developer for development. Worried this is a slippery slope.

Audience: Bandon Dunes neighbors enjoy natural resource values, too.

Bandon Exchange ~ Mt Vernon Open House, Aug. 19, 2013

For final staff report to Oregon State Parks and Recreation Commission

Jim Morgan: OPRD stewardship manager.

John Potter: OPRD Assistant Director (State Park Operations)

Audience: What interest does the Bureau of Reclamation have in Beech Cr? Jim Morgan: No known active role (they provided some design services), but OWEB is also slightly involved. Will find out more for Mary Burke (see sign-in sheet).

Rep. Cliff Bentz: My counties have the most public land, and the highest poverty rates. You're using Lottery to buy land, but you have property you can't maintain now, and should be using Lottery for that. How will more park land help poverty rates? If you lose the Lottery, how will you support the land you purchase if you don't have these funds. Jim Morgan: for state parks to succeed, county also has to succeed. In the short term, we do that by making county whole on the tax issue. Parks eventually improve the economy through tourism dollars. Visitor groups spend \$150-250 per trip. Each dollar spent by parks generally brings in \$17 in local benefits. John Potter: some public lands bring in more money than others. Parks can be an even better partner; there is a return to the local economy. This shift in the state park system relies on existing funding. We're

Bandon Exchange ~ Mt Vernon Open House, Aug. 19, 2013

For final staff report to Oregon State Parks and Recreation Commission

trying to make sure new investments produce the kinds of benefits that help local economies.

Audience (Ken Holliday): What is enough public land? Where is the tipping point? The photos don't show anything unique or special about Grouse Mountain. Grouse Mountain is only important because it's leverage to help you with a larger real estate project. Jim Morgan: Grouse Mountain on its own isn't an overwhelming benefit, and our acquisition criteria don't focus on things that are simply unique. Ken: where will the commission draw the line in acquiring or dispensing property? This property was homesteaded, meaning it was valuable enough to use for private benefits (many of the marginal lands were retained by the feds).

Audience: very few tourists naturally move through the area (it's not like the coast, with a large, natural tourist base). First, what's the plan to bring more people here? Second, can you work out a deal to take other public land and move it back into private ownership so there's no net loss of taxed land. Jim Morgan: we start by looking at the resources, then look at what development we can create that will attract people who are already coming here; the goal with that

Bandon Exchange ~ Mt Vernon Open House, Aug. 19, 2013

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audience is to use the concentration of attractions to get visitors to extend their stay. During planning, we have to figure out how the community wants to be connected and use the park, too. We use surveys to identify target audiences and try to bring them in with systemwide marketing.

Audience: how do we deal with the tax issue? Jim Morgan: we will make the county whole, and pay for fire protection in addition to addressing tax payments.

Audience: Some members of the community support acquisitions. Support right acquisitions on right kinds of property. There are other properties that ought to be more important. OPRD can only afford the right property given limited funding. OPRD not complying with statutory obligations. Disclosures must include something outstanding about the property. When OPRD buys nonproduction lands, they are competing with private buyers with public dollars. This causes a social justice issue. Agencies start by making promises (allowing hunting, protecting buildings), but eventually change their minds. The project proponent is required to submit environmental assessment, and measurements of outstanding character, benefits, etc. Post all these evaluations on website.

Bandon Exchange ~ Mt Vernon Open House, Aug. 19, 2013

For final staff report to Oregon State Parks and Recreation Commission

Audience: OPRD is becoming very aggressive acquiring property. Concerned acquisition is priority at expense of management.

Audience (Jeff): Coast examples show lack of ability to manage existing properties. How will you maintain 6,000+ acres when you can't manage 878 acres on the coast? You're one ballot measure away from losing funding. John Potter: we're also worried about this, but have to look at long-term investments. Means we slough off less worthy properties in exchange for more worthy ones. Maybe this isn't the right one, but we have some indications it could be.

Audience (Scott): saw how public land movement succeeded on Willamette River. Canyon Creek and Beech Creek are valuable fisheries, Beech Creek more so than Canyon. OPRD report didn't delve into fisheries value much. Serpentine soils on east side of 395 in particular, driving plant communities. Can have both ag and native plant communities. Has potential to be like Smith Rock. Concerns over lack of fence maintenance and allowing weeds to increase are valid and must be dealt with in perpetuity.

Audience (Ken Brooks): Neighbor to Grouse Mt. Concerned over increased trespass, and problem would get worse if OPRD backs off management.

Bandon Exchange ~ Mt Vernon Open House, Aug. 19, 2013

For final staff report to Oregon State Parks and Recreation Commission

Economic benefits from state park land would be less since there's already so much public land here. Jim Morgan: planning needs to bring out what activities we need to introduce to bring people who wouldn't normally visit. Property isn't unique in area, but represents area well. To make operations work, we have to demonstrate the commitment even if it means shifting resources from other areas of the state. John Potter: benefits would take time – a generation or two – as interest grows.

Audience (Ken): what is the total donation from Grouse Mt. Jim Morgan: we don't know -- it will depend on appraisal.

Audience (Boyd): County Commission wasn't fully engaged. Unlike Bates, no clear vision for this property and that makes it hard to support. Morrow/Grant property allows grazing and hunting. Need to address hay, ag, hunting, water rights not just now, but into the future. Need more information before deciding. Check with ODFW to see if moving some of their land can offset this loss. ODFW and USFS and Hood River all taking property. Why not make this an educational experience with OSU or EOU in timber, hydrology, etc.. John Potter: no plan (it's

Bandon Exchange ~ Mt Vernon Open House, Aug. 19, 2013

For final staff report to Oregon State Parks and Recreation Commission

early), many of these ideas need to come into the planning process. Boyd: how will we access the park? Will it be easy?

Audience (Ken Williams): Must consult with local taxing district. Why did July meeting include a recommendation to proceed without first talking with local taxing district? If you pay ODF for fire, it doesn't come back and offset local assessments. Making good on taxes "for a while" doesn't address the long-term loss. Even small amounts every year add up to a large effect. Why not endow from acquisition funds to pay county forever? Jim Morgan: working now to figure out how to serve each of the different taxing districts. Discovering now ODF doesn't always work to cover local costs. Need to show what total addition state park makes to local coffers. Ken: make sure all districts are covered, because state payments don't go to all the districts.

Audience: OPRD doesn't understand how to get rid of serious weed problems. See Cottonwood, a very weed-infested property. Where are you going to get the money to handle problems on that property as well as this one? Where's the business plan projecting use? What about elk and the need to prevent herds from causing damage on neighboring property. Other property owners are doing

Bandon Exchange ~ Mt Vernon Open House, Aug. 19, 2013

For final staff report to Oregon State Parks and Recreation Commission

just as good a job managing and will continue paying taxes. Haven't seen salmon on Beech Cr. USFS tearing out salmon improvements because they don't work. Jim Morgan: yes, lots of weeds at Cottonwood. Funding long-term weed suppression there. Have to start and keep up the work over long period. Where we don't have a clue, we hire a clue. On elk, we work with ODFW and neighbors to use calling/hazing/sometimes hunting to prevent problems (but not considering hunting here?)

Audience (Pat): no Oregon statute compels property tax payments. Means payments could eventually stop. Current fire payment is 28% of tax bill. Feel-good statements don't pay bills. No director has the authority to compel future payments. Jim Morgan: we pay fire suppression because we want prompt service. Pat: why do you get to negotiate this, but private landowners don't? John Potter: there may not be a law, but we can enter into a formal agreement and work with the county through planning. Pat: but it's not a guarantee.

Audience (Pat): Malheur is 2 million acres, and it's enough.

(Audience) Ernie: where are the property lines? Will they be surveyed if this goes forward? Fence isn't accurate. Jim Morgan: Yes.

Bandon Exchange ~ Mt Vernon Open House, Aug. 19, 2013

For final staff report to Oregon State Parks and Recreation Commission

Audience (Shaun): only thing at Grouse that isn't present on other public land is the large house. Is that the motivation? Weeds aren't only problem at Murtha. You removed grazing and farming. Do you intend to open this stretch to wealthy fly-fisher without regulation? OPRD isn't prepared to change from being facility and people manager to large-scale landscape manager. Can't buy it first and deal with these questions later. Grant County people made the landscape and river system a success, now you want to take it and use it. You don't need this. Move on. Serpentine soils found elsewhere, for instance.

Audience (Ken): what are priority dates for water rights. Jim Morgan: don't know. Ken: If we choose not to irrigate for 7 years, it becomes an in-stream right that could affect Mt Vernon. Jim Morgan: OPRD tries to use water rights it owns. Irrigating at Cottonwood, for instance.

Audience: do Grant County's wishes matter. Answer: yes.

Audience (Cliff): what is the measure of success you must achieve before you can stop paying the in-lieu taxes? Visits? Something else? John Potter: will negotiate with county on this very point.

Bandon Exchange ~ Mt Vernon Open House, Aug. 19, 2013

For final staff report to Oregon State Parks and Recreation Commission

Jim Morgan: issue isn't settled. Audience: but you are recommending commission move forward, as evidenced by appraisal and addition of property to priority acquisition list. Jim Morgan: appraisal is how we learn about property. Each acquisition on priority list is at different stage. Not every property on list reaches final point, and has to go to commission for final approval. Audience: Cart before the horse because county hasn't been appropriately involved yet. Jim Morgan: getting the steps for acquisitions in the right order is tricky.

Audience: when was first contact with the county judge on this issue. Seems like OPRD is already decided to buy. Why bother asking now? John Potter: not all appraisals result in a sale. There is no decision yet. Earliest decision will be November.

Audience: distasteful to try and keep it secret.

Audience: private landowner can sell to whomever he wants, but when the state is a buyer, the public has a right to influence the decision. We can't afford the impact on water rights.

Bandon Exchange ~ Mt Vernon Open House, Aug. 19, 2013

For final staff report to Oregon State Parks and Recreation Commission

Grant County Stockowners are against project. Transportation is too weak; there are too few tourists to make a difference.

Audience: would another state park help Clyde Holliday cope with overflow?
Dennis Bradley, Clyde Holiday Park Manager: Bates and Unity handle some overflow, but this would be closer to keep economic impact local.

Audience: will there be a day-use fee, and can this be used to fund weed control? What about prescribed fire.

