

12/14/2005

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 77-12805

NAME AND ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
USDA FOREST SERVICE
550 W FORT ST MSC 033
BOISE ID 83724

SOURCE: WARM LAKE CREEK

TRIBUTARY: SOUTH FORK SALMON RIVER

QUANTITY: 168.400 AFY

PRIORITY DATE: 07/01/1950

POINT OF DIVERSION:

T15N R06E S12 SENE Within VALLEY County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

RECREATION STORAGE

01/01 12/31

168.40 AFY

PLACE OF USE: RECREATION STORAGE Within VALLEY County

T15N R06E S12	NWNE	T15N R06E S12 Lot 1	SWNE
T15N R06E S12 Lot 4	SENE	T15N R06E S12 Lot 2	NENW
T15N R06E S12 Lot 3	SENE	T15N R06E S12 Lot 5	NESW
T15N R06E S12 Lot 6	SESE	T15N R06E S12	NESE
T15N R06E S12	NWSE	T15N R06E S12	SWSE
T15N R06E S12 Lot 7	SESE	T15N R06E S13 Lot 1	NENE
T15N R06E S13 Lot 2	NWNE	T15N R06E S13 Lot 3	SWNE
T15N R06E S13 Lot 1	SENE	T15N R06E S13 Lot 2	NENW
T15N R06E S13 Lot 4	NESE	T15N R06E S13 Lot 5	NWSE
T15N R07E S07 Lot 2	SNNW	T15N R07E S07 Lot 3	NWSW
T15N R07E S07	SWSW	T15N R07E S18 Lot 2	SNNW
T15N R07E S18 Lot 3	NWSW		

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

FOREST SERVICE RECORD ID = 040217060208790704

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number: 77-12805

FILED UNDER STATE LAW

RECEIVED
DEC 12 2005
IDWR/North

1. Name of Claimant: UNITED STATES OF AMERICA on behalf of the U.S.D.A. Forest Service

Address: 550 W. Fort Street MSC033

Boise

ID 83724

2. Date of Priority: 07/01/1950

3. Source of water: Warm Lake Creek

Tributary: South Fork Salmon River

4. Location Meridian BOISE

Description of Diversion Works: Reservoir

From: Stream

Location of Point of Diversion

T: 15 N R 07 E S: 7 SWNW L 2

Location of Place of Use

T: 15	N R 06	E S: 12	SWSE	ac: 0	T: 15	N R 06	E S: 12	SWNE	L 1	ac: 0
T: 15	N R 06	E S: 12	SENE	L 4 ac: 0	T: 15	N R 06	E S: 12	NENW	L 2	ac: 0
T: 15	N R 06	E S: 12	SENW	L 3 ac: 0	T: 15	N R 06	E S: 12	NESW	L 5	ac: 0
T: 15	N R 06	E S: 12	SESW	L 6 ac: 0	T: 15	N R 06	E S: 12	NWSE		ac: 0
T: 15	N R 06	E S: 12	SESE	L 7 ac: 0	T: 15	N R 06	E S: 12	NESE		ac: 0
T: 15	N R 06	E S: 13	NENE	L 1 ac: 0	T: 15	N R 06	E S: 13	NWNE	L 2	ac: 0
T: 15	N R 06	E S: 13	SWNE	L 3 ac: 0	T: 15	N R 06	E S: 13	SENE	L 1	ac: 0
T: 15	N R 06	E S: 13	NENW	L 2 ac: 0	T: 15	N R 06	E S: 13	NESE	L 4	ac: 0
T: 15	N R 06	E S: 13	NWSE	L 5 ac: 0	T: 15	N R 07	E S: 7	SWNW	L 2	ac: 0
T: 15	N R 07	E S: 7	SWSW	L 4 ac: 0	T: 15	N R 07	E S: 7	NWSW	L 3	ac: 0
T: 15	N R 07	E S: 18	NWSW	L 3 ac: 0	T: 15	N R 07	E S: 18	SWNW	L 2	ac: 0

