

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 18

DATE: November 4, 2003

STAFF: Janonis/Bode

SUBJECT

Resolution 2003-121 Approving the Exercise of the City's Option from North Poudre Irrigation Company to Proceed with the Development of the Halligan Reservoir Enlargement Project and to Authorize Other Related Actions.

RECOMMENDATION

Staff and Water Board recommend adoption of the Resolution.

FINANCIAL IMPACT

The development and construction of the Halligan Reservoir Enlargement Project is estimated to cost the City about \$14 million during the next 5-7 years. Approximately \$4.2 million is budgeted for 2004 and 2005, and the remainder will be budgeted in subsequent years. Bonds will be sold to fund the project and repaid using cash collected under the City's raw water requirements. At the time of exercising the option, the City must pay to North Poudre Irrigation Company a payment in the amount of \$188,223.51. In addition, a non-interest bearing revenue bond will be issued to secure the City's remaining \$4.15 million payment obligation to North Poudre for the rights it will convey to the City.

EXECUTIVE SUMMARY

This Resolution will authorize the City to exercise the option the City has with the North Poudre Irrigation Company (NPIC) to acquire from NPIC its property rights and the right to proceed with the permitting and development of the Halligan Reservoir Enlargement Project. Under the option agreement, the City will acquire all property and other rights necessary for the proposed enlargement and this will allow the City to pursue permitting, design and construction of the enlargement. This resolution also provides direction and authority to enter into agreements with permitting agencies, NPIC, potential participants in the project and other entities necessary to develop and ultimately to construct the project.

BACKGROUND

Halligan Reservoir, located on the North Fork of the Poudre River, currently has a capacity of 6,408 acre-feet, but could be enlarged to about 40,000 acre-feet. The project would supply the City with long-term carryover storage that would be used primarily to supplement supplies during a multi-year drought. The Halligan Reservoir project was identified in the 1980's as an excellent project for developing long-term storage capacity. The projected unit cost of constructing an enlarged reservoir at that site is much lower than most sites because of the topography. Since the project would enlarge an existing reservoir, the environmental impacts would be relatively minor. Recent studies of the City's water supply system have shown that additional storage capacity is needed to effectively manage the City's water rights portfolio and provide long-term drought protection. The enlargement of Halligan Reservoir would be a key component in meeting the future water supply needs of residents in the Fort Collins area.

The City has paid approximately \$1.025 million in annual option payments since 1993 in order to preserve its option to proceed with the Halligan Reservoir project. After the payment of \$188,223.51 is made at the time of exercise of the option, annual payments continue under the Option Agreement through the year 2030, in the total additional amount of approximately \$4.15 million. If the City chooses not to exercise its option and the agreement terminates, NPIC is entitled to retain the City's prior payments and the City relinquishes its conditional storage rights in Halligan Reservoir and has no further rights under the agreement. If the City exercises its option to proceed with the project, but fails to proceed to construct the project, it is required to relinquish its rights in the property, conditional storage and the project to NPIC, together with all amounts previously paid to NPIC.

Development of additional storage capacity at Halligan Reservoir is consistent with the Water Supply and Demand Management Policy that was adopted by City Council in September of this year. This policy provides that the City shall pursue new storage capacity in the range of 12,500 acre-feet to 14,000 acre-feet to meet both operational and long-term carryover storage needs. It has been determined that approximately 12,000 acre-feet of storage capacity at Halligan Reservoir would meet projected long-term carryover storage needs and help meet future water demands during a 1-in-50 type drought.

Under the Halligan Option Agreement, NPIC retains the storage rights for the first 6,400 acre-feet in the reservoir. With the 12,000 acre-feet desired by Fort Collins, a reservoir with a minimum of 18,400 acre-feet is needed. Since the enlarged Halligan Reservoir may have a capacity of up to 40,000 acre-feet, there is an opportunity to form partnerships with other local entities and provide needed storage capacity for others in this area. The Utilities' projected cost for Halligan would be about \$26 million if the City were to build a reservoir large enough to meet only the needs of Utilities' customers. By building the 40,000 acre-foot reservoir with partners to serve the region in and around Fort Collins, Utilities' cost would be about \$14 million. These estimated costs include engineering and environmental studies, environmental mitigation, project management, design and construction. NPIC has expressed a desire for an additional 5,000 acre-feet of new storage capacity at Halligan and the three water districts that serve areas in and around Fort Collins are interested in acquiring the remaining capacity that may be available. This resolution would authorize the City to enter into agreements with partners and others to work toward the cooperative development of the project.