Audience: traffic is increasing. Some could be tourism, and park could help.
Some

Audience: there's already enough public land in Grant County. Jim Morgan: the system does change, growing usually, but shrinking at times. Understand Grant County feels strongly about not adding more public lands to county.

Bandon State Natural Area/Whale Cove/Grouse Mountain Exchange Open Houses

Aug. 16, 2013, Bandon, Oregon ~ Aug. 19, 2013, Mt Vernon, Oregon

The Oregon State Parks and Recreation Commission received a staff report at its July meeting on a land trade proposal from Bandon Biota related to Bandon State Natural Area. Bandon Biota is described as a private "conservation land holding entity" owned by Michael Keiser, owner of Bandon Dunes and other local golf courses. Bandon Biota proposes to use part of the land they've requested -- a 280 acre piece of the 878 acre Bandon State Natural Area -- to create a new golf course.

The Oregon Parks and Recreation Department and representatives with Bandon Biota have created a framework for an agreement to exchange a 280 acre portion of 878-acre Bandon State Natural Area in trade for:

- 111 acres of property next to the Natural Area.
- 97 acres on Coquille Spit north of Bandon.
- As much as \$2.95 million in cash, part of which helps match a grant to acquire 10 acres of Whale Cove in Lincoln County, and part would purchase 6,100 acres of the Grouse Mountain property in Grant County for use as a future state park.
- An easement to move a section of the Oregon Coast Trail from a county road to a dedicated path on private land north of Bandon.
- \$300,000 work of gorse control in Coos and Curry counties.

No decision has been made. Two public meetings – one in Bandon, one in Mount Vernon in Grant County – were held in August to listen to citizen concerns before presenting a final report to the Commission for their consideration. The earliest the Commission could make a decision is at the November 2013 meeting in Corvallis. There is no agreement to purchase or trade any land unless the Commission acts to authorize Oregon Parks and Recreation Department staff to draft those agreements.

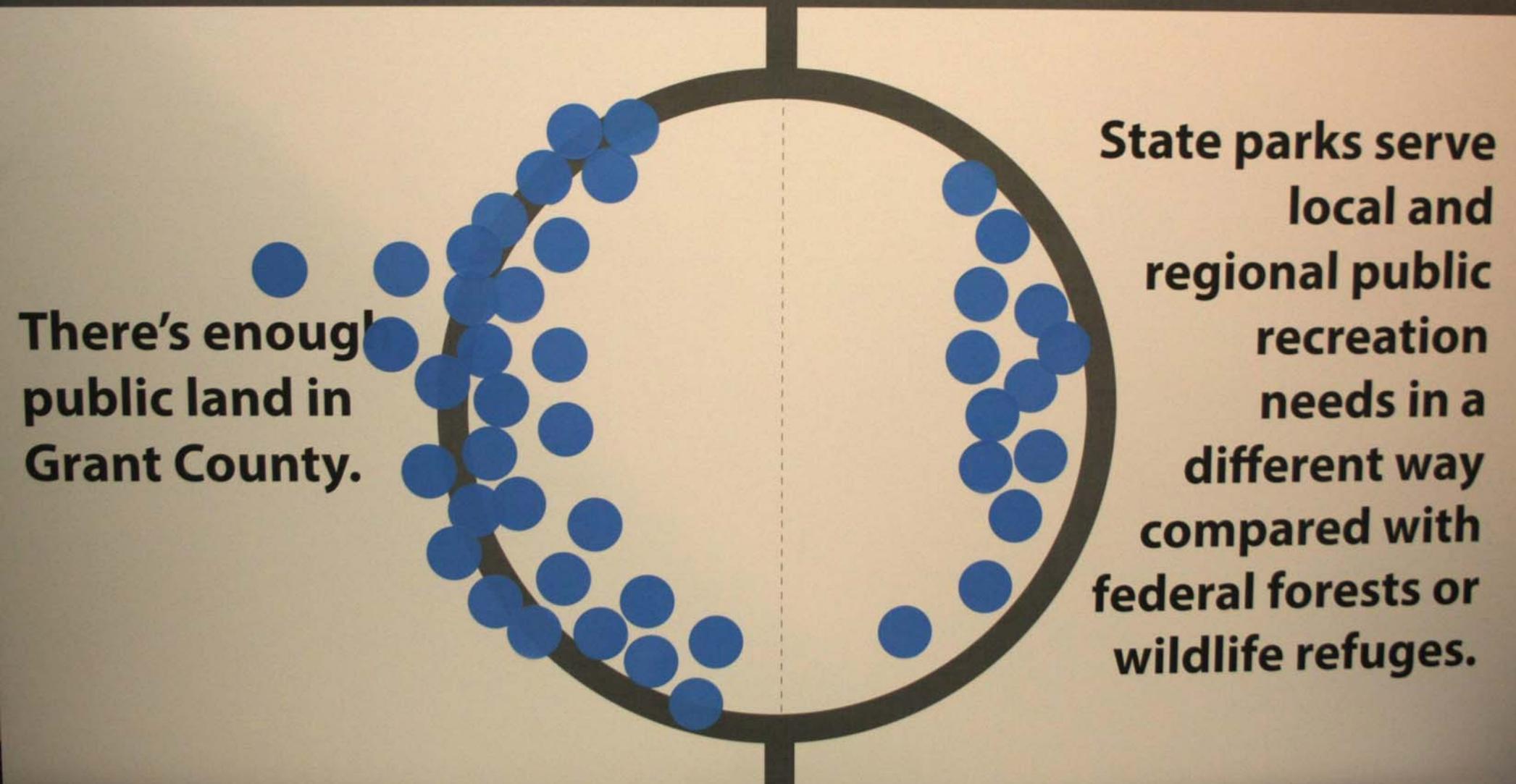
During the public meetings, members of the audience were asked to cast votes on what appeared to be the most important issues related to the proposed exchange. Each audience was presented with a series of statements based on comments already received by the department through email and letters. The voting did not occur at the Bandon meeting until the very end, after some audience members had already left.

Audience members expressed their views in two ways when they voted: first, they placed an adhesive dot inside a circle closest to the statement that best reflected their own opinion. The closer their dot to the edge of the circle, the more strongly they held the opinion. Second, each member had four dots to use, and could place multiple dots on the same statement if they felt it deserved more attention than other issues.

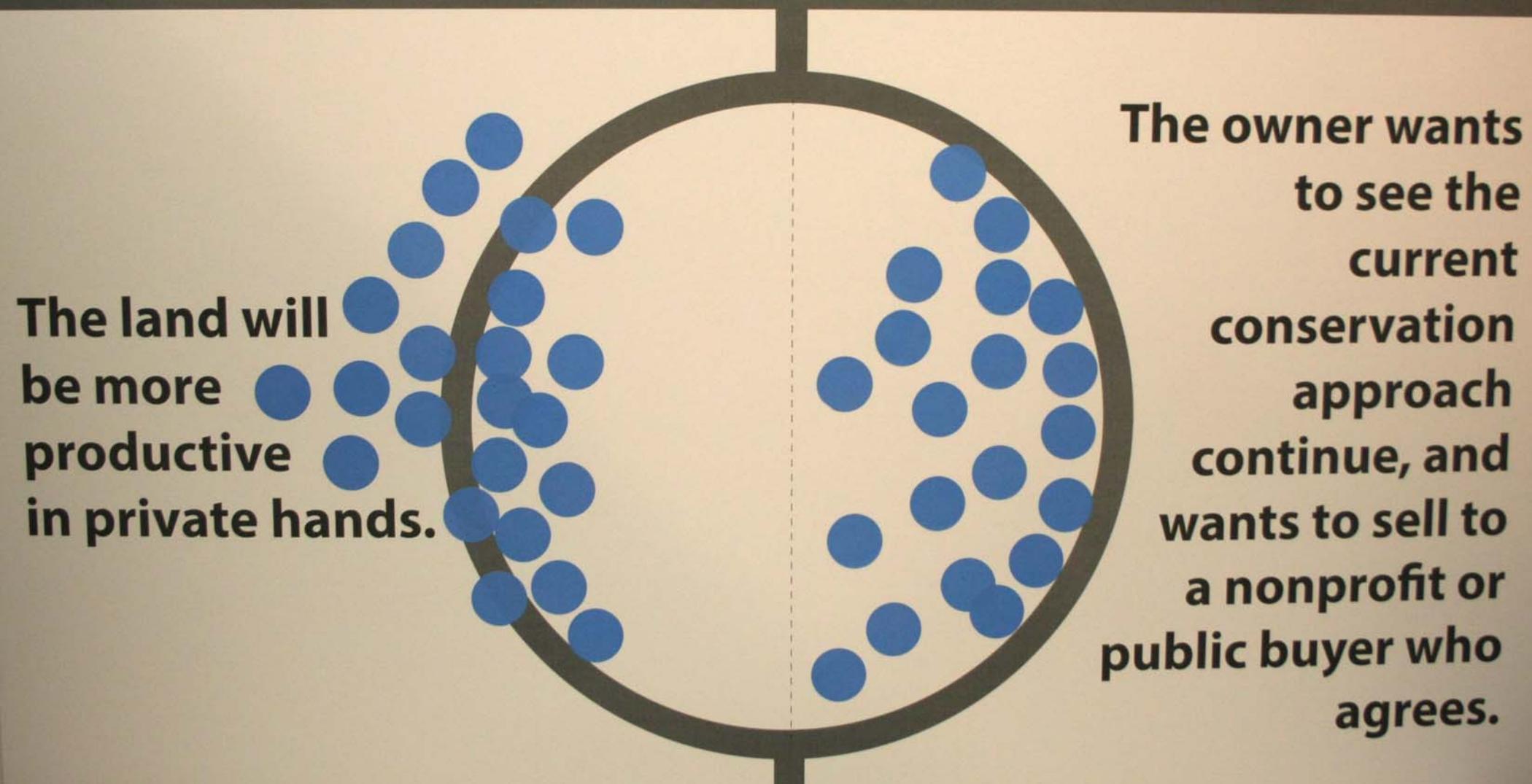
Mt Vernon Meeting // Aug. 19, 2013

Bandon State Natural Area // Whale Cove // Grouse Mountain Exchange

Are all public lands the same?

