



To: Chandler Peter, U.S. Army Corps of Engineers
From: Save The Poudre: Poudre Waterkeeper

Date: February 18, 2010

Re: Request to “Re-scope” Halligan-Seaman Project

Dear Mr. Peter,

We write to request that the combined Halligan-Seaman Environmental Impact Statement (“EIS”) process be stopped, and that the Corps reinstate the “scoping” effort before proceeding with any further EIS development for these projects. Due to recent events, we believe that this change of course is required as the original scoping effort, on which the validity of the entire environmental review rests, is now dated and does not adequately inform the EIS development process.

National Environmental Policy Act (“NEPA”) regulations require a scoping period for each EIS process. 40 C.F.R. § 1501.4 (d). This scoping effort requires the Corps, as the lead agency for this EIS, to reach out to all interested parties for input, so that the Corps has a reasonable understanding of the scope of issues to be addressed and identifies the significant issues related to a proposed action. *Id.* § 1501.7.

The scoping effort for the combined Halligan-Seaman EIS is now over five years old, and there have been dramatic shifts in the parties involved, the magnitude of the project, and the possible significant issues. Federal regulations governing the implementation of NEPA require that the lead agency revise the scoping determination if “substantial changes are made later in the proposed action, or if significant new circumstances or information arise which bear on the proposal or its impacts.” *Id.* § 1501.7(c). Such substantial changes and significant new circumstances and information are undeniable:

1. In the Fall of 2009, three of the five participants in the Halligan Reservoir project quit the project. The “Tri-Districts” (ELCO, FCLWD, and CWCWD) said they quit because the project was too expensive, too long delayed, and too contentious. With the Tri-Districts out, the project is now very different, involving only one municipal and one agricultural partner.

2. With the Tri-Districts no longer participating in the project, the need for one-half of the water also quit the Halligan project. The project proponents have indicated that they will reduce the size of the proposed reservoir from 40,000 acre feet to 20,000 acre feet. Because of this dramatic shift in the amount of water to be stored and removed from the river, there has been a fundamental change in the magnitude of the project and there will be dramatically different environmental impacts. With only 20,000 acre feet of storage proposed, a significant issue arises of previously unconsidered additional alternatives that can be used by the City of Fort Collins to meet its water needs , such as:
 - a. A much larger investment in water conservation and efficiency, especially xeriscaping.
 - b. Water sharing with other agricultural and municipal users.
 - c. Dry year leases from farmers.
 - d. Buying water from different sources such as “senior direct flow rights” or already “firmed water.”
 - e. Changing the Water Supply and Demand Policy to require developers to turn over “better” water to the City as new growth occurs – that “better” water would be more senior, be direct flow rights, or be water that is already firmed up.
 - f. Changing the City’s drought policy.
 - g. Water exchanges and trades (upstream and downstream, and with other users).
 - h. Storing Fort Collins’ large surplus water supply in existing reservoirs or gravel pits.
 - i. Building new gravel pit storage.
 - j. Changing the “safety factor” or using other water sources as the safety factor.
 - k. Having the City’s “system vulnerability” and “redundancy factor” be equivalent to other Front Range cities.
 - l. Aquifer storage – the State of Colorado has determined that up to 291,000 acre of aquifer storage exist in the Cache la Poudre basin.
 - m. Increasing the carryover capacity allowed in the C-BT system.
3. Fort Collins’ water usage has decreased dramatically over the last several years, and in 2010, Fort Collins funded a new more aggressive water conservation plan that will have an even greater impact on its water usage. When the previous scoping process began, Fort Collins current and projected water usage was at 185 gpcd; now it is at 155 gpcd and dropping. With the new water conservation program, this number will likely drop further, projected to go to 140 or lower. The City’s residents are committed to lowering demand. Fort Collins’ commitment to storage in Halligan has dwindled from 20,000 acre feet to now

around 12,000 acre feet, and that commitment will likely continue to fall.

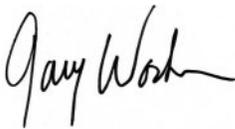
4. Population growth rates in Fort Collins and Greeley have dramatically slowed down due to the recession. Greeley, in particular, has seen a near stoppage of growth. The future growth expansion of both cities that was proposed in the initial scoping part of the EIS was based on previous rapid population growth predictions that are no longer true.

In summary, the magnitude of and need for the Halligan project covered by the combined Halligan-Seaman EIS has changed dramatically since the EIS was originally scoped. As outlined above, substantial changes and significant new circumstances and information related to this EIS process are undeniable and therefore the previous scoping effort is no longer valid. See Id. § 1501.7(c) (“An agency shall revise [scoping] determinations ... if significant new circumstances or information arise which bear on the proposal or its impacts.”) (emphasis added). We request that the Corps comply with regulatory requirements, and that the Halligan-Seaman EIS process be stopped and then started anew with a brand new “scoping” effort.

When the Halligan-Seaman project was initially scoped, Save The Poudre: Poudre Waterkeeper did not exist. Save The Poudre: Poudre Waterkeeper is now one of the largest such coalitions in the Southwest U.S. representing 17 regional, statewide, national, and international groups who have combined membership of over 3 million citizens. The scoping component of the EIS is required to receive input from all interested parties. Id. § 1501.7(a)(1). Save The Poudre: Poudre Waterkeeper is now a very interested party. We request to have input in the new scoping process.

Thank you for allowing us to have this input in this process. We look forward to hearing from you.

Respectfully,



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