The City's share of the Halligan Enlargement Project will be paid by development fees collected by the City. Projections show that approximately \$90 million in cash is expected to be turned over from developers in satisfaction of raw water requirements during the planning period from 2000 to 2040. This assumes that about 50% of the City's raw water requirements for typical new developments will be turned over in the form of cash-in-lieu payments. The balance will be in the form of water rights. The cash turned over will be available during the planning period for financing for the enlargement of Halligan Reservoir as well as for the development of gravel pits for storage and for other improvements to the City's raw water system.

Engineering and environmental studies on Halligan Reservoir have been ongoing during the last couple of years. Discussions have been held with federal and state agencies, adjacent landowners, potential partners, and other interested parties. The City currently holds an option to acquire some of the land surrounding the existing Reservoir for enlargement of the Reservoir, in exchange for the grant of certain surface rights on the Reservoir upon completion of the project. Further progress on completing the acquisition of these property rights, along with other property needed for the enlargement project, is expected in the coming months.

City staff continues to believe the project will provide significant benefits to the City, is cost effective, can provide environmental enhancements, and will be permitted by the necessary federal, state, and local agencies. The National Environmental Policy Act (NEPA) permitting process will require an environmental impact statement (EIS) that will require an extensive public process that will include an analysis of alternatives and an evaluation of potential impacts. This process is expected to take 2-3 years. Federal agencies will have final permit approval of the project. If the project is successfully permitted, it will take another 3-4 years for design and construction, and the enlarged reservoir could be completed and ready to use by 2009 or 2010.

Approval of this resolution allows the City of Fort Collins to be the project proponent on behalf of the Halligan Enlargement Project. It does not assure that the Halligan Project will be built nor that enlargement of Halligan Reservoir will be the selected option by the federal permitting agencies in the EIS process. NEPA requires federal agencies to use the EIS process to evaluate potential adverse impacts of the project, consider all potential alternatives, and permit the least environmentally damaging alternative. Therefore, the EIS process will evaluate all practicable alternatives, including a no-action alternative, that can meet the basic project purpose and need. This can be a complex and protracted process, and will involve the evaluation of other alternatives such as Northern Colorado Water Conservancy District's Northern Integrated Supply Project (NISP). As a result, it could result in the permitting of a project other than Halligan to meet regional water storage needs. As the project proponent, City staff will work with other interested parties and the participants to develop an environmentally sound, cost-effective approach to meeting the Fort Collins regional water needs and to propose the most permissible project to do so.

The City is required, under the Option Agreement, to operate and maintain the Reservoir upon the exercise of the Option. City staff has discussed with NPIC the possibility of an agreement that would provide for operation and maintenance of the Reservoir by NPIC. The Resolution authorizes the City Manager to enter into such an agreement, along with other agreements related to the process of evaluating, planning and obtaining environmental approvals for the project.

Water Board and City staff recommend that the resolution be approved that would authorize the City Manager to:

1. exercise the City's option contingent upon final approval of the issuance of the revenue bond to secure the Water Utility Enterprise obligations for future payments to NPIC;
2. proceed with such work as may be necessary to pursue enlargement of Halligan Reservoir to a capacity of up to 40,000 acre-feet, to the extent economically and environmentally feasible, including acquisition of additional property rights required for the enlargement project;
3. enter into an agreement with NPIC for operation and maintenance of Halligan Reservoir pending the enlargement project;
4. negotiate and enter into agreements with NPIC and other local water suppliers to cooperatively investigate, plan and obtain regulatory approvals for the project and share related costs;
5. negotiate and enter into an agreement with the City of Greeley for cooperation, coordination and cost-sharing for environmental approvals for the Halligan Reservoir project and Greeley's proposed Seaman Reservoir enlargement project;
6. negotiate and enter into one or more agreements with the U.S. Army Corps of Engineers for cooperation, coordination, investigation and analysis related to federal environmental regulatory requirements; and
7. enter into negotiations with other interested parties to develop agreements for cooperative financing of construction of the project and ongoing operation, in exchange for shared use of the new water storage capacity to result, for presentation to the City Council for approval.

