

Honorable Members of the Oregon House Revenue Committee

Thank you for the Opportunity to speak with you.

I am here to support HOUSE BILL 2351  
The Public Land Corner Preservation Fund Fee Cap Adjustment

Presented by: Carl Clinton, Oregon Professional Land Surveyor and Clackamas County Deputy Surveyor

*"The rights of persons, and the rights of property, are the objects, for the protection of which Government was instituted."* —James Madison

Why HB 2351 is important:

This law is the ONLY mechanism that is in place to fund this very important work. There is no other funding source, the current fee cap is 26 years old.

- When is the right time to adjust a fee? Some will say there is no good time. The process is long and time consuming.
- Any delay in updating this fee, because now it is not the right time (to update the fee) only serves to exponentially increase the loss of corners and the cost to restore them.
- Currently the programs in many of the Counties that need them are being strangled by inflation, as the original 26 year old fee is worth less than \$5.00.
- By approving this bill the Legislature does not actually raise the fee it only allows the County (the local jurisdiction) to consider it's needs and then they establish the fee to a level that will sustain an appropriate level of restoration.
- Approval of this bill places the responsibility of the work and appropriate fee amount where it should be, at the local level.
- It only makes business sense to me to allow the Counties to evaluate their situation and need, and set an appropriate fee amount. I personally remain committed to the original cap proposal of \$20 (or remove the cap entirely), as choosing a lower cap will just cause a lot of effort and work to come back again and again for cap increases.

Regarding opposition by others I would like to read to you and e-mail exchange the I had with my brother who is a REALTOR (owner operated) business in the Central Oregon. I asked him *“Keith what is with the Realtors?”*. His response was *“Most don’t have a clue. Homebuilders too! They think, and this is encouraged by PAC people, that any extra dime that a buyer or seller has to pay is going to put an additional damper on housing sales. Short sighted view. .... They can’t understand the long-term implications.”* He also has a strong opinion against any transfer or sales tax on property sales. Which I did not include in the above quote.

Two years ago I ask him to a write a letter of support if he could. He took the time to research the program and wrote to the Realtors Association supporting the program and the requested fee increase or removal of the cap. . Apparently there are Realtors that do understand and support the Public Land Corner Restoration Fund program and the important work that it does provide.

Until 1985 the Counties funded the restorations from their General Funds (there was no dedicated fund) the restoration work was often sporadic and subject to the whims of the economy. In 1985 a dedicated fund was created that allowed the Counties to choose to collect up to a \$10 fee for any document that was recorded that affected land titles. Those funds are protected from raiding by statute to assure that the Public Land Corners could be protected and restored, those funds can only be spent by authorization of the County Surveyor (the Surveyor is personally liable for misappropriation of any of these funds).

A number of Counties still have thousands of monuments to visit and re-monument (replace the dilapidated existing monument) or restore (replace the missing monument in the original location). In Clackamas County we have about 4000 monuments (not in federal lands) that were set at the Section corners, ¼ corners and Donation Land Claim Corners. Currently we have visited and restored about 1500. We have a long way to go to find, re-monument, and reference the remaining 2500 corners. Many have not been visited or found for 50 to 100 years.

**Cases examples where the monuments and supporting evidence makes it expensive to replace corners but where the public has and will continue to benefit from these programs.**

Case 1: A Land Surveyor contacted our office he was retained to survey some property in rural Clackamas County. This property was controlled by Donation Land Claim Corners that had not been seen for 75 to 100 years. He wanted us to educate him about how to go about finding and restoring those corners. I advised him that this was just the purpose of our corner program and that we had the trained Land Surveyor staff, if he submitted a request we would find and re-monument the needed control. We did just that, finding 5 monuments that had not been exposed

or marked for many years. This saved him and his client several thousand dollars and located control for a number of his client's neighbors.

Case 2: In the Oregon City area a pipe was considered to be in error but no proof was available. After an extensive network of surveying we isolated a position that put the pipe out of place by about 12 feet. After an investigation similar to archeological work we exposed an area of bare earth that contained a dark soil circle. We believed it to be the position of a stone that had been at that corner. The record indicated that under the stone the surveyor placed broken pieces of Chinese pottery. Carefully digging down through the dark soil circle we found broken china pottery. Thus proving the true location and solving the boundary line problem.

