

# Davison, Copple, Copple & Cox

Davison, Copple, Copple & Cox, 199 N. Capitol Blvd., Boise, ID 83701

<http://www.davisoncopple.com>

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## IDAHO 16 PROJECT



### INSIDE THIS ISSUE

ACCESS RIGHTS on the New Idaho 16	1
Meet Your Right-of-Way Agent	2
Relocation Continued	3

### ITD Plans High-Speed Expressway with Limited Access to Idaho 16

According to correspondence from a Program Manager for Connecting Idaho Partners, Idaho 16 is planned as a high-speed expressway and will be classified as a Type V road. See excerpt, below:

condemn all legal and physical access to McDermott Road.

The access that will be made available to properties abutting McDermott Road will be set forth on the actual

**Based on studies completed to date, it is at this time the intent of Idaho Transportation Department (ITD) and Federal Highway Administration (FHWA) to configure Idaho 16 as a high-speed expressway with limited access control (Type V). This type of facility is similar to an interstate freeway, accessible only by interchanges; no at-grade intersections are proposed along Idaho 16. ITD's access control policy considers the level of existing and planned roadside developments, highway characteristics such as the number of lanes and the presence or lack of a median, and traffic volumes and speeds. As the Idaho 16 project is further developed, the Idaho Transportation Board will approve the access control for the state highway. The potential interchange locations currently being studied are I-84, Franklin Road, Ustick Road, US-20/26, and Idaho 44. The final location of access control along these intersecting roadways will be established in accordance with ITD's standards as the project advances.**

Presently, McDermott Road is owned by the Ada County Highway District, and is designated as a local access road with no standards of access control currently imposed. Assuming Alternative One for the Idaho 16 project is chosen, ACHD will transfer ownership of McDermott Road to the State of Idaho as part of the project. Then the State will

construction plans, which the Right of Way agent should be able to point out at the time contact is made with effected property owners. Plans often change during construction, however, so be sure to know what physical access you will have (if any), and what legal access you will have (if any).

Physical access is the access on the ground that vehicles can use to enter or exit

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a property. Legal access refers to the standards for allowing entrance and exits to the property. For example, let's say you have a half mile of property frontage on a road (2,640 lineal ft.) Currently you have one field approach only, allowing tractors, farming and irrigation equipment into the field. If you were to develop your property, you would likely discontinue use of that access and apply for approval of access from the City, County, Highway District, or State which has jurisdiction over the road.

If their access policy allowed one driveway every 440 feet, your frontage would potentially qualify for six (6) legal accesses. Be aware that leaving physical access to a property does not mean the access can be used if the use of the property changes.

If there is not legal access, the physical access can be closed when the property use changes.

If you would like to find out what access your property will have, we would encourage you contact Connecting Idaho Partners, P.O. Box 73, Boise, Id. 83729. (208) 386-6036

These intended plans for the project will have to be finalized after public comment is allowed and the plans are proposed to the Idaho Transportation Board. The Board member for District 3, which includes the Treasure Valley, is Monte C. McClure.

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## RIGHT OF WAY AGENTS

A Right of Way Agent is a negotiator, working for the government. In some cases agents can be part of a private firm dedicated to providing right of way acquisition services to government or other condemning entity. When the government or utility company wants to build a new

road or building, they typically have to buy private land in order to do so. They employ or outsource the job of acquiring the land to Right of Way agents to acquire the needed property. The following is a recent advertisement for a Right of Way Agent position for a local utility company:

### **Job Description:**

Job Announcement No. 08-086-0502. The Right of Way (ROW) Agent or Senior assists Delivery with all ROW activities, conducts negotiations, involving easement acquisitions and permits for Lines and Stations projects, and represents Idaho Power Company (IPC) with federal, state, city, and county agencies, and with community organizations with respect to ROW activities. High school diploma or equivalent. Senior: Bachelor's degree with emphasis in real estate, land management, social sciences/communications, or a related field, and continuing education in ROW. Three or more years experience related to ROW activities. Senior: Five or more years experience related to ROW activities with two or more years in ROW project management. Valid driver's license also required. Agent: \$49,192-\$61,505; Senior: \$57,096-\$71,364 and the deadline to apply is 3/5/2008.

A Right of Way Agent makes contact with property owners when the route for a project is selected and approved, and the design is nearly complete. Right of Way Agents may handle as many as 40-50 cases at a time. The goal of the first contact is to find out as much information about you and your property as possible, including property history, accuracy of the property lines and buildings, locate any easements that may exist, etc.

You may notice the agent taking notes about what you disclose about yourself and the property, or the agent may do this after you speak. This is known as a Right of Way Agent's Log or Diary, and every contact or conversation you have with the agent is recorded in this log. This log is required by federal law as evidence of good faith that the condemning authority has made attempts to negotiate a sale with the property owner. Typically owners don't see the agent's log unless a condemnation occurs.

Once an appraisal has been done on the property, the right of way agent will present you with an offer based on the appraiser's estimation of "just

compensation." This value should include the fair market value of your land to be taken, any improvements to be taken, damages to your remaining land caused by the taking, and any access rights being taken. Once the first offer has been made, the right of way agent is required to give you thirty days to consider it, without interference or coercion. You should also receive a form that outlines your rights in condemnation. We worked to pass the law that requires this form to be provided because if people do not know their rights, they cannot exercise them.

If you disagree with the offer, the agent must make at least three attempts to find a compromise. Typically they can only increase the offer by 10% unless a second appraisal is done. If you pay for an appraisal your cost may be reimbursed. After that, if an agreement hasn't been reached, the agent will present the case to the administrative authority, in ITD's case it is the Idaho Transportation Board. The Board will start condemnation proceedings using their power of eminent domain. The agent's job is now done, and they turn in their file to their employer, for evidence.

While we realize the Idaho Transportation Department may prefer that you receive information about the project only from the Government, we believe you should have as much truthful and accurate information as possible so you can make informed decisions. If you don't know your rights, you can't exercise them.

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If you would like to corroborate any of these facts, most of this information is available at the following websites or please feel free to call us at (208) 342-3658.

[www.itd.idaho.gov](http://www.itd.idaho.gov)

[www.irwaonline.org](http://www.irwaonline.org)

<http://www.fhwa.dot.gov/realestate/ua/uafaqs.htm>

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