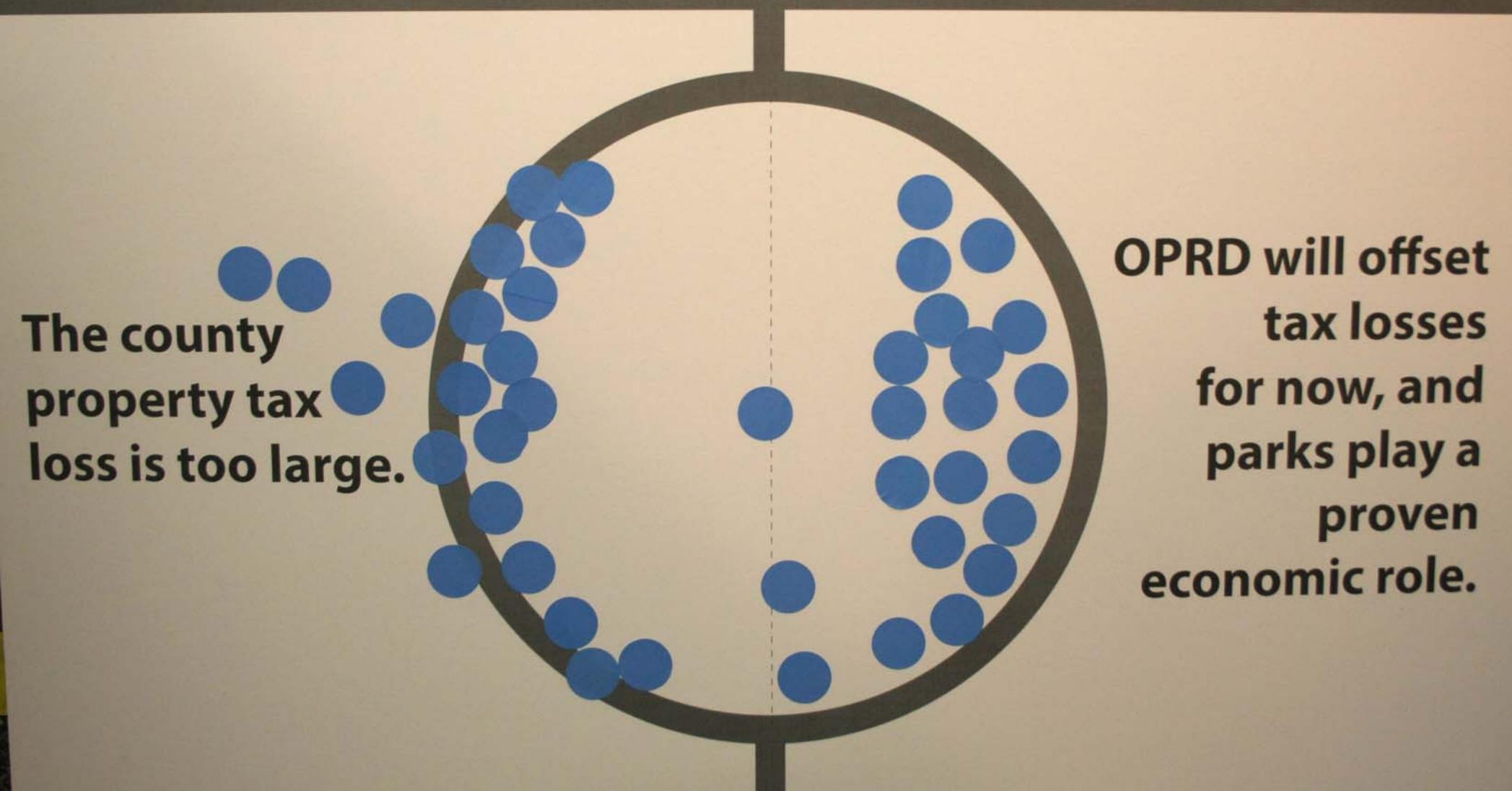


Productivity



Bandon State Natural Area // Whale Cove // Grouse Mountain Exchange

Taxes



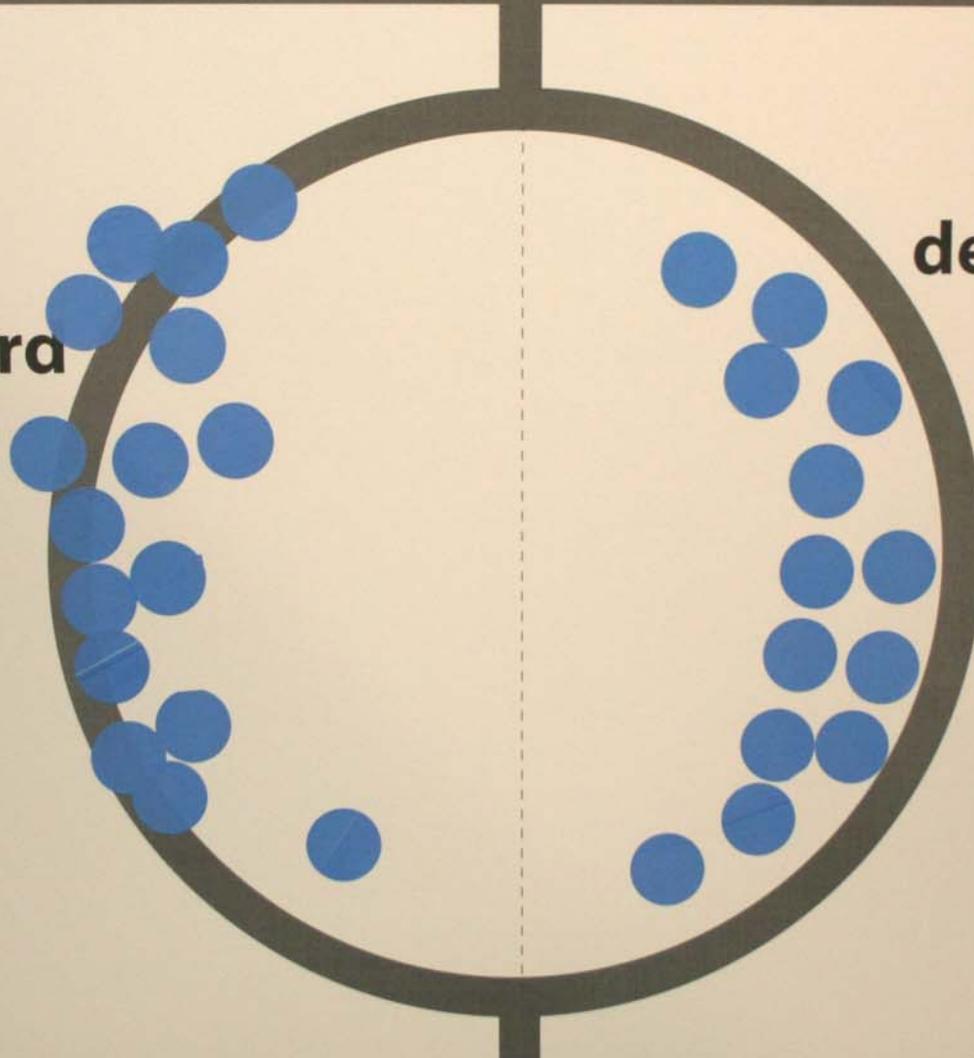
The county property tax loss is too large.

OPRD will offset tax losses for now, and parks play a proven economic role.

Bandon State Natural Area // Whale Cove // Grouse Mountain Exchange

Responsible owner

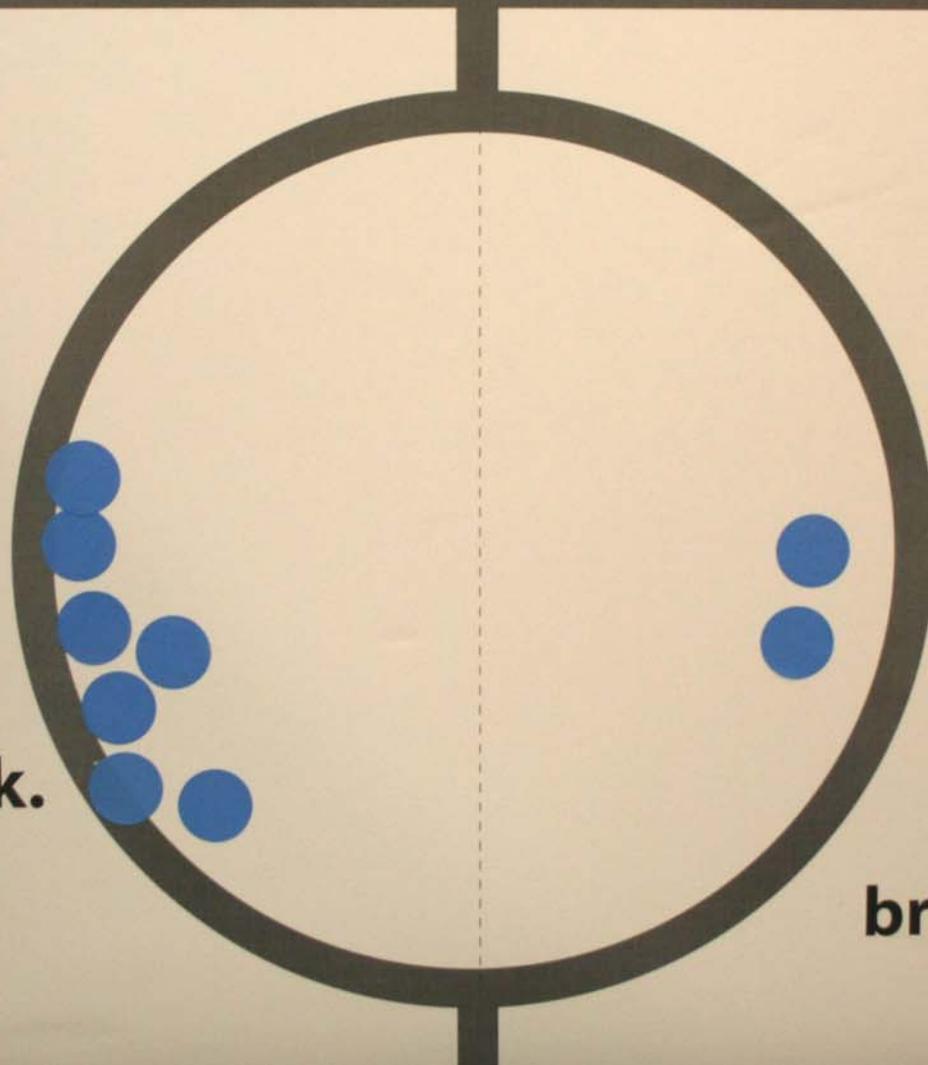
OPRD can't afford to maintain large pieces of property correctly.



