

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA)	Wilderness Act Claims
)	Consolidated Subcase No. 75-13605
Case No. 39576)	(Encompasses subcase nos. 75-13605,
)	75-13606, 77-12774, 77-12775, 77-
)	12776, 81-11191 and 82-11120);
)	Hells Canyon National Recreation
_____)	Area Subcase 79-13597

**FINAL ORDER (ON *REMITTITUR*) DISALLOWING WILDERNESS ACT
WATER RIGHT CLAIMS, CONSOLIDATED SUBCASE 75-13605**

**NOTICE OF STATUS/SCHEDULING CONFERENCE ON HELLS
CANYON NATIONAL RECREATION AREA CLAIMS -- RE:
QUANTIFICATION ISSUE, SUBCASE 79-13597**

JUDGMENT FOR COSTS TO APPELLANT

**I.
BACKGROUND**

1. On October 27, 2000, the Idaho Supreme Court issued its Opinion in the above-captioned subcases 2000 Opinion No. 105.

2. The Idaho Supreme Court held that the Wilderness Act, 16 U.S.C. §§ 1131-1136, did not create federal reserved water rights in the Frank Church River of No Return, the Selway Bitterroot, and the Gospel-Hump Wilderness areas. (Consolidated subcase no. 75-13605).

3. The Supreme Court held further that the Hells Canyon National Recreation Area Act, 16 U.S.C. §§ 460 gg (1)-(13), created a federal reserved water right as to tributaries of the Snake River originating in the Hells Canyon National Recreation Area. Subcase

79-13597. The matter was remanded to the SRBA district court for quantification of the amount of water necessary to fulfill the purposes of the reservation.

4. The Opinion further awarded costs to the appellant, Hecla Mining Company.

5. On November 20, 2000, the Supreme Court issued a *Remittitur*, a copy of which is attached hereto and incorporated herein by reference as Attachment A, ordering the SRBA Court to comply with the directives of the Opinion.

II. ORDER

Therefore; IT IS ORDERED AND ADJUDGED; that the seven (7) water right claims (75-13605, 77-12774, 77-12775, 77-12776, 81-11191 and 82-11120) which comprise consolidated subcase no. 75-13605, are hereby **disallowed with prejudice** and shall not be confirmed in any partial decree or in any final decree entered in the SRBA, Case No. 39576, in whatever form that final decree may take or be styled.

III. NOTICE OF STATUS/SCHEDULING CONFERENCE RE: QUANTIFICATION OF HELLS CANYON NATIONAL RECREATION AREA FEDERAL RESERVED WATER RIGHT (SUBCASE 79-13597)

IT IS FURTHER ORDERED; that a status and scheduling conference shall be held in subcase 79-13597 for the purpose of setting the matter for trial and mandatory settlement conference, on **February 20, 2001, at 1:30 p.m., at the SRBA Courthouse, 253 3rd Avenue North, Twin Falls, Idaho.**

IV. JUDGMENT FOR COSTS

IT IS FURTHER ORDERED; that Appellant, Hecla Mining Company is awarded judgment for costs in the amount of \$420.54.

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

IT IS SO ORDERED.

DATED:

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication