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RECEIVED

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Department of Water Resources
Eastern Region

August 20, 2012

James Cefalo
Eastern Region Office
Idaho Department of Water Resources
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402

Re: Request for enforcement of conditions associated with approved Transfer No. 75471 and No. 77234 in the name of Caribou Lands, LLC (Water Right No. 24-10700).

Dear James,

I have been contacted by Dennis Haderlie to review and consider some of the conditions associated with two transfer approvals associated with Water Right No. 24-10700 which were previously approved by the Department. This water right was subject to two transfers: Transfer No. 75471 which was approved on July 20, 2010, and the second of which was Transfer No. 77234, which was approved on May 20, 2011.

Transfer No. 75471 contained twelve conditions of approval. Conditions 1, 2, and 10 were linked to a proposed pond to be located on the property consisting of a capacity of approximately 4.6 acre feet. Similar conditions are found in the transfer approval for 77234. My understanding is that Caribou Lands, LLC, has recently filled in the pond, so that is no longer functioning. We have included photographs showing that the pond has been filled in.

Under both transfer approvals, it states that "the right holder shall accomplish the change accomplished by this transfer within one year of the date of this approval." Additionally, both approvals provide the "failure of the right holder to comply with the conditions of this transfer is cause for the director to rescind approval of the transfer." Because the pond has been filled in and remains unused, we request that both transfers be rescinded to eliminate the wildlife storage, fire protection storage, and recreation storage associated with the transfer approvals.

In addition, we have provided some photographs to show you the current condition of newly constructed stream channel and the measuring device that has been used by Caribou Lands, LLC to report flows to the Idaho Department of Fish and Game. On the first page of photos, you can see that the measuring device measures flows in a pool before entering into the culvert. As you can see, the measuring device appears to be misleading. The location of the measuring device does not accurately reflect flows that enter one of the culverts on the property. You can see from the

photographs (taken on July 4th of this year) that there is a significant reduced flow going through the culvert. This also appears to be in violation of the approval of the associated stream alteration permits issued by the Department in 2010. We have enclosed copies of the relevant correspondence regarding the stream channel alteration permits for your review and reference. One of the conditions that both transfer approvals provides that the right holder needs to maintain a measuring device approved by the department. While staff gauge is typically an approved measuring device, as we discussed above, we believe that the reported measurements to the water master are not accurate based on how the staff gauge is placed in the creek.

Lastly, we have included a number of pictures of the old stream channel and newly constructed stream channel. Mr. Haderlie's eyewitness view of the new channel is that when water is turned down the new channels, they sink significantly, and leave the channel dry. Also, work is still being performed on the stream channel, which we do not believe is authorized. Overall, it appears that the project did not come to fruition as originally planned by the water right holder. The result is a degraded and non-functioning habitat, which has impacted and will continue to impact fish and wildlife in the stream.

We recognize there are a number of matters proceeding before you and your associated staff in the Eastern Region Office of IDWR. However, to the extent a field visit can be performed by Department staff to verify and document our concerns, we would appreciate the Department's cooperation in that regard.

Should you have any questions or concerns, please do not hesitate to contact me. I will follow up with you in 14 days to follow up on this matter to see if any action can be taken.