State Parks has dedicated funding and revenue from park visitors, ag leases, grants and timber management to restore native plants.

What is a state park?

There's nothing special about Grouse Mt, so it doesn't qualify to be a state park.

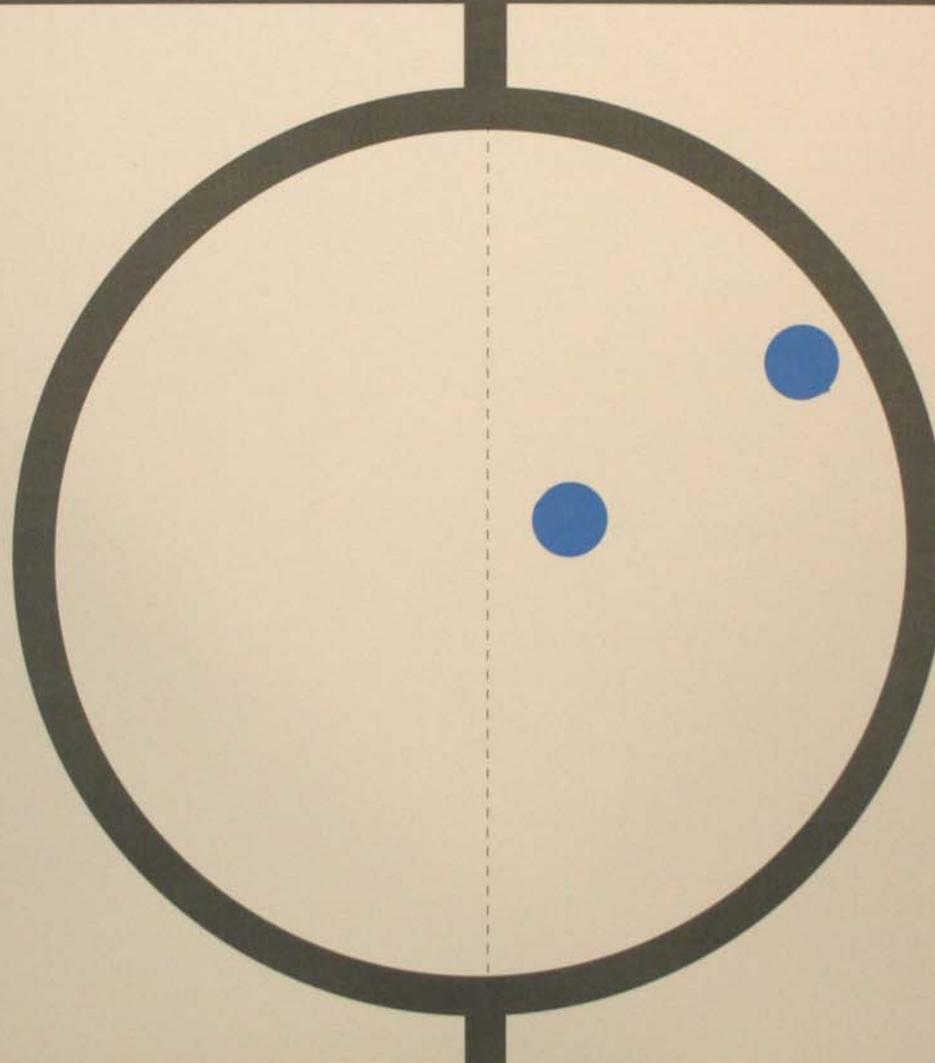


We pursue high-quality land with strong recreation value that presents the character of a region to a broader audience.

Bandon State Natural Area // Whale Cove // Grouse Mountain Exchange

Does the state park system change?

The state park system doesn't need to change.



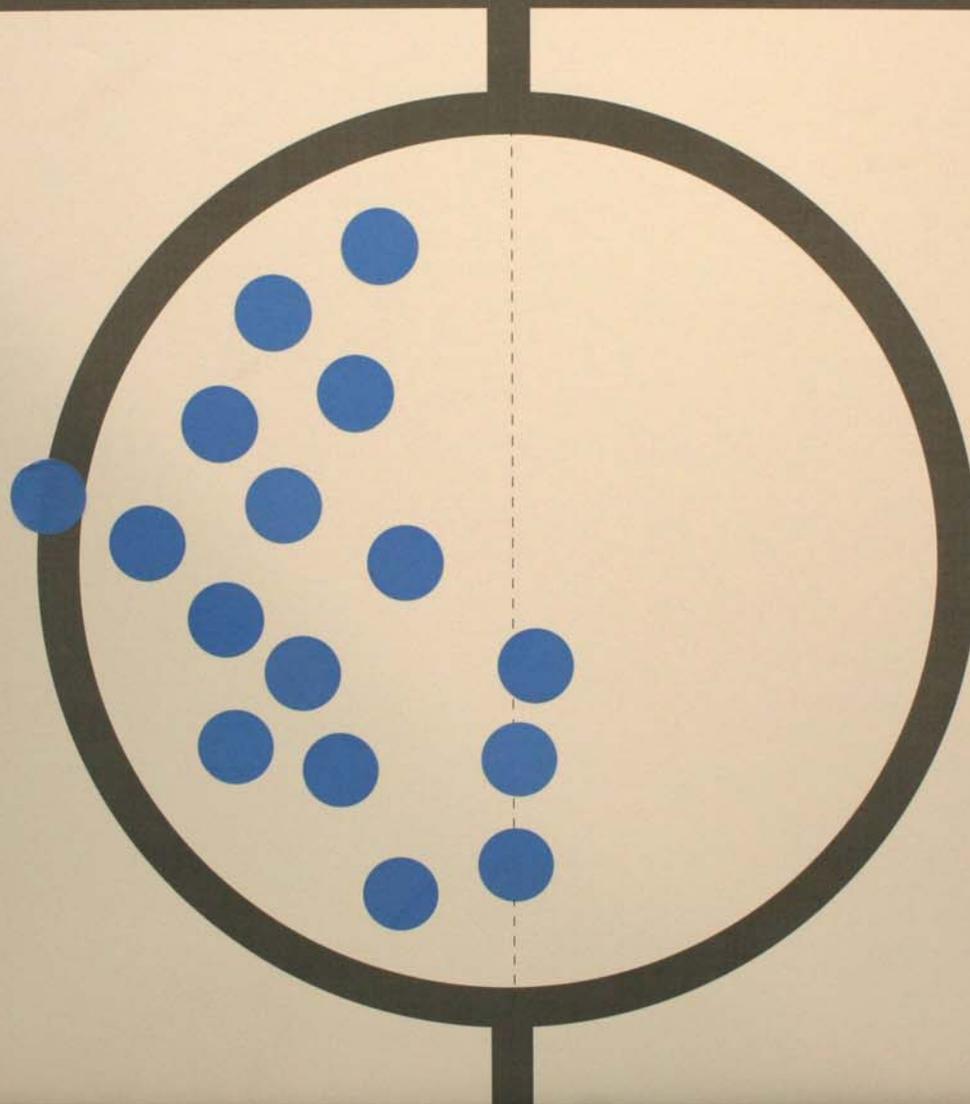
Shifts and investment in the state park system are the best ways to serve the next generation.

Bandon Meeting // Aug. 16, 2013

Bandon State Natural Area // Whale Cove // Grouse Mountain Exchange

Is it OK to change coast property from public to private?

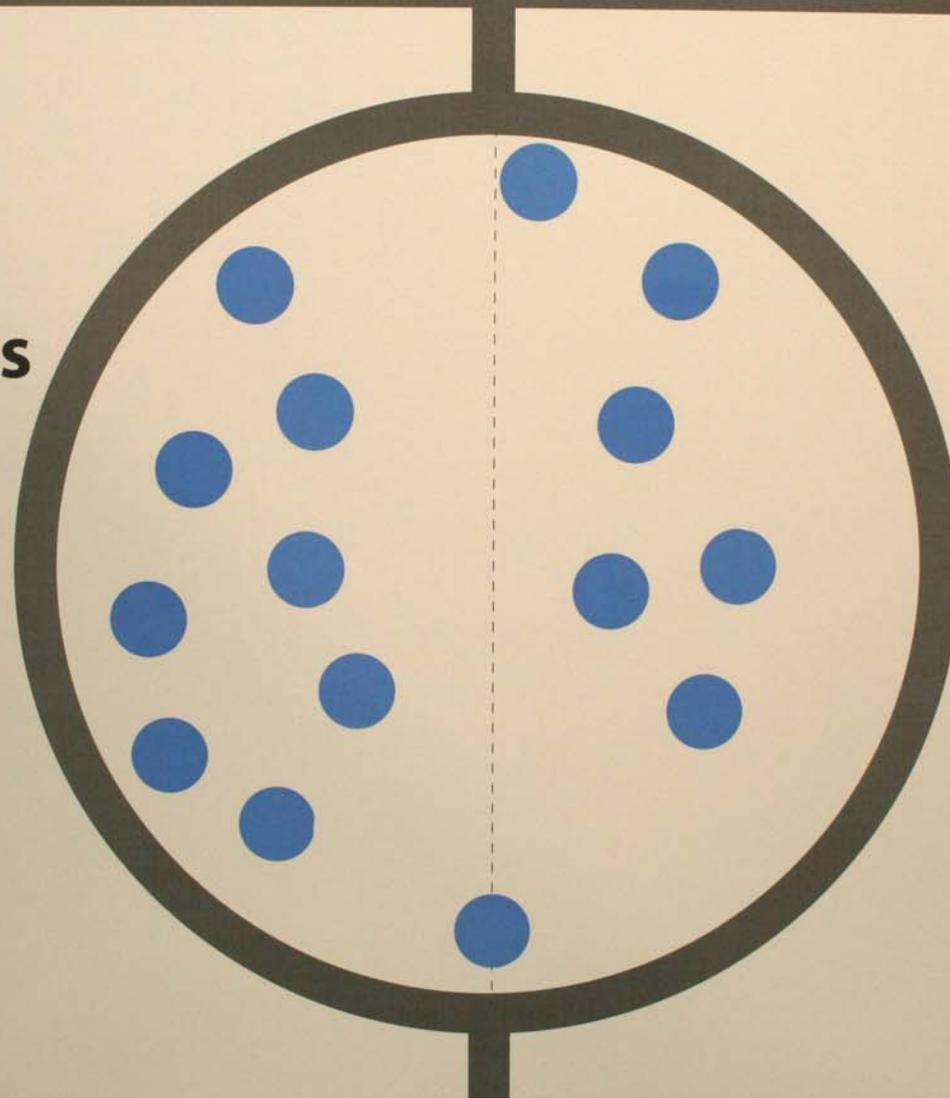
Public coast property should never leave public ownership.



