

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 572

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO EASEMENTS AND RIGHTS-OF-WAY; AMENDING SECTION 42-1209, IDAHO  
2 CODE, TO PROVIDE THAT SPECIFIED LAW SHALL NOT AFFECT THE EXERCISE OF THE  
3 RIGHT OF EMINENT DOMAIN FOR ANY CONCURRENT PUBLIC USE OF THE PROPERTY OF  
4 AN IRRIGATION OR DRAINAGE ENTITY PURSUANT TO CERTAIN LAW, TO PROHIBIT  
5 THE EXERCISE OF EMINENT DOMAIN TO ACQUIRE PROPERTY THAT AN IRRIGATION OR  
6 DRAINAGE ENTITY OWNS, OPERATES AND MAINTAINS TO DELIVER WATER OR PRO-  
7 VIDE DRAINAGE PURSUANT TO EXISTING RIGHTS AND OBLIGATIONS AND TO MAKE A  
8 TECHNICAL CORRECTION.  
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10 Be It Enacted by the Legislature of the State of Idaho:

11 SECTION 1. That Section 42-1209, Idaho Code, be, and the same is hereby  
12 amended to read as follows:

13 42-1209. ENCROACHMENTS ON EASEMENTS AND RIGHTS-OF-WAY. Easements  
14 or rights-of-way of irrigation districts, Carey act operating companies,  
15 nonprofit irrigation entities, lateral ditch associations, and drainage  
16 districts are essential for the operations of such irrigation and drainage  
17 entities. Accordingly, no person or entity shall cause or permit any en-  
18 croachments onto the easements or rights-of-way, including any public or  
19 private roads, utilities, fences, gates, pipelines, structures or other  
20 construction or placement of objects, without the written permission of  
21 the irrigation district, Carey act operating company, nonprofit irrigation  
22 entity, lateral ditch association, or drainage district owning the ease-  
23 ment or right-of-way, in order to ensure that any such encroachments will  
24 not unreasonably or materially interfere with the use and enjoyment of the  
25 easement or right-of-way. Encroachments of any kind placed in such easement  
26 or right-of-way, without such express written permission, shall be removed  
27 at the expense of the person or entity causing or permitting such encroach-  
28 ments, upon the request of the owner of the easement or right-of-way, in  
29 the event that any such encroachments unreasonably or materially interfere  
30 with the use and enjoyment of the easement or right-of-way. Nothing in this  
31 section shall in any way affect the exercise of the right of eminent domain  
32 for the any concurrent public purposes set forth in section 7-701 use of the  
33 property of an irrigation or drainage entity pursuant to chapter 7, title 7,  
34 Idaho Code, provided however, notwithstanding any other provision of law,  
35 the right of eminent domain shall not be exercised to acquire property that  
36 an irrigation or drainage entity owns, operates and maintains to deliver  
37 water or provide drainage pursuant to existing rights and obligations.