

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 138

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1 RELATING TO IRRIGATION; AMENDING SECTION 42-1207, IDAHO CODE, TO PROVIDE
2 THAT THE HEIRS, EXECUTORS, ADMINISTRATORS, SUCCESSORS AND ASSIGNS OF A
3 LANDOWNER WHO MAKES A CHANGE IN A DITCH, CANAL, LATERAL, DRAIN OR BURIED
4 IRRIGATION CONDUIT, BURIES THE DITCH, CANAL, LATERAL OR DRAIN OF AN-
5 OTHER IN PIPE OR DIRECTS THE RELOCATION OF CONDUIT, SHALL BE RESPONSIBLE
6 FOR CERTAIN COSTS AND TO REMOVE THE REQUIREMENT THAT AGREEMENTS RELAT-
7 ING TO THE RELOCATION OF CONDUIT BE IN WRITING.
8

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Section 42-1207, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 42-1207. CHANGE OF DITCH, CANAL, LATERAL, DRAIN OR BURIED IRRIGATION
13 CONDUIT. Where any ditch, canal, lateral or drain or buried irrigation con-
14 duit has heretofore been, or may hereafter be, constructed across or beneath
15 the lands of another, the person or persons owning or controlling said land
16 shall have the right at their own expense to change said ditch, canal, lat-
17 eral or drain or buried irrigation conduit to any other part of said land,
18 but such change must be made in such a manner as not to impede the flow of the
19 water therein, or to otherwise injure any person or persons using or inter-
20 ested in such ditch, canal, lateral or drain or buried irrigation conduit.
21 Any increased operation and maintenance shall be the responsibility of the
22 landowner who makes the change, his heirs, executors, administrators, suc-
23 cessors and assigns.

24 A landowner shall also have the right to bury the ditch, canal, lateral
25 or drain of another in pipe on the landowner's property, provided that the
26 pipe, installation and backfill reasonably meet standard specifications for
27 such materials and construction, as set forth in the Idaho standards for pub-
28 lic works construction or other standards recognized by the city or county
29 in which the burying is to be done. The right and responsibility for opera-
30 tion and maintenance shall remain with the owner of the ditch, canal, lateral
31 or drain, but the landowner, his heirs, executors, administrators, succes-
32 sors and assigns, shall be responsible for any increased operation and main-
33 tenance costs, including rehabilitation and replacement, unless otherwise
34 agreed in writing with the owner.

35 The written permission of the owner of a ditch, canal, lateral, drain
36 or buried irrigation conduit must first be obtained before it is changed or
37 placed in buried pipe by the landowner.

38 While the owner of a ditch, canal, lateral, drain or buried irrigation
39 conduit shall have no right to relocate it on the property of another without
40 permission, a ditch, canal, lateral or drain owner shall have the right to
41 place it in a buried conduit within the easement or right-of-way on the prop-
42 erty of another in accordance with standard specifications for pipe, materi-

1 als, installation and backfill, as set forth in the Idaho standards for pub-
2 lic works construction or other standards recognized by the city or county in
3 which the burying is to be done, and so long as the pipe and the construction
4 is accomplished in a manner that the surface of the owner's property and the
5 owner's use thereof is not disrupted and is restored to the condition of ad-
6 jacent property as expeditiously as possible, but no longer than thirty (30)
7 days after the completion of construction. A landowner shall have the right
8 to direct that the conduit be relocated to a different route than the route of
9 the ditch, canal, lateral or drain, provided that the landowner, his heirs,
10 executors, administrators, successors and assigns, shall ~~agree in writing~~
11 ~~to~~ be responsible for any increased construction or future maintenance costs
12 necessitated by said relocation. Maintenance of the buried conduit shall be
13 the responsibility of the conduit owner.