ATTACHMENTS

Excerpt from Water Board minutes
Location Map of Halligan Reservoir

RESOLUTION 2003-121
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROVING THE EXERCISE OF THE CITY'S OPTION
FROM NORTH POUFRE IRRIGATION COMPANY
TO PROCEED WITH THE DEVELOPMENT OF
THE HALLIGAN RESERVOIR ENLARGEMENT PROJECT
AND AUTHORIZING OTHER RELATED ACTIONS

WHEREAS, in 1987, the City acquired an interest in the Halligan Reservoir Enlargement Project and the associated conditional storage right, pursuant to Resolution 87-161, adopted by the City Council on November 3, 1987; and

WHEREAS, the City conducted extensive engineering and environmental studies in 1989, which have since been updated in 2002 and 2003, and such studies show the project to be feasible and cost effective; and

WHEREAS, in 1993, pursuant to Resolution 93-164, adopted by the City Council on November 2, 1993, the City entered into an agreement with North Poudre Irrigation Company ("NPIC") through which NPIC granted to the City an option to acquire all the property or other rights necessary to proceed with the enlargement of the Halligan Reservoir (the "Option Agreement"); and

WHEREAS, on September 16, 2003, the City Council adopted Resolution 2003-104, which approved a Water Supply and Demand Management Policy that provides that the City will pursue the acquisition or development of 12,500 to 14,000 acre-feet of water storage capacity in order to provide carryover water and to provide operational flexibility and reliability; and

WHEREAS, City staff has since that time determined that 12,000 acre-feet of carryover capacity that would be available to the City in an enlarged Halligan Reservoir would meet the long-term needs of the City; and

WHEREAS, Halligan Reservoir can potentially be enlarged to 40,000 acre-feet and the City and other local entities are interested in pursuing a partnership to provide an environmentally sensitive and cost-effective project that meets the regional needs of several entities within the Cache la Poudre River Basin; and

WHEREAS, by working cooperatively with other entities, the City can advance significant environmental benefits to the North Fork of the Poudre River that can be achieved through the Halligan Reservoir Enlargement Project (the "Project"); and

WHEREAS, the City needs to explore partnership agreements with other entities and proceed with a comprehensive permitting process to secure the environmental approvals required for the Project and to improve the environmental sensitivity and cost-effectiveness of the Project; and

WHEREAS, the Option Agreement is scheduled to expire if the City does not exercise its option to proceed with the Project (the "Option") by the end of 2003; and

WHEREAS, Ordinance No. 5, of the Board of the Water Utility Enterprise of the City of Fort Collins (the "Board"), authorizing the issuance of a non-interest bearing water revenue bond to secure said Enterprise's payment obligations for the benefit of NPIC (the "Revenue Bond") pursuant to the Option Agreement, is scheduled for consideration by the Board on first reading on this 4th day of November, 2003; and

WHEREAS, pursuant to Article XIV, Section 18 of the Constitution of the State of Colorado, Section 29-1-203 of the Colorado Revised Statutes, and Article II, Section 16 of the City Charter, the City Council may authorize intergovernmental agreements through which the City may cooperate together with other governmental entities to provide any function lawfully authorized to each.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Manager is hereby authorized to take such actions as are necessary to exercise the City's Option to proceed with the Project pursuant to the Option Agreement, contingent upon the final approval of the issuance of the Revenue Bond by the Board.

Section 2. That the City Manager is hereby authorized, upon the exercise of the Option, to proceed with such investigation, planning, regulatory review processes, site acquisition, design and construction work as he determines to be necessary to pursue the enlargement of Halligan Reservoir to a capacity of up to 40,000 acre-feet, provided that the final capacity and design shall be economically feasible and in compliance with all applicable environmental standards and requirements.

Section 3. That the City Manager is hereby authorized, upon the exercise of the Option, to negotiate and enter into a written agreement with NPIC for the operation and maintenance of Halligan Reservoir pending the enlargement project.

Section 4. That the City Manager is hereby authorized, upon the exercise of the Option, to negotiate and enter into written agreements with NPIC, Fort Collins-Loveland Water District, East Larimer County Water District, North Weld County Water District, and other local water suppliers interested in acquiring capacity in the Project, through which the City may share the costs of engineering and environmental studies, environmental mitigation, project management and design, and other Project work with such other interested parties, in exchange for possible future rights to a portion of the new Halligan Reservoir capacity to be constructed.

Section 5. That the City Manager is hereby authorized, upon the exercise of the Option, to negotiate and enter into a written agreement with the City of Greeley providing for cooperation, coordination and cost-sharing for environmental review, planning and permitting, and other work mutually beneficial to the City for its Halligan Reservoir Project and City of Greeley for its proposed Seaman Reservoir enlargement project.

Section 6. That the City Manager is hereby authorized, upon the exercise of the Option, to negotiate and enter into one or more written agreements with the U.S. Army Corps of Engineers providing for cooperation, coordination, investigation and analysis related to federal environmental regulatory requirements applicable to the Project.