If you can gain more than you lose for the coast system, change is good.

How will resources be affected by an ownership change?

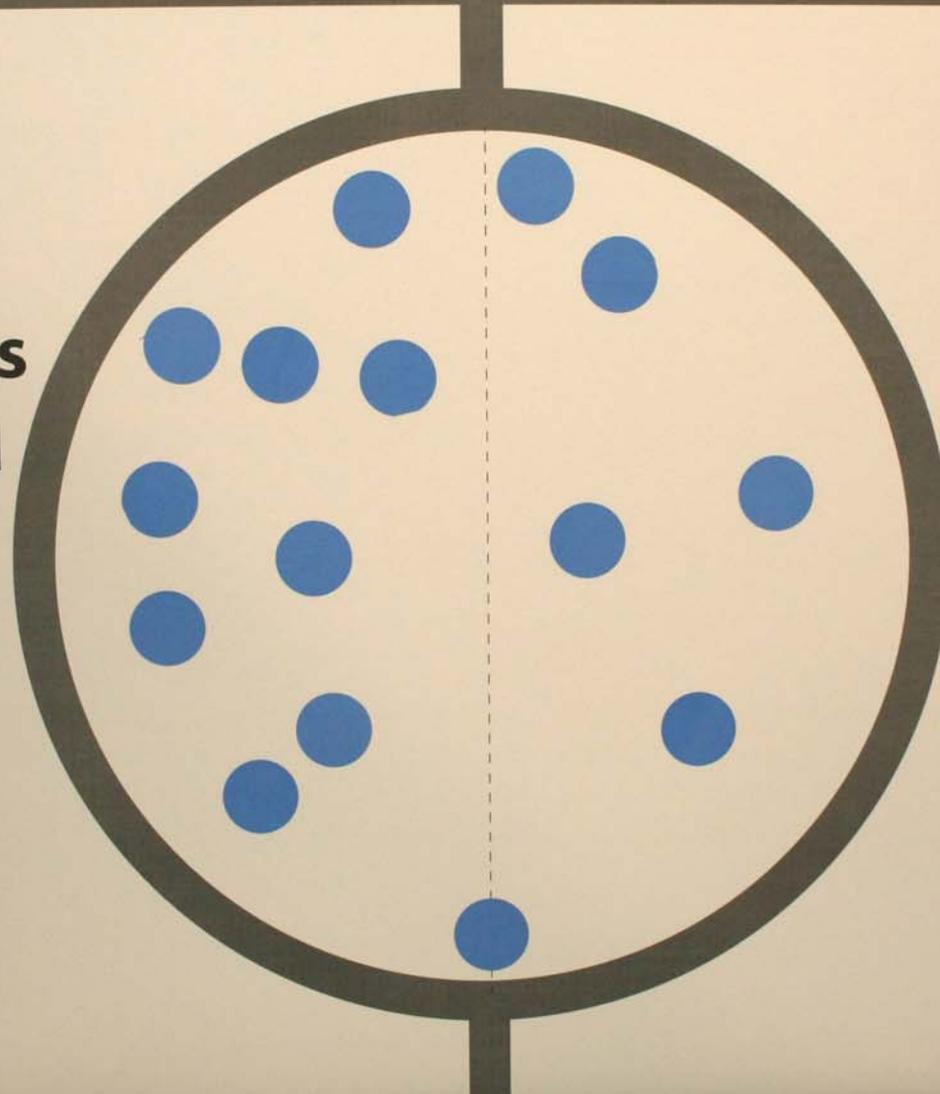
Natural resources will be harmed by transfer to private ownership.



Conservation easements and keeping key areas public can ensure long-term protection.

How will recreation access to the dunes and shore change?

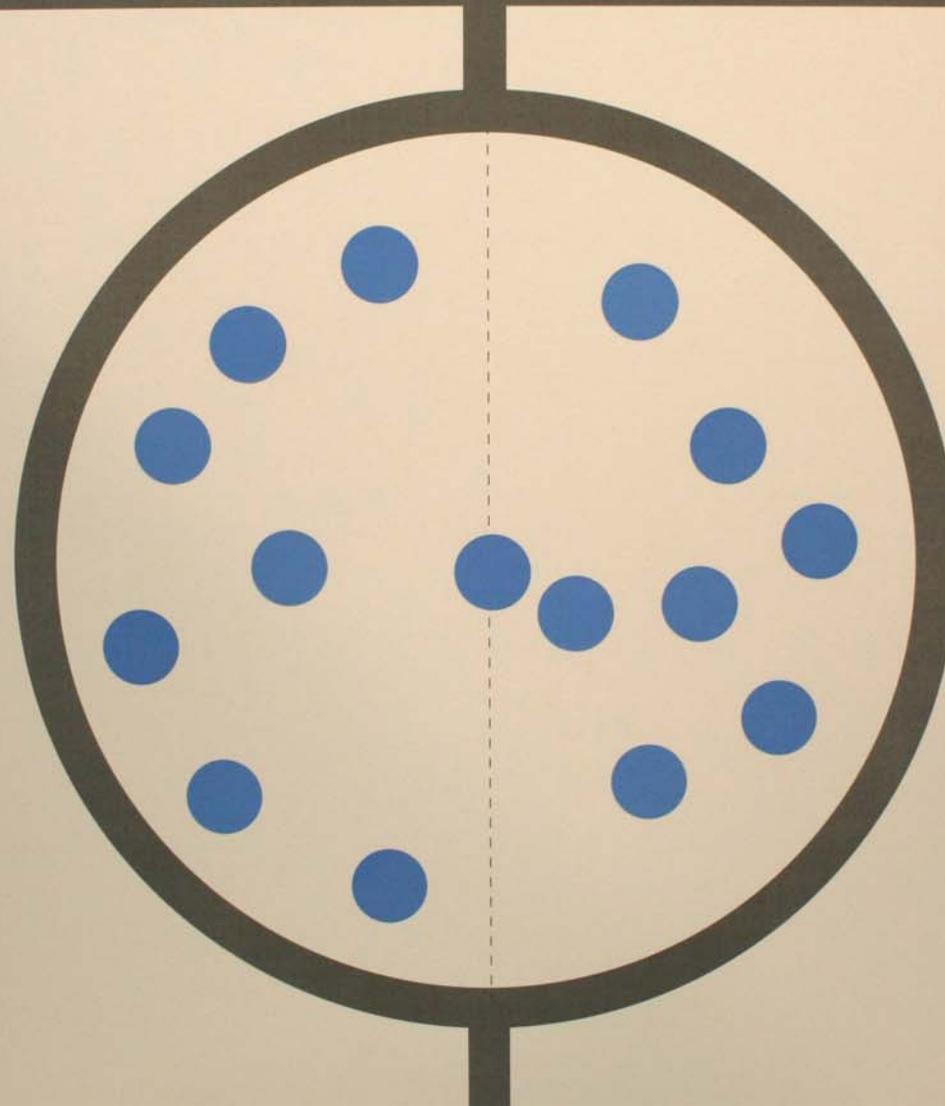
Recreation access to the dunes and shore will suffer under private ownership.



Recreation easements or rerouted trails can preserve recreation opportunities.

How will land development affect neighboring parks?

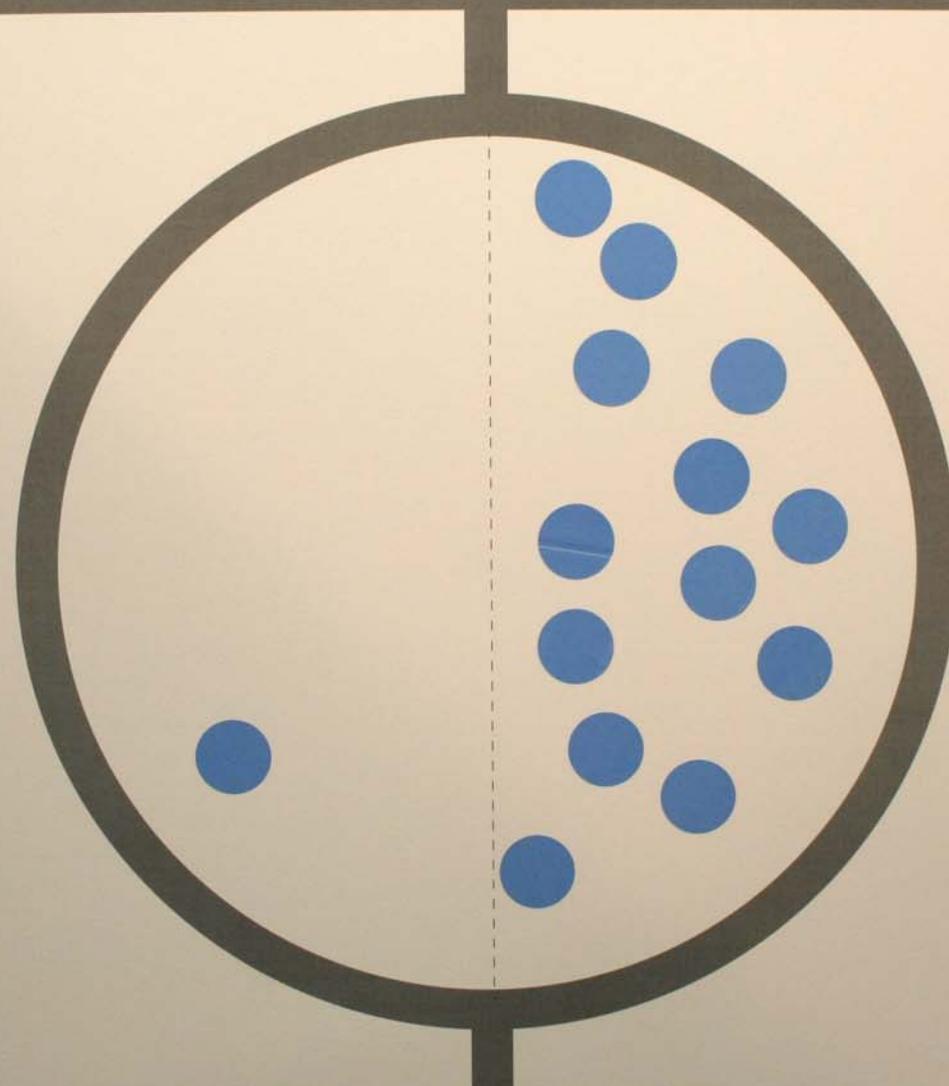
Encouraging private development immediately adjacent to a park is bad.



