

CONCLUSION

The prospect of tapping Colorado's enormous deposits of oil shale has tantalized the energy industry for many years. Oil companies have established a large number of conditional water rights in both the Colorado River and White River Basins, proposing the use of pipelines, pumps, springs, wells, and reservoirs to be able to obtain the necessary water. In addition, they and others have acquired a large number of agricultural irrigation ditches in the area for the purpose of shifting the use of the associated water to industrial and other purposes as needed. The result is the accumulation of the rights to use a large share of the water available in that portion of western Colorado.

Companies have pursued obtaining rights largely independently, based on their own needs and interests.⁴⁸ Some conditional claims are directly overlapping, such as plans to build dams at essentially the same location. The feasibility of developing some claims is questionable because of their location in sensitive areas, cost, physical availability of sufficient water, or other reasons. In short, even if oil shale production goes forward, many of these conditional rights will never be developed.

Beyond the many issues associated with actual development of existing conditional rights for oil shale use, there are the matters of the ability to develop water under the Upper Colorado Endangered Fishes Recovery Program and the Colorado River Compact. There are unresolved questions about the amount of water that will be available for any new consumptive use. The prospect of substantial water demands associated with oil shale development simply further complicates an already complex future.

Almost certainly, irrigated agriculture in the Piceance Basin would diminish sharply. Flow regimes in the various rivers and creeks would be altered, sometimes dramatically, as dams are constructed to capture peak flows, and flows are pumped into storage. Effects on local fisheries will be a concern as will effects on water quality.

Perhaps even more significant are the potential effects on some existing and all planned water uses, not only in the mainstem Colorado River and White River Basins, but also in the Yampa and San Juan River Basins, and even on the Front Range. Colorado is approaching a zero-sum game in which new depletions for oil shale would displace some existing uses and could well preclude or make more difficult other future uses, dependent on the manner and speed of development. Many of the conditional rights have priorities dating back to the 1950s and 1960s. Their seniority suggests that, if they are developed, they will use up much of Colorado's remaining share of basin water. Such an outcome would obviously have important consequences for the state.