

**Categorical Exclusion Review**  
U.S. DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
Boise District Office  
Four Rivers Field Office

**Agua Caliente Sandy Spring Road ROW**

<b>CE No.:</b> DOI-BLM-ID-B010-2010-0083-CX	<b>Lease/Serial/Case File No.:</b> IDI-36765
<b>Purpose and Need for Action:</b> Agua Caliente applied for a ROW on April 7, 2010. BLM is authorized under Title V of the Federal Land Management and Policy Act (October 21, 1976; 43 CFR 2800) to authorize rights-of-way for this type of land use.	
<b>Description of Proposed Action:</b> Agua Caliente has requested a short term ROW that authorizes use of an existing road across BLM land. The road would be used to access temperature gradient wells on BLM, State, and private land. The existing road would not be widened and maintenance activities would be limited the use of a backhoe to fix ruts within the road. The right-of-way would be 13,496 feet in length and 8 feet in width for a total of 2.5 acres (Exhibit A). The use would be authorized for a term of 3 years subject to the Boise District standard right-of-way stipulations (Exhibit B) and a stipulation limiting disturbance to the existing roadbed (Exhibit C).	
<b>Project Location:</b> Secs 1, 2, T 11 N, R 04 W Sec 35, T 12 N, R 03 W	
<b>Applicant:</b> Aqua Caliente LLC	
<b>Part I – Plan Conformance Review</b>  <b>This proposed Action is subject to the following land use plan:</b> Cascade RMP <b>Date Plan Approved:</b> 1987  The proposed action is in conformance with the applicable LUP even though it is not specifically provided for. Uses such as the one proposed are analyzed on a site-specific basis and authorized under FLPMA guidance to provide for multiple use of the land.	
<b>Part II – NEPA Review</b>  A. Categorical Exclusion Review: This proposed action qualifies as a categorical exclusion under 516 DM 11.9 (E19) Issuance of short-term (3 years or less) rights-of-way or land use authorizations for such uses as storage sites, apiary, sites, and construction sites where proposal includes rehabilitation to restore the land to its natural or original condition.  B. Departmental List of Extraordinary Circumstances Review: Before any non-Energy Act CX is used, you must conduct sufficient review to determine if any of the following extraordinary circumstances apply (516 DM 2, Appendix 2). If any of the extraordinary circumstances are applicable to the action being considered, either an EA or an EIS must be prepared for the action. Part 516 of the Departmental Manual (516 DM 2, Appendix 2) states that extraordinary circumstances exist for individual actions within CXs which may: (Mark applicable answer for each item. If "yes", prepare an EA/EIS and append this form to it.)	
<b>List of Extraordinary Circumstances</b>	

