

	KENNEWICK IRRIGATION DISTRICT POLICY 4.2 Protection of KID & USBR Rights-of-Way and Easements							
APPROVED:  President, Board of Directors Date: Jan 5, 2010	Effective Date: January 5, 2010				Revision: 2			
	Annual Review performed by:	Initial	Initial	Initial	Initial	Initial	Initial	Initial
	Review date:							

POLICY:

The Kennewick Irrigation District (KID) will ensure the structural integrity of its canal and pipeline easements and rights-of-way. The KID will protect its rights to construct, operate, maintain, improve, reconstruct, replace and use the KID rights-of-way and easements from encroachments that make the District’s exercise of those rights more difficult, more time consuming, more expensive, less efficient, or less convenient, while recognizing the underlying landowners’ rights to use the property in a manner that does not unreasonably interfere with KID’s rights.

KID shall oppose USBR granting of permits for encroachments on right of ways or easements owned by USBR that do not protect KID’s interests as set forth in this policy.

1. General Requirements for encroachments along open canal systems:
 - 1.1.A permit is required for any encroachment along open canals.
 - 1.2.KID will consider each application for encroachment near an open canal based on the all of the circumstances
 - 1.3.KID will generally allow requests for the following encroachments unless there are circumstances that would interfere with KID activities:
 - 1.3.1. Grass, bark, gravel, other easily removed landscaping materials
 - 1.3.2. Shallow rooted plants and bushes (30 inch maximum root growth)
 - 1.3.3. Placement of signs in a manner that they can be easily removed and replaced.
2. General Requirements for encroachments in easements or rights-of-ways which are not located along open canal systems, such as pipeline easements through yards:
 - 2.1. Encroachments for which no permit is required are limited to the following:
 - 2.1.1. Grass, bark, gravel, etc.
 - 2.1.2. Shallow rooted plants and bushes (30 inch maximum root growth)
 - 2.1.3. Fences
 - 2.1.4. Irrigation lines and/or sprinkler systems

Landowners are advised that KID will not be responsible or liable for damage to or destruction of such encroaching improvements. Accordingly, landowners should construct any such improvements so that they can be easily removed and replaced without substantial damage or destruction.

- 2.2. All other encroachments must be approved through the permitting process. KID will consider all of the circumstances regarding the specific encroachment proposed. Encroachments that are frequently permitted include the following if they do not unreasonably interfere with KID's rights:
- 2.2.1. Moveable non-permanent structures (small sheds, swings sets, vehicle parking)
 - 2.2.2. Overhangs, eaves, cantilever spaces, bay windows
 - 2.2.3. Retaining walls and/or patios
3. The District may demand removal of any encroachment and may revoke a permit with a 30-day notice to the landowner. If removal is demanded, or if the permit is revoked, the landowner shall remove the encroachment at the landowner's expense. If the landowner fails to do so, the KID may, at its option, remove the encroachment and charge the cost of removal to the landowner.
4. The District will not be responsible for the repair or replacement of any encroachment that is allowed without a permit or that was approved through the permitting process if damaged while maintaining and operating District facilities. All permits shall include conditions that allow KID to engage in reasonably necessary activities without liability to the permittee for damage to or destruction of encroaching improvements, and conditions that protect KID from liability to third parties for injuries or damages caused by the encroachment. Such conditions will generally include agreements by which the land benefited by the encroachment is bound to maintain any improvements they make within the easement and/or right of way, will be liable for additional expenses to KID created by the encroachment and will hold KID harmless from any claims by third parties for injuries or damages caused by the encroachment. Any landowner who encroaches without a permit shall be deemed to do so under the same conditions.
5. This policy does not cover real property owned in fee simple title by the Kennewick Irrigation District. Any invasion of such land is a trespass.