Case 3: In the Oregon City Area during a large area restoration we were able to locate the exact position of five (5) Donation Land Claim corners. Four of which had not been seen or referenced for about 80 years. Some of these corners were under down 31-inches (under 7-inches of asphalt paving, 7-inches of concrete market road paving and another 12-inches of 6" minus compacted rock road 2-inches of hard compacted gravel (old road bed) and 3-inches of clay). These corners have all been re-monumented and placed in monument wells at the surface of the road for easy access by all surveyors.

Case 4: In the Oregon City area a controversy over the location of an old Donation Land Corner line which controls a city street adjacent to a large expanding hospital has raged for years. As part of the Oregon City area restoration our office discovered that in part the controversy was due to a corner location (marked by a substantial stone monument) along with all of its references including several large trees, that have been sliding down hill at a rate of a couple of inches a year since at least 1910 and probably since they were originally established in 1853. The monument is now located about 15 feet from the 1910 position.

**We know that cases are out there where shreds of original evidence still exist but will be gone entirely in a very few years if not recovered and re-monumented reasonably soon.**

**Please support approval and passage of HB 2351, and the important property monument preservation work it provides to the citizens of the State of Oregon.**

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**Background on Public Land Corners and the  
Public Land Corner Preservation and Restoration Fund:**

Upon statehood the Federal Government charged the State with maintaining those corners after they were set. The State of Oregon then delegated that responsibility to the counties and in particular created the position of County Surveyor to do the very important work of maintaining the infrastructure that is the foundation of all land deeds and their ground locations in the State of Oregon. We lose many to age and construction and the fact that some land owners do not know that they exist. They do not understand that the rock or stump they see may control several thousand acres of land. It is a constant and continual battle to protect and maintain these corners. Those corners are as important to land owner today as they were in 1851.

- **What is a Public Land Corner? They are major land boundary markers/corners set by the Federal Government beginning in 1851 for the disposal of land to the Oregon settlers.**
- **The Public Land Corners are the basis of all land deeds in the state.**
- **The Public Land Corner Fund is a dedicated fund that can only be spent on restoration of these Public Land Corners.**

The program was started at various times in counties throughout the state, for example Clackamas County did not start it until 1997. We have a long way to go to find, re-monument, and reference these corners. Many have not been visited or found for 50 to 100 years. As time passes the evidence of these corners is lost. In many cases today finding them is more of archeological project than anything. Researching, building a chain of history, evaluating the research and then conducting sometimes extensive field searches on these corners is very time consuming. The time involved in restoring many of these corners is considerably more involved than a private sector surveyor would be able to restore economically for a land owner. We do restore corners upon request for private surveyor's and land owners. Another residual value of the program is that we conduct additional references to the corners using very accurate GPS ties. We then provide that GPS coordinate data to our county GIS mapping team, that data allows them to significantly improve the accuracy of the County Maps.

This particular bill allows the counties to raise the current fee collected for the Public Land Corner Preservation programs in those counties that have a need to restore many old corners in a timely manner. This fund was originally approved in 1985 with a cap of \$10 per recording (at today's dollars it is equal to less than \$5.00) for documents related to property transfers. The legislature authorizes the fund and the maximum amount that can be collected. The final

program along with the actual rate of collection per document is approved by the County Commission. Due to the current economic recession the County Commissioners may be reluctant to raise the current collection fee or may not opt for the full amount, but passage of this bill will allow the local Commissioners to take care of current and possible future needs of their County at the appropriate time. Many counties started the Preservation program as soon as the fund became available and a number of those counties have reduced the rate of collection fees because they have gotten to the point of maintenance vs. restoration. As an example Multnomah and Washington Counties are only collecting \$5 and \$7 respectively of the potential \$10 available to them. As I understand from a discussion at the Statewide County Surveyor's meeting on January 27, about half of the Counties would consider raising the amount collected if it was available to them in order to continue the restoration and preservation program. The other side of the coin is that without the increase almost all of those counties will have to curtail this valuable work and lay off the highly trained special staff.

The staff members who conduct this work have very special training and knowledge that other Land Surveyors do not normally have. To retain the investment in these employees it is imperative that we are able to supplement the current fee rate in the near future. Some counties built a reserve fund to handle economic down turns; however those reserves are being rapidly depleted during the current recession.

**Please support approval of HB 2351 and move it off the table with a "Do Pass Recommendation" at a \$20 cap.**

**Please support approval and passage of HB 2351, and the important property monument preservation work it provides to the citizens of the State of Oregon.**