Dispersed, walking-only private recreation is OK next to public recreation.

Does the state park system change?

The state park system doesn't need to change.



Shifts and investment in the state park system are the best ways to serve the next generation.

Oregon Parks and Recreation Commission

September 24, 2013

Agenda Item: 6b

Action

Topic: Milo McIver State Park – PGE Exchange

Presented by: Kammie Bunes

Background: Adjacent to the boundaries of Milo McIver State Park there are properties owned by Portland General Electric (PGE) that have current and future potential recreational uses by park visitors. Some of this adjacent PGE ownership consisted of what once were “islands” within the Clackamas River. Over time, these “islands” have accreted and are now contiguous river front lands abutting park property. This new river front creates trespass and enforcement issues as park visitors assume the park property extends to the river, but park rangers don’t have official jurisdiction on these lands.

These issues became part of a discussion with PGE regarding a potential salmon enhancement project. OPRD suggested a land exchange wherein PGE would transfer ownership of two former “islands” and associated accreted land to OPRD, and OPRD would transfer land that was once primarily submerged lands, adjacent to PGE ownership. The configuration of this proposed exchange is shown on the attached map.

The proposed exchange of lands would benefit park users and managers and would facilitate the PGE-sponsored salmon habitat enhancement project referred to as the McIver Park Project. This restoration project would be complementary to recreational uses within Milo McIver State Park and would include interpretive signage about healthy rivers and salmon habitat. PGE is willing to do an equal-value exchange and pay the associated cost of appraisal, due diligence and escrow.

Prior Action by Commission: July 17, 2013 - Informational Agenda Item

Action Requested: Staff requests approval to proceed with this land exchange conditioned upon an appraisal confirming the land received by OPRD is equal to or greater in value than the land being conveyed to PGE.

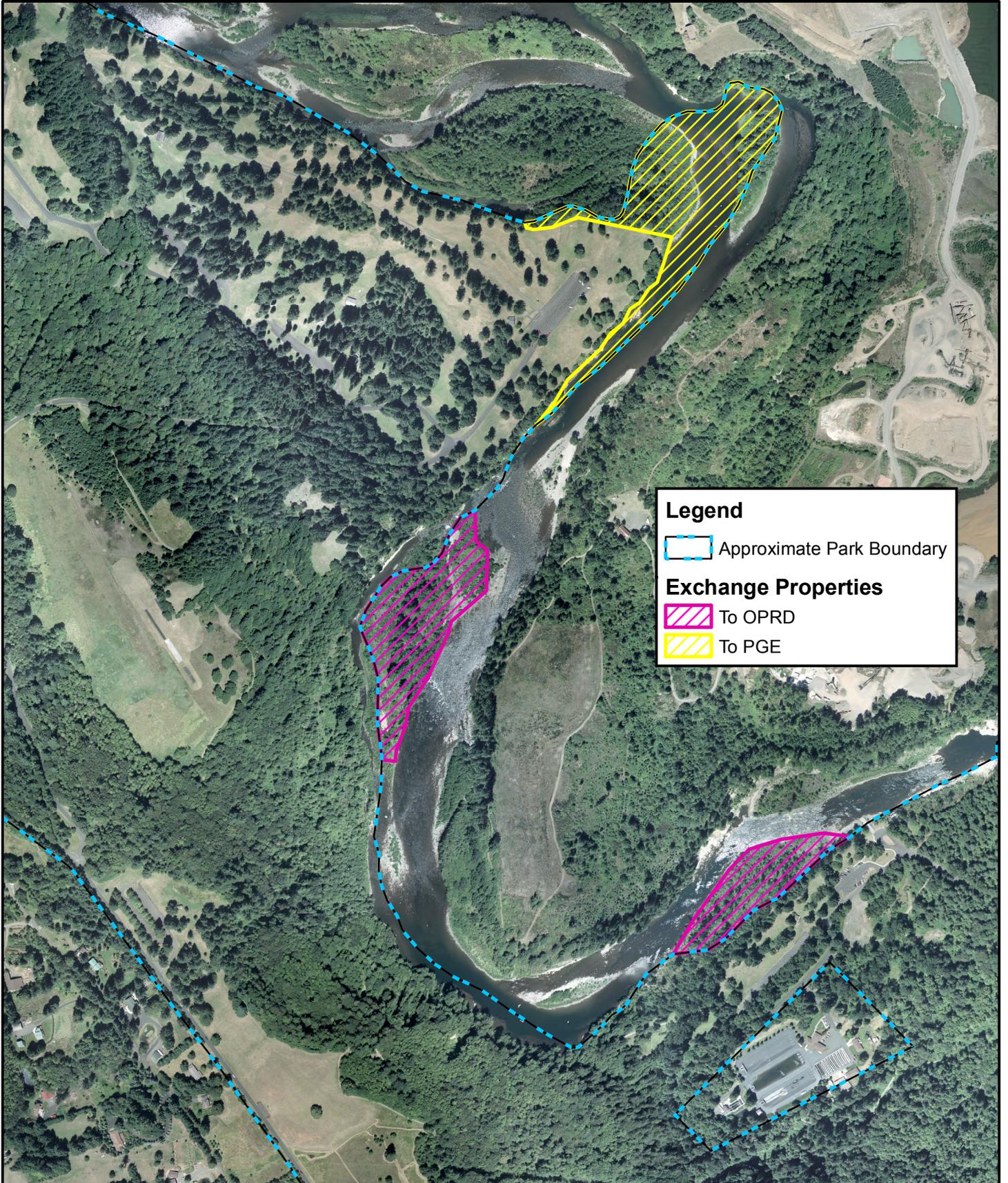
Attachments: Map

Prepared by: Alice Beals

Milo McIver State Park

Agenda Item 6.b Land Exchange with PGE

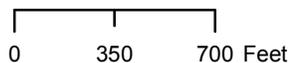
Oregon Parks & Recreation Dept.
725 Summer St. NE, Suite C
Salem OR, 97301



Legend

- Approximate Park Boundary
- Exchange Properties**
 - To OPRD
 - To PGE

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.



NMOB-02888 8/29/2013

E:8/29/2013

P:never

Oregon Parks and Recreation Commission

September 24, 2013

Agenda Item: 6c Action

Topic: Ona Beach/Brian Booth State Park - ODOT Purchase Option Agreement

Presented by: Kammie Bunes

Background: In 2001, Oregon Parks and Recreation Department (OPRD) sold to Oregon Department of Transportation (ODOT) a 17-acre parcel adjacent to Ona Beach State Park in Lincoln County and shown on the attached map (Exhibit A). ODOT subsequently developed the property as a district maintenance facility consisting of office and shop space. OPRD has since acquired land to the east and south of the ODOT facility to form Brian Booth State Park, and is currently in the planning process to identify locations for future camping and trail facilities.

OPRD has contemplated acquisition of the ODOT property since learning ODOT is interested in relocating its operation from this site to an as yet identified location that will provide for improved emergency response. Acquisition of the ODOT property will serve an immediate need for a larger office space for Region operations, as an operations center for future development of Brian Booth State Park, and as the main contact station for visitors to the park. The 2013-15 Acquisition Priority list, approved by the Commission in July 2013, includes acquisition of this property via a purchase option agreement.

The attached Memorandum of Understanding between OPRD and ODOT (Exhibit B) sets forth the terms and conditions of a proposed purchase option agreement (Agreement) that would allow OPRD to immediately co-locate with ODOT at the site and to exercise the option to acquire the property anytime within the next twelve years, dependent upon when funds become available. In turn, ODOT may remain at the site until OPRD acquires the property and then for a hold over period if they have not yet located a replacement site by the time OPRD takes title to the property. The Agreement represents a more efficient use of resources and accommodates administrative needs for both agencies.

Pursuant to Oregon Department of Justice counsel, the value of the property will be determined by appraisal standards that meet both ODOT and OPRD rules at the time OPRD is able to exercise its option. OPRD staff is requesting Commission approval to enter into this Agreement since a portion of each monthly payment to ODOT will go toward the purchase price. Staff will seek Commission action in a future year when the purchase price is has been met and OPRD is prepared to exercise the option.

Prior Action by Commission: Executive Sessions May and July 2013; site visit July 15, 2013; Informational Agenda Item July 17, 2013.

Action Requested: Staff recommends the Commission approve entering into the purchase option agreement.

Attachments: Map; Memorandum of Understanding.

