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### The Homestake Project & Water Quality Issues

Tad Foster

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THE HOMESTAKE PROJECT & WATER QUALITY ISSUES

Reconciling Large-Scale Water Development  
and Water Quality Effects

Panel

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Colorado Springs, Colorado

WATER AS A PUBLIC RESOURCE: EMERGING RIGHTS AND OBLIGATIONS

A Short Course Sponsored by the  
Natural Resources Law Center  
University of Colorado  
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THE HOMESTAKE PROJECT & WATER QUALITY ISSUES, SUMMARY:

The Homestake Phase II water development project is a proposal to divert approximately 20,000 acre feet from tributaries to the Eagle River. This project is located south and west of Vail, Colorado. (See attached map) Phase I of the Project was constructed in 1967. Phase II was delayed until designation of the Holy Cross Wilderness by Congress in the 1980 Colorado Wilderness Act. That Act provided specific exemption for the Homestake Project. The Cities propose to construct 57,000 feet of tunnel to four separate diversion points located at approximately 10,400 feet elevation. The four diversion points will deplete about in an average year of Cross Creek during May through July and 37% of Fall Creek during the same time period. Specific water quality issues raised by the permitting processes were:

1. Whether diversion of spring flows removed dilution water from the Eagle River and thus concentrating the of pollution discharged by the abandoned New Jersey Zinc Mine complex.
2. Whether the downstream community of Avon's water treatment requirements would be increased as a result of diversion by the Cities.
3. Whether the Avon and Edwards wastewater treatment plants would be impacted so as to require additional wastewater treatment in order to meet issued Colorado wastewater discharge permits.
4. Whether salinity in Eagle County and at the Imperial Dam, California would increase due to the project?
5. Whether water quality in the Eagle River would diminish below state aquatic life water quality standards as a result of diversions.
6. Whether removal of peak spring flows upstream of montaine wetlands would cause the dry up of such wetlands which were to be protected under Section 404 of the Clean Water Act.
7. Whether the Town of Minturn's drinking water supply at the mouth of Cross Creek to Eagle River would be adversely impacted by upstream diversion, and whether mere change from pristine conditions constituted grounds for the City providing a new water treatment plant.

Successively more intensive studies by the Forest Service, the United States Corps of Engineers, and the Cities as a part of the Eagle County Land Use permit addressed all of the above issues. The Forest Service

issued its permit in 1983, requiring a water quality monitoring program and protection of state adopted water quality standards. The Forest Service concluded that wetlands would not be lost due to upstream diversions. In 1984, the Corps of Engineers issued its 404 permit with the condition that the wetlands were to be preserved, i.e. no loss of wetland acreage, and requiring a monitoring and mitigation plan to be approved by the Forest Service and the Corps of Engineers prior to initiation of construction by the Cities. The Eagle County 1041 Land Use, Permit hearing begins April 20, 1987. Details of a decision hopefully will be available at the time of the conference in the first week of June. This hearing and decision will place clearly in conflict the Legislature's police power to regulate Land use through the County Board with the Constitutional provision that the right to divert shall never be denied. There is no doubt that environmental permitting requirements, including analysis of water quality impact, have significantly increased the transaction cost of raw water development.