Best regards,

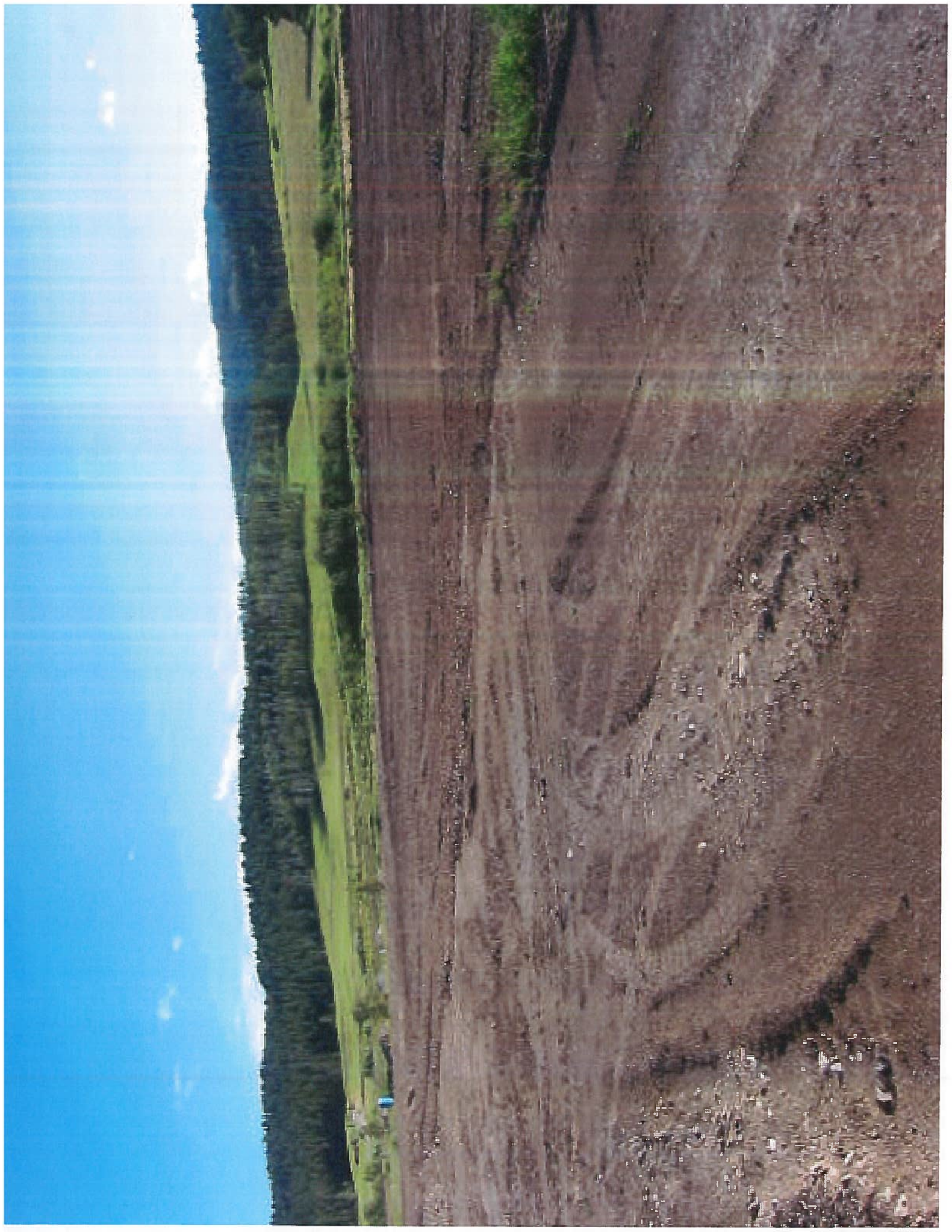


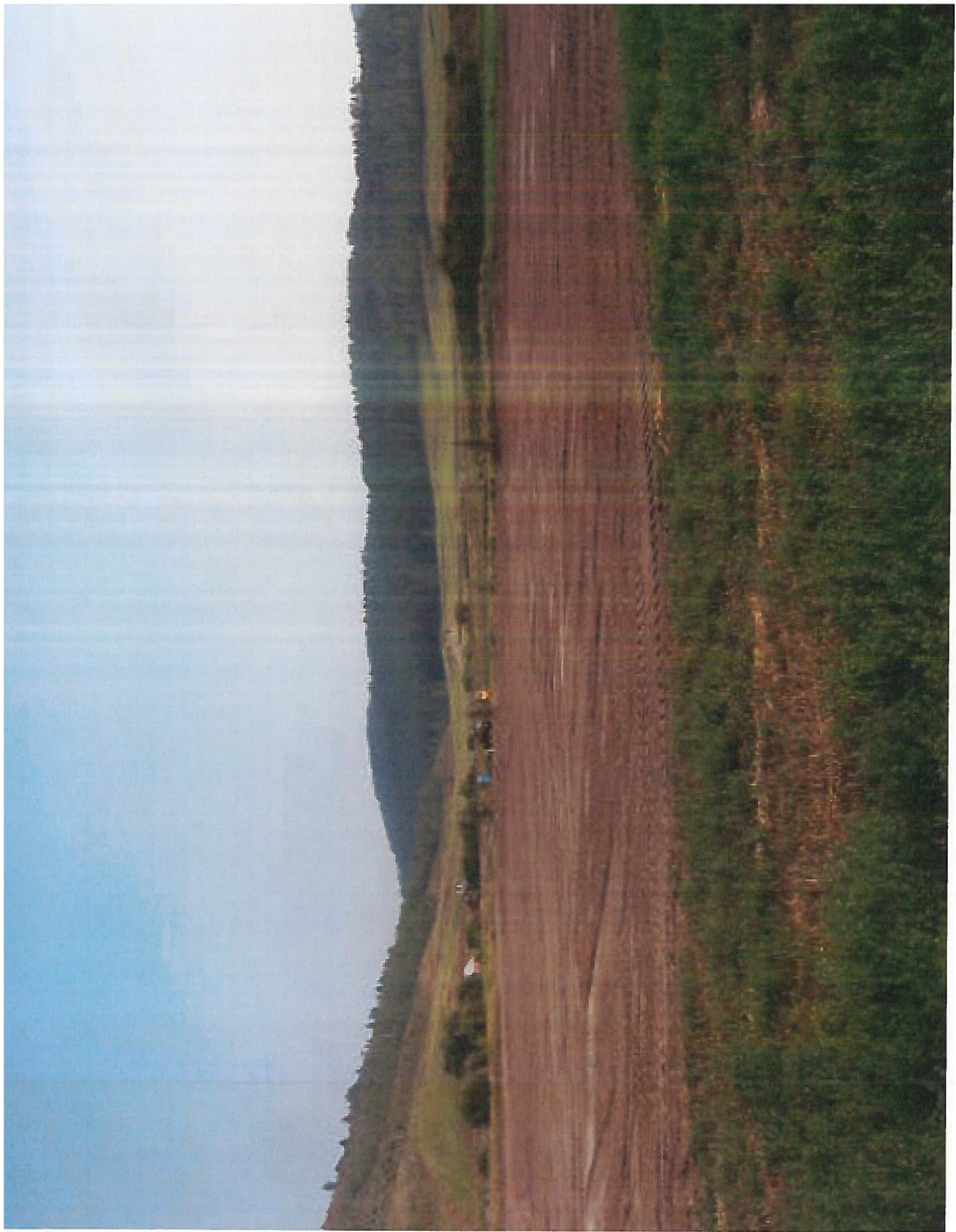
Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, PLLC

Enclosures

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FILLED IN POND PHOTOS







MEASURING DEVICE AND OTHER PHOTOS



Stream Entering 1st diversion

Stream Entry Diversion, of



Leaving diversion into old Stream Channel

Old Stream Channel



dry Bed at Heppler Pasture

New Stream Channel's 7/23/12