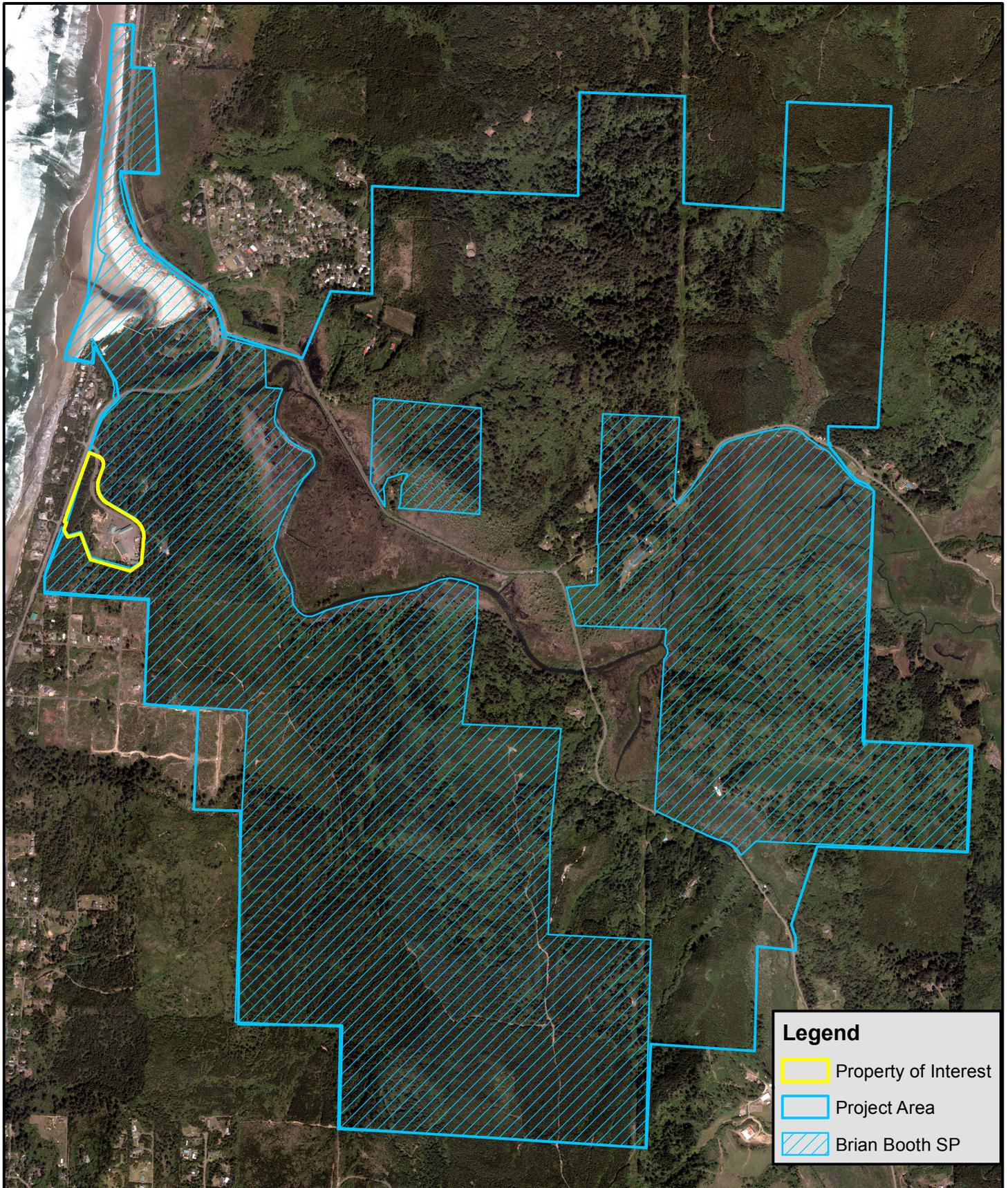
Prepared by: Kammie Bunes

Brian Booth State Park

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



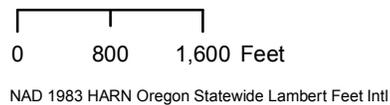
Agenda Item 6c: ODOT Purchase Option Agreement



Legend

- Property of Interest
- Project Area
- Brian Booth SP

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.



NMOB-3675 7/3/2013
E:7/3/2013
P:never
amb 7/3/2013

MEMORANDUM OF UNDERSTANDING
between
STATE OF OREGON DEPARTMENT OF TRANSPORTATION
and
STATE OF OREGON OREGON PARKS AND RECREATION DEPARTMENT
for
Ona Beach Maintenance Site

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made and entered into on this 29th day of August, by and between the State of the Oregon, acting by and through its Department of Transportation (“ODOT”) and the State of Oregon, acting by and through its Parks and Recreation Department (“OPRD”), both hereinafter referred to individually or collectively as “Party” or “Parties.”

RECITALS

1. By the authority granted in Oregon Revised Statute (ORS) 190.110 and 283.110, state agencies may enter into agreements with units of local government or other state agencies for the performance of any or all functions and activities that a party to the agreement, its officers, or agents have the authority to perform.
2. The Ona Beach Maintenance Site (the “ODOT Property”), as described in attached Exhibit A, was acquired by ODOT in October of 2001 from OPRD. The ODOT Property consists of 17.03 acres (+/-), with a number of buildings and other improvements. It is surrounded by land owned by OPRD, except for the western boundary of the ODOT Property, which abuts Highway 101. The ODOT Property is subject to a Communications Site Lease with New Cingular Wireless PCS, LLC.
3. The ODOT Property is currently accessed from Highway 101 through a portion of a parcel owned by OPRD (Tax Lot 500) and located on the north side of the ODOT Property (the “OPRD Parcel”), as shown on Exhibit B. The portion of the OPRD Parcel used to access the ODOT Property is the “Access Area.” The Access Area is 12,878 square foot (+/-). With OPRD’s permission, ODOT has used this Access Area free of charge, in lieu of constructing a new entrance directly from Highway 101 to the ODOT Property.
4. Since its acquisition of the ODOT Property, ODOT has utilized it as a maintenance office to service the needs of ODOT’s District 4. ODOT is interested in relocating its District 4 operations from the ODOT Property to a location that is more appropriate for both staff size and emergency response; however, an alternative site and appropriate funding have yet to be identified.
5. OPRD’s current regional office is located in Newport, Oregon, the lease for which will expire on September 30, 2013. OPRD is interested in acquiring the ODOT Property to relocate its regional office from Newport and to serve future OPRD development on adjacent lands; however, OPRD has not yet identified appropriate funding or exchange properties for such an acquisition.

6. Based on the foregoing considerations, the Parties have agreed to enter into a binding agreement (the "Agreement") on or before September 24, 2013, for OPRD's lease of portions of the ODOT Property and possible purchase of the entire ODOT Property, on the terms and conditions set forth below. The Agreement will enable OPRD to relocate its operations to the ODOT Property beginning September 24, 2013, with the option to purchase the ODOT Property at a future date (the "Purchase Option"), and will allow ODOT sufficient flexibility to identify, develop and relocate its District 4 operations to a different location.

NOW THEREFORE, the Parties agree as follows:

TERMS AND CONDITIONS

1. OPRD's Relocation. Beginning September 24, 2013, OPRD shall relocate its operations to, and lease from ODOT, the following portion of the ODOT Property: 3,100 square feet of office space, 3,081 square feet of outside covered storage space and sufficient parking (together the "OPRD Use Areas").

2. Contingencies. The Parties' execution of the Agreement is contingent on the following:

(a) *Surplus Property Process*. The final approval of ODOT's formal Surplus Property Process by the Oregon Department of Administrative Services ("DAS") and ODOT's State Right of Way Manager.

(b) *State Parks and Recreation Commission Approval*. The written approval of the State Parks and Recreation Commission for OPRD's execution of the Agreement.

(c) *DAS Requirements*. OPRD obtaining from DAS any and all applicable approvals required for OPRD's termination of its existing lease in Newport.

3. Terms and Conditions of the Agreement. On or before September 24, 2013, the Parties will use their best efforts to finalize and execute the Agreement, which will include the following provisions, without limitation:

(a) *Term*. The term of the Agreement will be twelve (12) years, unless terminated or extended by the Parties.

(b) *OPRD's Lease of the OPRD Use Areas*. For the term of the Agreement or until OPRD closes on its purchase of the ODOT Property pursuant to the Purchase Option:

(i) OPRD will lease from ODOT the OPRD Use Areas, for \$2,000 per month (the "Monthly Lease Payment"). The Parties agree that the Monthly Lease Payment, in conjunction with the other consideration set forth herein, is the fair market rental value for the OPRD Use Areas. The Parties additionally agree that should OPRD exercise the Purchase Option in Section 3(c), a portion of the Monthly Lease Payment, as outlined in Section 3(c)(iii)(AA), will be applied to the Purchase Price.

(ii) OPRD will ensure there is adequate insurance coverage for the OPRD Use Areas, and pay a proportionate share of utilities, property taxes (if any), and janitorial supplies and services that the Parties agree are necessary.

(iii) In the event OPRD breaches the Agreement and the Agreement is thereby terminated, OPRD will return the OPRD Use Areas to ODOT in the same condition as at the beginning of the Agreement, and ODOT will retain all Monthly Lease Payments to date.

(c) *Purchase Option.* OPRD may exercise the Purchase Option at any time during or at the end of the term of the Agreement, on the following general terms and conditions:

(i) Purchase Price. The purchase price for the ODOT Property (the "Purchase Price") will be its fair market value at the time OPRD exercises the Purchase Option. The Purchase Price will be determined by an appraisal, conducted in accordance to the Uniform Standards of Professional Appraisal Practice to establish the fair market value represented by the fee simple value of the ODOT Property at the time of appraisal.

(ii) Exercising the Purchase Option; Closing. OPRD may exercise its Purchase Option at any time during the Agreement prior to thirty (30) days before the last day of the term. The closing of OPRD's purchase of the ODOT Property pursuant to the Purchase Option will take place within sixty (60) days after OPRD's exercise of the Purchase Option.

(iii) Payment of Purchase Price.

(AA) \$1,400 of every Monthly Lease Payment made by OPRD, beginning on September 24, 2013, will be applied to the Purchase Price.

(BB) During the term of the Agreement, the Parties will work together to identify any credits, such as existing interagency agreements, identified and quantifiable agency benefits, or acceptable property or facility exchanges, which may be applied to the Purchase Price.

(CC) At the closing of OPRD's purchase of the ODOT Property, OPRD will pay the balance of the Purchase Price through funds, exchange properties or interagency agreements that have been accepted as consideration of the ODOT Property, and ODOT will transfer to OPRD fee simple title to the ODOT Property.

(iv) State Parks and Recreation Commission Approval. OPRD's ability to exercise the Purchase Option is contingent on the written approval of the State Parks and Recreation Commission.

(d) *ODOT's Use of ODOT Use Areas.*

(i) During the term of the Agreement, ODOT will continue to use the remaining portion of the ODOT Property (the "ODOT Use Areas"), in such a manner so as to not disturb or interfere with OPRD's use of the OPRD Use Areas.