1. Have significant impacts on public health or safety.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Michael Borikoski 9/30/2010</i>
<i>Comments/Explanation:</i> Based upon many rights-of-way that we have granted for similar uses, we do not anticipate any significant impact to public health and safety.		
2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; or ecologically significant or critical areas, or is not in compliance with the Fish and Wildlife Coordination Act.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Michael Borikoski 9/30/2010</i>
<i>Comments/Explanation:</i> No impacts are anticipated for the above-listed resources and characteristics. The resource specialists (Cultural, Wildlife, Geology, and Botany) had no concerns for impacts to any of the above-listed resources and geographic characteristics		
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Michael Borikoski 9/30/2010</i>
<i>Comments/Explanation:</i> We issue numerous ROW and leases and are not aware of any highly controversial environmental effects or conflicts that would occur from such use.		
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Michael Borikoski 9/30/2010</i>
<i>Comments/Explanation:</i> Based upon the 2.5 acres and less than 3 years for this ROW disturbance and that we have granted ROWs in the past for similar uses we do not anticipate significant environmental effects.		
5. Establish a precedent for future actions or represent a decision in principle about future actions with potentially significant environmental effects.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Michael Borikoski 9/30/2010</i>
<i>Comments/Explanation:</i> Authorizations of this type are a typical use of the public lands and do not set a precedent for future actions. This ROW will be in conjunction with a Geothermal lease area that will be analyzed in a separate NEPA document ( <a href="#">DOI-BLM-ID-B010-2010-0041-CX</a> )		
6. Have a direct relationship to other actions with individually insignificant, but cumulatively significant environmental effects.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Michael Borikoski 9/30/2010</i>
<i>Comments/Explanation:</i> The issuance of the ROW would not cause cumulatively significant environmental effects in the area. The road is currently in existence and this ROW will allow for minor road repairs and occasional use. The well will be of a short term nature causing negligible disturbance adjacent to the road.		
7. Have significant impacts on properties listed or eligible for listing on the National Register of Historic Places as determined by either the bureau or office.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Dean Shaw 7/7/2010</i>
<i>Comments/Explanation:</i> A clearance was obtained from the FRFO Archeologist and no listed or eligible properties were identified.		
8. Have significant impacts on species listed or proposed to be listed on the List of Endangered or Threatened Species, or on designated Critical Habitat for these species.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date for Plants: <i>Mark Steiger 8/13/2010</i> Specialist Signature/Date for Wildlife: <i>Jill Holderman 8/9/2010</i> Specialist Signature/Date for Aquatics: N/A
<i>Plants Comments/Explanation:</i> No impact is expected to any Bureau Special Status species that could occur in the area. The ROW site itself does not provide habitat for Southern Idaho ground squirrel (SIDGs). A survey was conducted on 6/23/2010 and no signs of burrows occurred that SIDGs could be utilizing and the soil type appeared		

to be surface rock mixed with sand that would not likely support a burrow system. The area falls within Type 1 restoration habitat for sage-grouse although most of the area should be considered exotic annuals. The nearest known sage-grouse lek is approximately 4.5 miles to the northeast. Sage-grouse telemetry work being conducted by the West Central Working Group indicates that sage-grouse occur near the ridgeline in the winter months. The proposed Geothermal project connected to this ROW would be expected to be finished by late summer to early fall, thus not affecting sage-grouse that use the area for wintering.

No potential impacts are expected to golden eagles. . Instruction Memorandum No. 2010-156 for Golden Eagle National Environmental Policy Act and Avian Protection Plan Guidance for Renewable Energy states consideration of golden eagles and their habitat must be incorporated into the National Environmental Policy Act (NEPA) analysis.

Wildlife *Comments/Explanation:* A survey was conducted by a FRFO Biologist and it was determined that there would be no effects.

Aquatics *Comments/Explanation:* No aquatics systems occur in the proposed ROW.

9. Violate a Federal, State, local, or tribal law or requirement imposed for the protection of the environment.

Yes  No  Specialist Signature/Date: *Michael Borkoski 9/30/2010*

*Comments/Explanation:* There are no Federal, State, local or tribal laws or any requirements imposed for the protection of the environment that would be violated due to this action.

10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).

Yes  No  Specialist Signature/Date: *Michael Borkoski 9/30/2010*

*Comments/Explanation:* There are no low income or minority populations living in the project area. Low income or minority visitors to the area would not be affected any differently by the proposed activities than any other visitor.

11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).

Yes  No  Specialist Signature/Date: *Michael Borkoski 9/30/2010*

*Comments/Explanation:* Access for such use would not be limited.

12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).

Yes  No  Specialist Signature/Date: *Michael Borkoski 9/30/2010*

*Comments/Explanation:* The holder would be responsible for controlling weeds as a condition of the right-of-way grant (Exhibit B, #9).

I certify that none of the Departmental exceptions (Extraordinary Circumstances) listed in the above Part II (516 DM 2, Appendix 2) apply to this action; therefore, this categorical exclusion is appropriate for this situation.

Remarks:

Authorizing Official: **Terry A. Humphrey**

Date: **10/5/2010**

Name: Terry A Humphrey

Title: Four Rivers Field Manager

**Part III – Decision**

I have reviewed this plan conformance and NEPA compliance record and have determined that the proposed project is in conformance with the approved land use plan and that no further environmental analysis is required. It is my decision to pursue the issuance of a right-of-way grant, as described, with the stipulation(s) described above. A final decision will be issued with the ROW and administrative remedies will be identified at that time.