5. Quantity claimed: - Period Quantity For
1 / 01 -- 12 / 31 168.40 AF Recreation Storage

6. Total Consumptive Use Claimed for Present and Future Use is:

7. Present and future uses to which the water is or will be used:

Recreation Storage

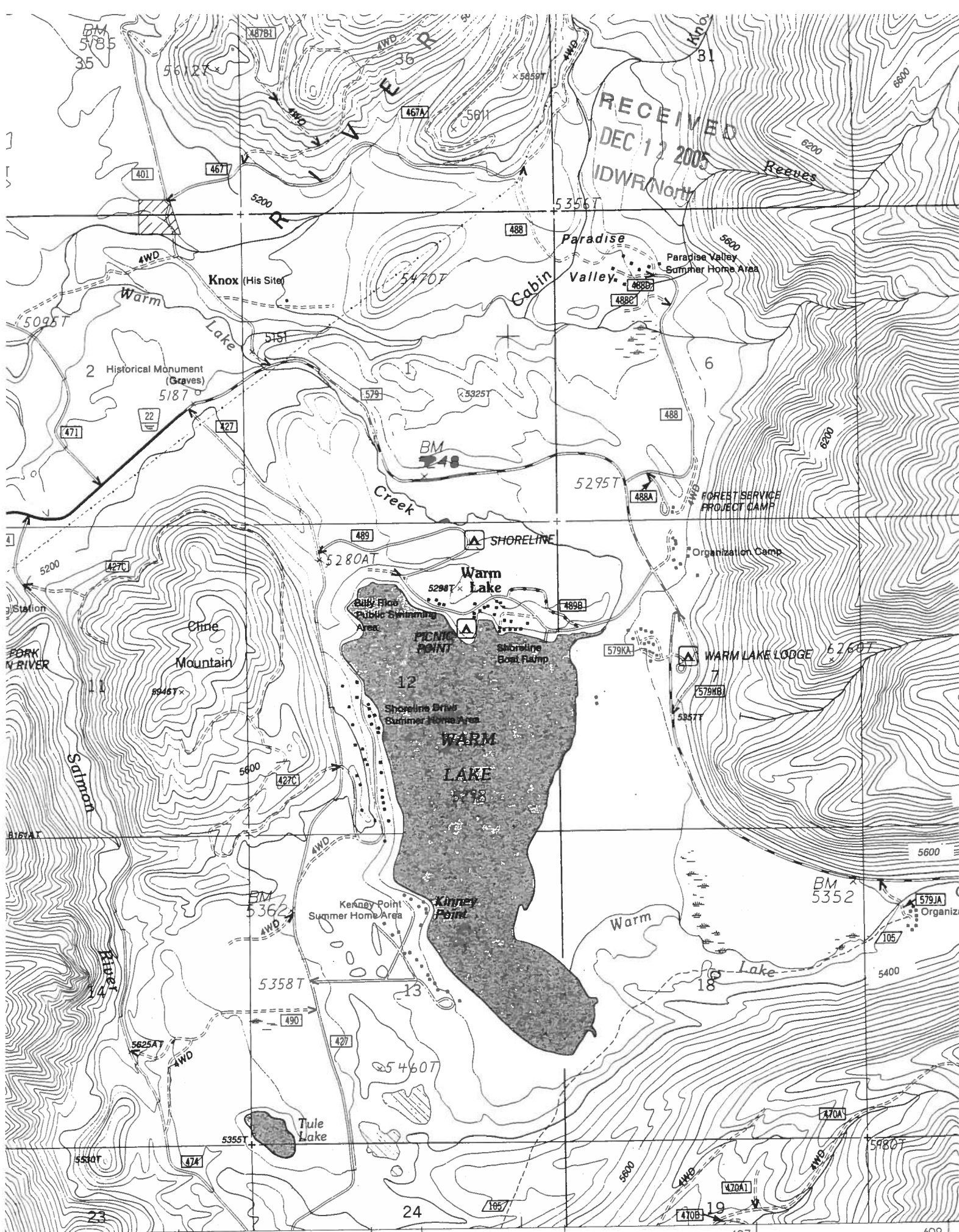
8. Remarks:

State Basin: 77

National Forest: Boise

Forest Service Record ID: 4 2 17060208 79 1 0704

Warm Lake. Nonconsumptive Use.