(ii) If, as of the last day of the term of the Agreement, OPRD has exercised the Purchase Option, and ODOT has not yet secured a new location for its District 4 operations, OPRD will allow ODOT to lease the ODOT Use Areas in a manner that accommodates ODOT's daily operational, space and maintenance needs, for up to four (4) additional years, such lease to be on the same lease terms set forth in Section 3(b) above. Upon closing of the purchase of the ODOT property, OPRD, as the owner of the ODOT Property, may plan or execute redevelopment of the ODOT Property that aligns with OPRD's long-term plan for the ODOT Property.

(iii) If, pursuant to Section 3(c), OPRD closes on the purchase of the ODOT Property pursuant to its exercise of the Purchase Option before the expiration of the term of the Agreement, and ODOT has not yet secured a new location for its District 4 operations, ODOT may, through the remainder of the term of the Agreement, lease the ODOT Use Areas from OPRD in a manner that accommodates ODOT's daily operational, space and maintenance needs on the same lease terms set forth in Section 3(b) above with the exception that ODOT will pay \$0 per month in a Monthly Lease Fee. Upon closing of the purchase of the ODOT Property, OPRD, as the owner of the ODOT Property, may plan or execute redevelopment of the ODOT Property that aligns with OPRD's long-term plan for the ODOT Property. At the expiration of the term of the agreement, if ODOT has still not yet secured a new location for its District 4 operations, ODOT will be offered the lease terms described in 3(d)(ii) above.

(e) *Access Area.* During the term of the Agreement and any extension thereof, ODOT may continue to use the Access Area, at no charge.

4. MOU.

(a) *Nonbinding.* This MOU is a nonbinding proposal. It is not, and should not be construed as, a binding commitment by either Party. Notwithstanding the signing or delivery of the Memorandum, any past, present or future actions, or approvals by either Party based upon this MOU, neither Party is under any legal obligation with respect to the intentions outlined herein.

(b) *Amendments.* The terms of this MOU will not be amended, altered, modified and supplemented in any manner whatsoever, except by written agreement signed by the Parties.

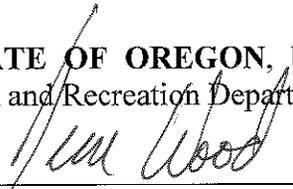
(c) *Termination.* This MOU will remain in effect until the execution of the Agreement, unless the Parties agree to extend or earlier terminate it with 60-days written notice.

(d) *Counterparts.* This MOU may be executed in several counterparts, all of which when taken together will constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this MOU so executed will constitute an original.

[Remainder of this page intentionally left blank]

THE PARTIES, by execution of this MOU, hereby acknowledge that their signing representatives have read this MOU, understand it, and agree to its terms and conditions.

STATE OF OREGON, by and through its
Park and Recreation Department

By 
Tim Wood, Director

Date 8/29/13

STATE OF OREGON, by and through its
Department of Transportation

By _____
Rick Crager, State Right of Way Manager

Date _____

OPRD Contact:

Kammie Bunes, Acquisition and Property
Specialist
Oregon Parks and Recreation Dept.
725 Summer St NE, Suite C
Salem, OR 97301
(503) 986-0630
Kammie.Bunes@state.or.us

APPROVAL RECOMMENDED

By _____
Sonny Chickering, Region 2 Manager

Date _____

ODOT Contact:

Steve Eck, Senior Property Agent
4040 Fairview Industrial Dr SE
Salem, OR 97302
(503) 986-3638
steve.eck@odot.state.or.us

EXHIBIT A

B434 P1225

DATE: November 5, 1998

Exhibit "A"

Description of a Parcel of Land

PARCEL

A PARCEL OF LAND, SITUATED IN THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 12 SOUTH, RANGE 11 WEST, OF THE WILLAMETTE MERIDIAN, IN THE COUNTY OF LINCOLN, AND STATE OF OREGON, DESCRIBED AS FOLLOWS:

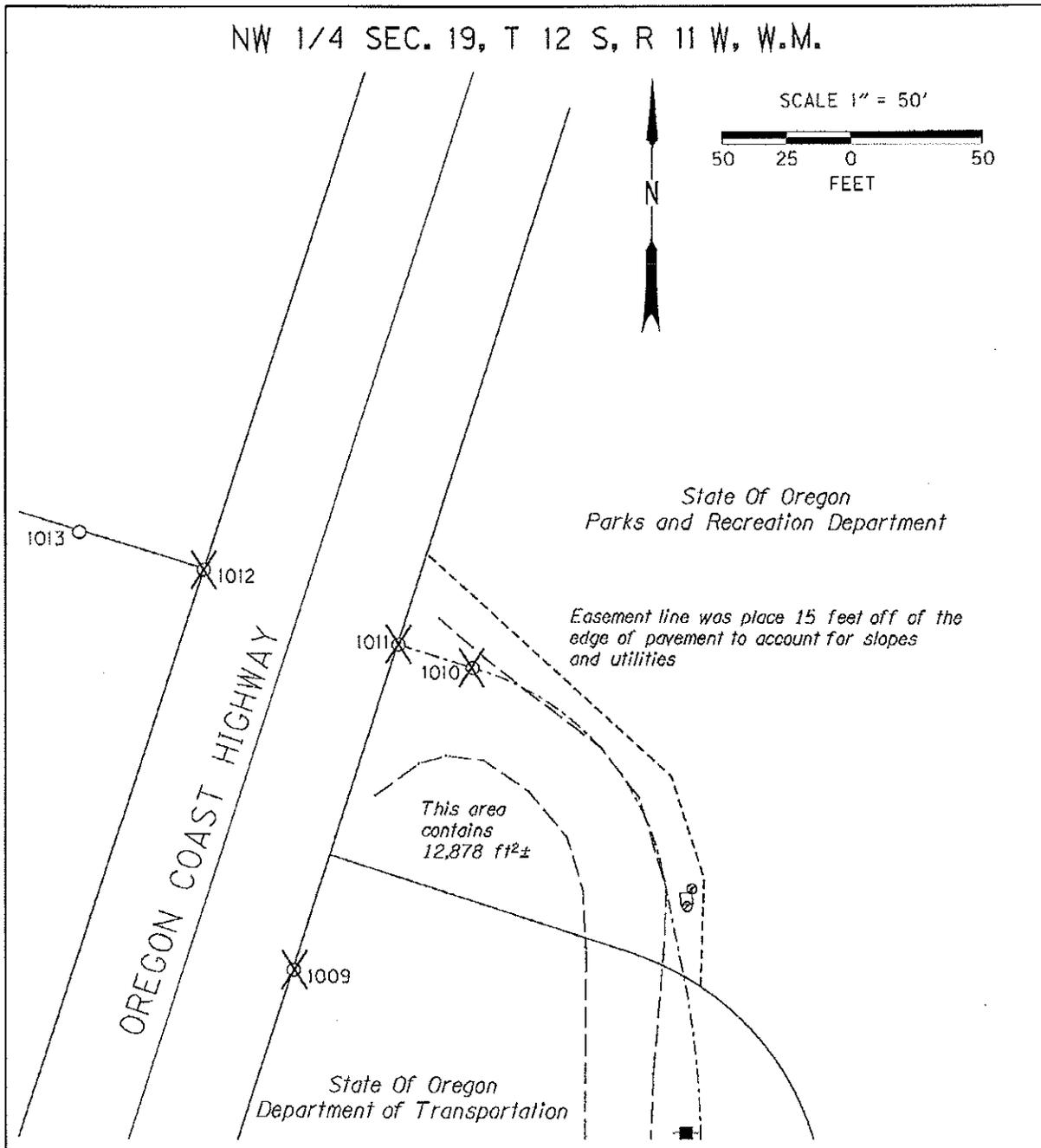
BEGINNING AT A 2" IRON PIPE WITH BRASS CAP IN CONCRETE AT THE WEST QUARTER CORNER OF SAID SECTION 19; THENCE, N 11°54'38" E A DISTANCE OF 804.55 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF U.S. HWY. 101, SAID POINT BEING THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE, S 72°47'45" E ALONG SAID EASTERLY RIGHT OF WAY A DISTANCE OF 30.00 FEET; THENCE, S 17°12'15" W ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 100.00 FEET; THENCE, S 33°10'45" E A DISTANCE OF 100.00 FEET; THENCE, N 71°23'15" E A DISTANCE OF 168.38 FEET; THENCE, S 23°47'45" E A DISTANCE OF 346.50 FEET; THENCE, S 76°51'05" E A DISTANCE OF 517.22 FEET; THENCE, N 52°03'13" E A DISTANCE OF 173.23 FEET; THENCE, N 1°51'18" E A DISTANCE OF 299.27 FEET; THENCE, ALONG THE ARC OF A 252.50 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 64°05'27" (THE CHORD OF WHICH BEARS N 30°11'26" W, 287.95 FEET) A DISTANCE OF 262.45 FEET; THENCE, N 82°14'08" W A DISTANCE OF 376.85 FEET; THENCE, ALONG THE ARC OF A 250.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 78°03'55" (THE CHORD OF WHICH BEARS N 23°12'12" W, 314.88 FEET) A DISTANCE OF 340.82 FEET; THENCE, N 15°49'45" E A DISTANCE OF 182.94 FEET; THENCE, ALONG THE ARC OF A 110.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 87°58'58" (THE CHORD OF WHICH BEARS N 28°09'44" W, 152.80 FEET) A DISTANCE OF 188.92 FEET; THENCE, N 72°08'13" W A DISTANCE OF 122.18 FEET TO THE EASTERLY RIGHT OF WAY LINE OF U.S. HWY. 101; THENCE, S 17°12'15" W, ALONG THE EASTERLY RIGHT OF WAY A DISTANCE OF 802.44 FEET TO THE TRUE POINT OF BEGINNING.

THE AREA OF SAID PARCEL IS: 736.181 SQUARE FEET (16.90 ACRES)

REGISTERED
PROFESSIONAL
LAND SURV. FOR

Steven L. Muma
OREGON
JUL 18, 1998
STEVEN L. MUMA
2747

EXHIBIT B



OREGON DEPARTMENT OF TRANSPORTATION  RIGHT OF WAY ENGINEERING SKETCH MAP	Section	Entrance to Ona Beach Maintenance Station		
	Highway	Oregon Coast		
	County	Lincoln	Scale	1" = 50'
	Purpose	Show Encroach.	Date	June, 2013
	File			