Authorizing Official: ***Terry A. Humphrey***

Date: ***10/5/2010***

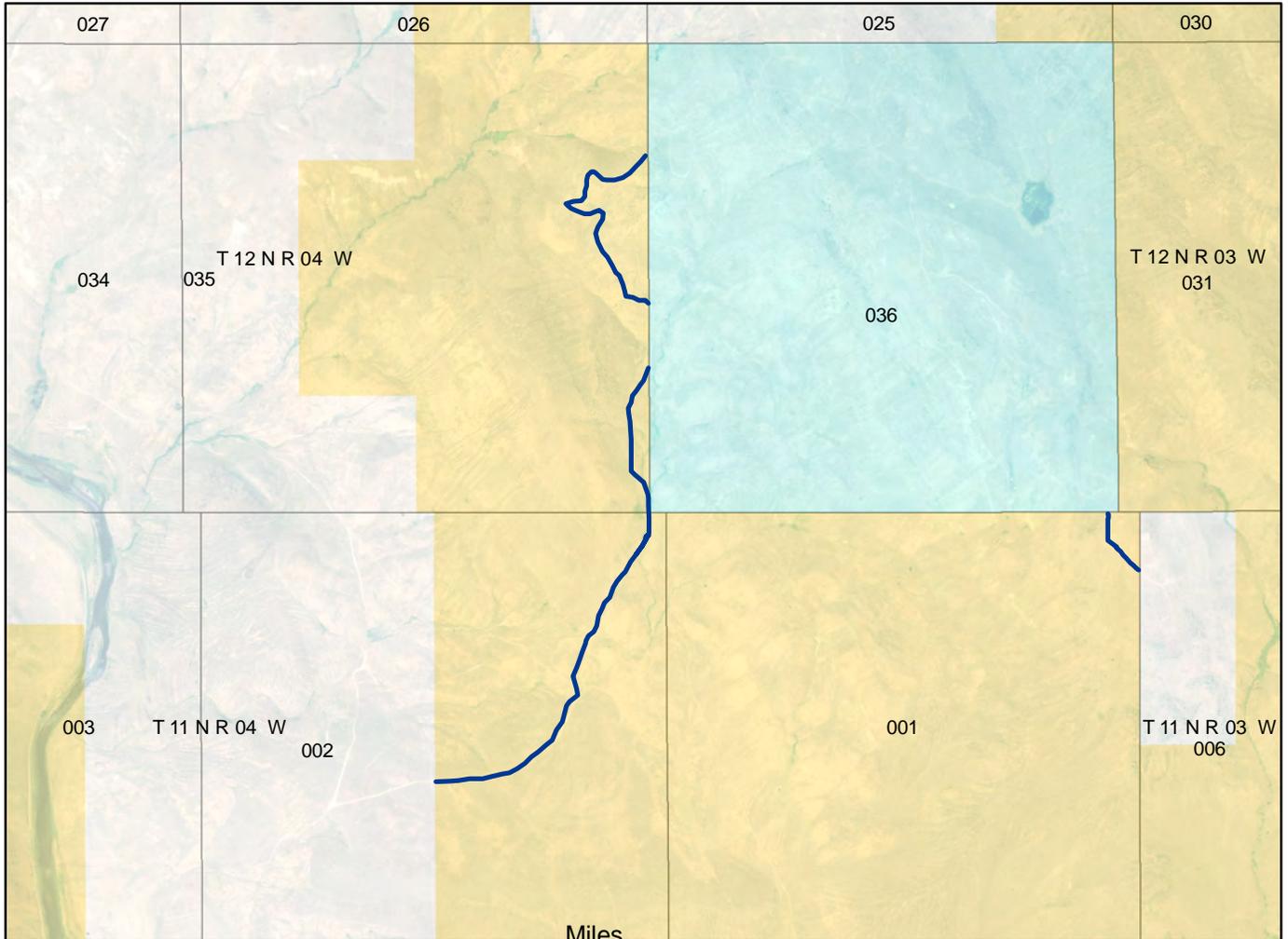
Name: Terry A Humphrey

Title: Four Rivers Field Manager

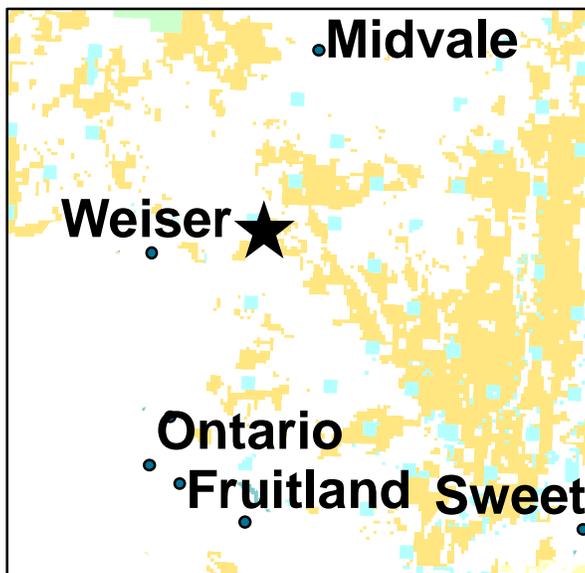
# Exhibit A

## Agua Caliente Road Right of Way

### IDI - 36765



*Vicinity Map*

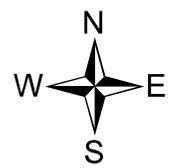


IDI-36765  
Agua Caliente Road ROW  
T11N, R4W, Sec 1,2; T12N R4W Sec 35  
Approximately 13,496 ft width 8 feet 2.5 acres

Private Land  
 BLM Land  
 State Land



"No warranty is made by the Bureau of Land Management. The accuracy, reliability, or completeness of these data for individual use or aggregate use with other data is not guaranteed."



## RIGHT-OF-WAY STIPULATIONS

1. The holder shall notify the authorized officer of any change of mailing address.
2. The Holder shall file proof-of-construction within 90 days of completion of construction but no later than 1 year from the date of the grant, whichever is sooner.
3. The United States retains the right to authorize use of the right-of-way for other compatible uses (including the subsurface and air space).
4. Any cultural and/or paleontological resource (fossil(s) or historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. The holder will be responsible for the cost of evaluation, and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.
5. Use of pesticides, herbicides, and rodenticides shall comply with the applicable Federal and State laws, and only in accordance with their registered uses.
6. The holder shall indemnify the United States against any liability for damage to life or property arising from the occupancy or use of public lands under this grant or permit.