(RICE PEAK)
(F.S. NO. 292-31)
SCALE 1:24 000

605 R.6E.40' 606 R.7E. INTERIOR- GEOLOGICAL SURVEY, RESTON, VIRGINIA-1988

1 MILE

PAYETTE NF SALMON NF

101 33539
Esmt to USFS
25'

HES 409
159.99
3333
on US FS

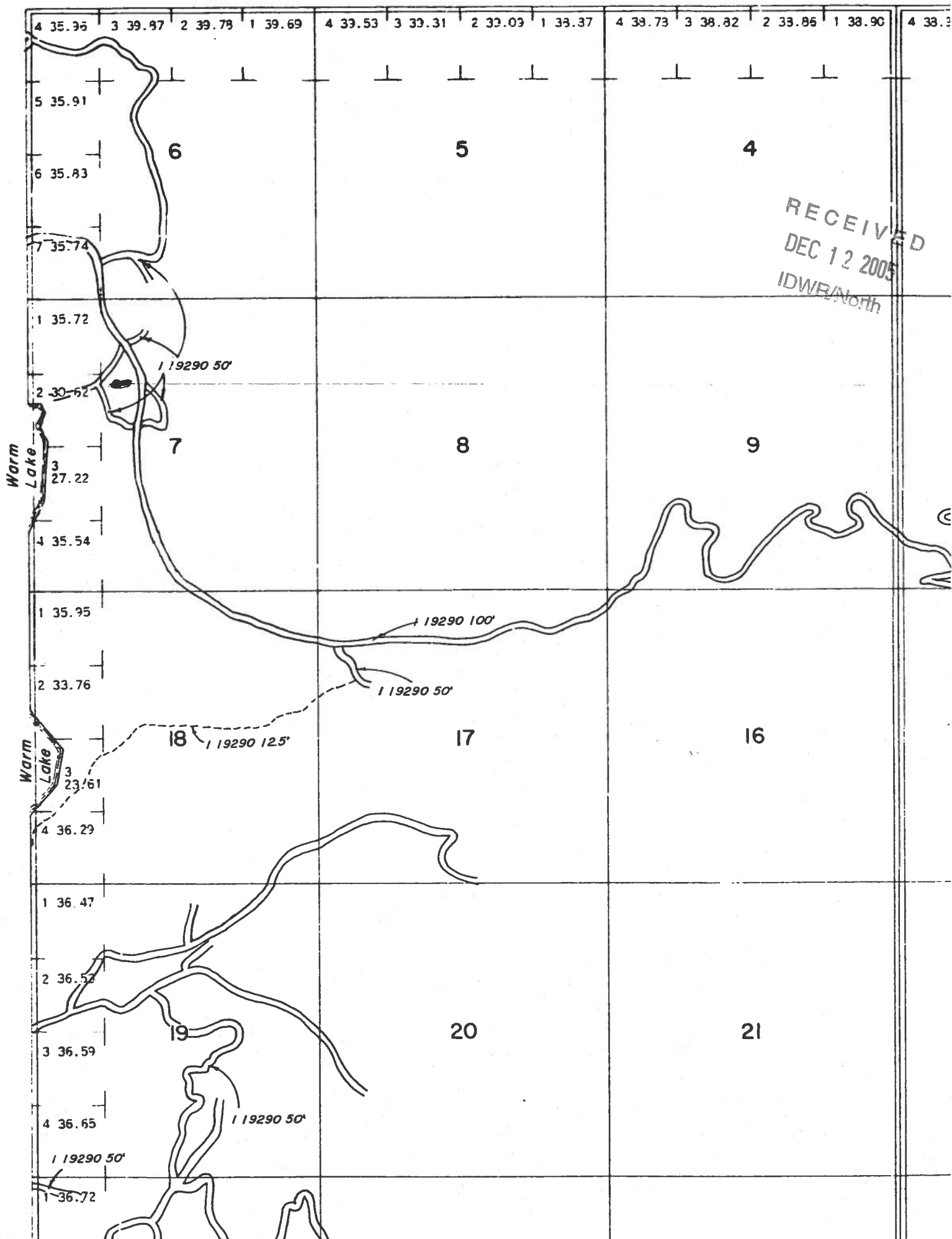
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IDWEN/North

