



## ENTERING PRIVATE PROPERTY

### Purpose

The purpose of this policy is to implement Board policy 4047 concerning establishing policy regarding entering onto private property.

### Legal Authority

- Idaho Code 7-705 - Where land is required for public use, the state or its agents may enter upon land and make examinations, surveys and maps.
- Idaho Code 18-7001 – Malicious injury to property.
- Idaho Code 18-7008 – Acts constituting trespass.

Department personnel whose activities require entering property owned by other parties must have proper authorization before entering. The initial contact with property owners shall be far enough in advance so that delays are avoided while permission is being secured. The property owner shall be given a general idea of what work is to be undertaken and assured that all possible precautions will be taken to prevent damage. If the property owner is represented by an attorney, all contact shall be through the attorney.

Verbal authorization to enter a person's property for limited activities that will not disturb any property may be allowed if documented in field notes regarding the discussion and approval. Activities such as reconnaissance surveys, field surveys, obtaining soil profiles, materials investigation, or exploratory activities that involve equipment shall require proper authorization of one of the following:

- Written permission granted by the property owner; or
- Written permission granted by the property owner's attorney; or
- Court order, properly obtained and served, where access to the property is essential and permission to enter is refused by any of the above named parties.

If permission to enter is denied, staff shall consider if the property could be skipped. If access to the property is essential, the District shall transmit all pertinent data to the headquarters Legal Section to initiate action to secure a court order.

Whenever entering private property, Department employees who have authorized access shall observe the following conditions and/or other similar accommodations:

- Department activities shall do the least possible damage to the property.
- All gates or fencing shall be returned to the condition they were in when entering.
- Permanent reference points shall be placed in fence lines or other unused/uncultivated land whenever possible. If a permanent reference point must be set in cultivated land, the point

shall be set below plowing depth.

- Survey stakes shall be removed from cultivated areas after the work is completed.
- Personnel shall walk to the work area if driving a vehicle on the property would cause damage.
- Trees or shrubs shall not be cut or trimmed without special permission.

Permission to enter the property shall be re-secured if no work has been done for 60 days or if original conditions have changed.

Signed \_\_\_\_\_

Brian W. Ness  
Director

Date January 14, 2014