7. The holder(s) shall comply with the Toxic Substances Control Act of 1976 as amended, 15 U.S.C. 2601 et seq. (1982) with regards to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation, and Liability Act, section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.
8. The holder agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et seq. or the Resource Conservation and Recovery Act, 42 U.S.C. 6901, et seq.) on the right-of-way (unless the release or threatened release is wholly unrelated to the right-of-way holder's activity on the right-of-way), or resulting from the activity of the right-of-way holder on the right-of-way. This agreement applies without

regard to whether a release is caused by the holder, its agent, or unrelated third parties.

9. As directed by the Authorized Officer the Holder shall be responsible for control of noxious weed species that result or would result from the construction, use, or maintenance of their grant.

If herbicides are used the Holder shall comply with all applicable Federal and State laws and regulations. Herbicides shall be used only in accordance with their registered uses within the limitations imposed by the Secretary of the Interior. Prior to the use of herbicides, the Holder shall obtain from the authorized officer written approval of a Herbicide Use Proposal Plan showing the type and quantity of herbicide to be used, weed(s) to be controlled, method of application, and any other information deemed necessary by the authorized officer.

Applicator(s) shall hold a current State of Idaho applicator's license or be under the direct supervision of a licensed applicator.

For areas and acres treated the Holder shall submit to the BLM a completed "BLM Pesticide Application Record" form.

Other control methods include but are not limited to annual mowing.