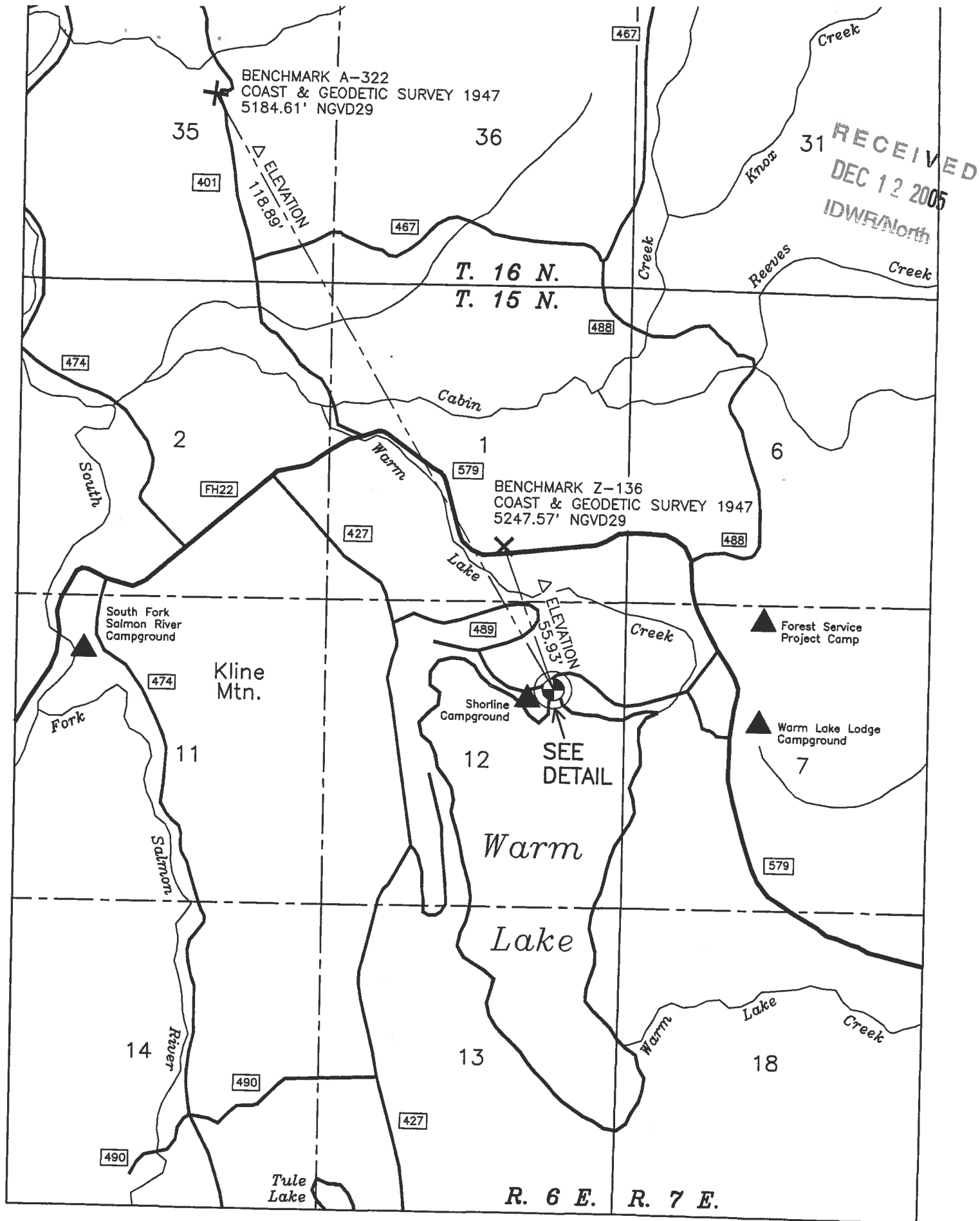
*Warm
Lake*

PLO 4257
WdI USFS
Rec Area

SO 12/19/1933
Wd/ Pwr S
CI 280

1 19290 50'





NOTE

3 1/2" ALUMINUM TABLET
SET IN CONCRETE AT
4" BELOW GROUND



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DEC 12 2005

IDWR/North

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DEC 12 2005
IDW/R/North





26.10.2005



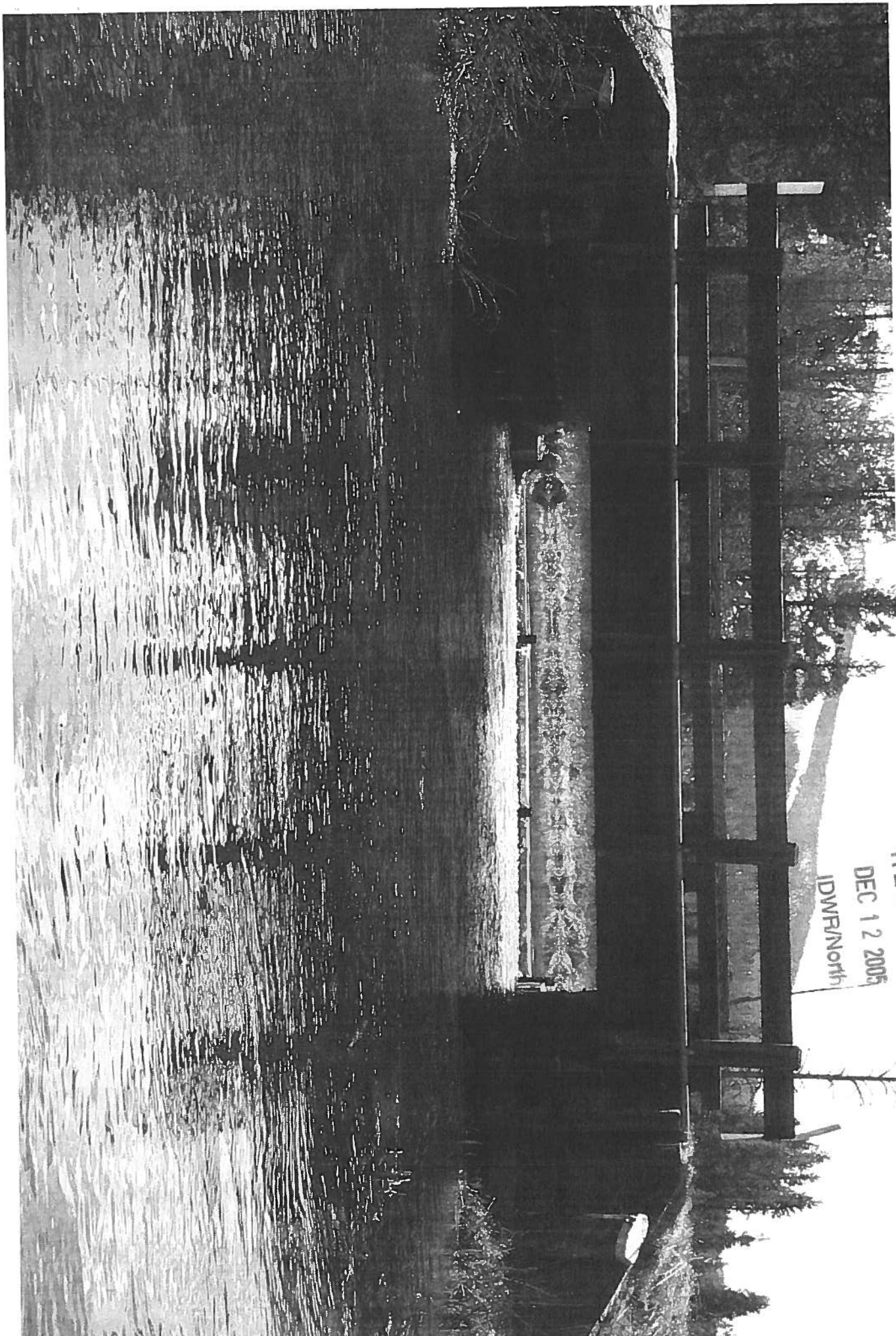
RECEIVED
DEL 28.10.2005
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28.10.2005



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IDWR/North

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IDWFR/North



RECEIVED
DEC 12 2005
IDWR/North

26.10.2005

RECEIVED
DEC 12 2005
IDW/NOA

28.10.2005









02/10/2005

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 77-12805

NAME AND ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
USDA FOREST SERVICE
550 W FORT ST MSC 033
BOISE ID 83724

SOURCE: WARM LAKE

TRIBUTARY:

QUANTITY:

PRIORITY DATE: 06/12/1960

POINT OF DIVERSION:

T15N R06E S12 SENE End of Stream Flow Within VALLEY County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

MULTIPLE USE

/ /

PLACE OF USE:

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

FOREST SERVICE RECORD ID = 040217060208790704. L TOTAL
QUANTITY CLAIMED: VOLUME NECESSARY TO MAINTAIN LEVEL AT
5250 FEET (MSL) PRESENT AND FUTURE USES TO WHICH THE WATER IS
OR WILL BE USED: THE WATER RIGHT IS FOR FISH, WILDLIFE, OUTDOOR
RECREATION, RANGE, TIMBER, AND WATERSHED PURPOSES
PURSUANT TO THE MULTIPLE-USE SUSTAINED-YIELD ACT, 16 U.S.C.
528-531, 74 STAT. 215 (JUNE 12, 1960), AND OTHER FEDERAL
DIRECTIVES. THE USES INCLUDE, BUT ARE NOT LIMITED TO, PROVIDING
FISH HABITAT, LIVESTOCK WATERING, WILDLIFE HABITAT AND
WATERING, RECREATION, AESTHETICS AND FIRE PROTECTION.
PLACE OF USE MORE SPECIFICALLY SHOWN ON MAPS ON FILE WITH
THE COURT.

NO BENEFICIAL USE FOUND: This is included for a claim based on
beneficial use that is PROPOSED to be disallowed because beneficial use
of water was not confirmed by IDWRs field examination or by other
evidence submitted by the claimant.

EXPLANATORY MATERIAL:

Knoblock, Ken

To: Steven M. Spencer
Subject: 77-12805

Carter - I was working on obtaining a paper copy of this right from the Forest Service and I read the remarks of this right.
My question is:

Should be recommend this right that lists a minimum lake level with a date of priority of June 12, 1960?

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report

WATER RIGHT NO. 77-12805

Owner Type Name and Address
Current Owner UNITED STATES OF AMERICA ACTING THROUGH
USDA FOREST SERVICE
550 W FORT ST MSC 033
BOISE, ID 83724
(208)387-0835

Priority Date: 06/12/1960
Basis: Beneficial Use
Status: Active

Source Tributary
WARM LAKE

Beneficial Use From To Diversion Rate Volume
MULTIPLE USE //

Location of Point(s) of Diversion:

WARM LAKE End of Stream Flow SENE Sec. 12 Township 15N Range 06E VALLEY
County

Place(s) of use: No POUs found for this right

Remarks:

1. General FOREST SERVICE RECORD ID = 040217060208790704 L TOTAL
QUANTITY CLAIMED: VOLUME NECESSARY TO MAINTAIN LEVEL AT 5250 FEET (MSL)
PRESENT AND FUTURE USES TO WHICH THE WATER IS OR WILL BE USED: THE WATER

RIGHT IS FOR FISH, WILDLIFE, OUTDOOR RECREATION, RANGE, TIMBER, AND WATERSHED PURPOSES PURSUANT TO THE MULTIPLE-USE SUSTAINED-YIELD ACT, 16 U.S.C. 528-531, 74 STAT. 215 (JUNE 12, 1960), AND OTHER FEDERAL DIRECTIVES. THE USES INCLUDE, BUT ARE NOT LIMITED TO, PROVIDING FISH HABITAT, LIVESTOCK WATERING, WILDLIFE HABITAT AND WATERING, RECREATION, AESTHETICS AND FIRE PROTECTION. PLACE OF USE MORE SPECIFICALLY SHOWN ON MAPS ON FILE WITH THE COURT.

Dates:

Licensed Date:

Claim Received Date:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Knoblock, Ken

From: McHugh, Candice
Sent: Thursday, February 10, 2005 3:08 PM
To: Knoblock, Ken
Cc: Harvey, Becky; Fritschle, Carter
Subject: RE: CONFIDENTIAL - FW: 77-12805

It should be disallowed. Only the Idaho Water Resources Board can hold a water right for "minimum stream flow" and 42-1502(f) defines "minimum stream flow" to include "minimum lake level." Also, a diversion is required in order to have a valid water right in the state of Idaho (with limited exceptions) and I don't think this water right's diversion and quantity meet that requirement either. See State v. U.S. 134 Idaho 106.

Ball back to USFS.

Candice

-----Original Message-----

From: Knoblock, Ken
Sent: Thursday, February 10, 2005 4:05 PM
To: McHugh, Candice
Cc: Harvey, Becky; Fritschle, Carter
Subject: RE: CONFIDENTIAL - FW: 77-12805

This started when I asked for a paper copy and no one can find a copy. This (of course) was generated off our web page. And before I start stirring things up with the Forest Service my question is:

Should our department recognize a water right that sets a minimum lake level or stream flow from a non-state agency?

My thought was if we are not going to recognize this then I will recommend that it be disallowed and throw the ball back to the Forest Service. If we will consider allowing the right then I can start to work on POD, POU and listed the beneficial uses.

ken

-----Original Message-----

From: McHugh, Candice
Sent: Thursday, February 10, 2005 2:53 PM
To: Knoblock, Ken
Cc: Harvey, Becky; Fritschle, Carter
Subject: RE: CONFIDENTIAL - FW: 77-12805

Ken,

I would like to review the original claim for this water right but I cannot find it on powerdocs. Could you scan it and send it to me?

Thanks

Candice

-----Original Message-----

From: Harvey, Becky
Sent: Thursday, February 10, 2005 3:35 PM
To: McHugh, Candice
Subject: CONFIDENTIAL - FW: 77-12805

-----Original Message-----

From: Knoblock, Ken
Sent: Thursday, February 10, 2005 3:33 PM

To: Harvey, Becky
Subject: FW: 77-12805

-----Original Message-----

From: Fritschle, Carter
Sent: Thursday, February 10, 2005 2:31 PM
To: Knoblock, Ken
Subject: RE: 77-12805

Ken,

That's a good question for your attorney to answer. I am not sure how or if we have dealt with any of these. Perhaps Don has made some recommendations along these lines.

Carter

-----Original Message-----

From: Knoblock, Ken
Sent: Thursday, February 10, 2005 3:22 PM
To: Fritschle, Carter
Subject: 77-12805

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Remarks:

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Other Information:

State or Federal: S

Owner Name Connector:

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Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False