Section 7. That the City Manager is hereby authorized, upon the exercise of the Option, to enter into negotiations with NPIC, Fort Collins-Loveland Water District, East Larimer County Water District, North Weld County Water District, the City of Greeley, and such other local water suppliers as may be willing and able to cooperate in the enlargement of Halligan Reservoir as set forth herein, and to develop agreements providing for cooperative financing of construction and ongoing operation of the Project in exchange for proportionally shared use of the new Halligan Reservoir storage capacity on a long-term basis, which agreements shall be presented to the City Council at a later date for final approval.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins held this 4th day of November, A.D. 2003.

Mayor

ATTEST:

City Clerk

EXCERPT FROM JUNE 26, 2003 WATER BOARD MEETING MINUTES:

Halligan Reservoir – Brian Janonis

Brian Janonis, Water Resources & Treatment Services Department Manager, said the City has received a letter from the North Poudre Irrigation Company asking the City to consider transferring ownership of Halligan back to them. Following is a brief background and the four alternatives staff has prepared for discussion:

In 1987, the City of Fort Collins acquired a conditional storage right at Halligan Reservoir. This right for 33,462 acre-feet is owned jointly with the Northern Colorado Irrigation Company (NPIC). The City and NPIC entered into the Halligan Reservoir Agreement in November, 1993. The purpose of the agreement was to give the City the option to enlarge Halligan Reservoir, which is currently owned by NPIC. If the City exercises this option, the property and all rights would be conveyed to the City and it could proceed with the construction of an enlarged reservoir. The City could also let the option lapse, renegotiate or terminate the agreement.

Alternatives to Consider

Alternative #1 Do nothing and let the present option expire at the end of 2003 and relinquish all rights to enlarge Halligan Reservoir.

Alternative #2 Exercise the Option Agreement and proceed to design and enlarge the existing reservoir to 40,000 acre-feet and sell excess storage to other entities

Alternative #3 Exercise the Option Agreement and proceed to design and enlarge the existing reservoir to 17,400 acre-feet.

Alternative #4 Enter into an agreement with North Poudre Irrigation Company (NPIC) to transfer the project to them with 10,000 acre-feet of storage capacity reserved for the City.

Brian stated that staff recommends either Alternative #2 or #4.

Board member Ted Borstad asked why does alternative #3 say 17,400 acre feet for the City's use and alternative #4 say 10,000 acre feet. Brian responded that if it is a 17,400 acre foot reservoir that would provide 10,000 acre feet for the City, 6,400 acre feet for North Poudre and then 1,000 acre feet would be granted to the property owners in lieu of the City having to purchase the property. Ted Borstad asked if the 1,000 acre feet would satisfy the increases that NPIC stockholders want in addition. Brian responded that it wouldn't, that it is a separate issue and that NPIC suggested that they take it over because they have a need for 3,000 to 5,000 acre feet.

Chairman Tom Sanders asked why having the City operate and maintain the reservoir is listed as a disadvantage. Brian replied that currently North Poudre maintains it and is part of their daily routine but it is something that we would have to learn. Mike Smith responded that it would be problematic but it is possible.

John Bartholow asked Steve Smith, of North Poudre Irrigation Company, about the low interest loan that might be available if we went with alternative #4.

Steve Smith replied that NPIC has historically borrowed money from the Colorado Conservation Board to do rehabilitation on reservoirs to bring them up to current state standards. As the beneficiaries of the enlargements are primarily for agricultural users, NPIC has been able to access fairly reasonable interest rates on those loans over a 40 year period. NPIC is currently in the process of paying off seven or eight of such loans. So for those that have multiple benefits; that benefit agriculture, recreation or municipalities, there would probably be a blending of interest rates that would reflect the mix of beneficiaries. Because NPIC has only 35% agricultural shares and, with an enlarged reservoir, the percentage of agricultural users would decline further, there is little guarantee that Halligan would qualify for a truly low interest rate from the Colorado Water Conservation Fund.

Board member Doug Yadon asked Brian if there is any potential of partnering with the City of Greeley, possibly combining or coordinating the Seaman and Halligan projects, and also visiting with the Tri Districts about their participation.

Brian replied that staff works with Greeley and the Tri Districts on a routine basis. He asked Steve Smith to speak about the relationship that NPIC has with Greeley and the Tri District.

Steve responded that NPIC does a lot of water exchanges with Greeley for CBT water. The Tri Districts are individually represented as stockholders in the NPIC portfolio so NPIC works with them as individuals. Between the three districts, they own about 30 percent.

Chairman Tom Sanders stated that there were two issues here: the first, do we all agree, or is there a problem with expanding Halligan to it's maximum of 40,000 acre feet; and the second is, who should be running it, should North Poudre run it or should we be running it. Does anybody think that we should be considering less than 40,000?

John Bartholow voiced his concern about the number of projects already in the works and the sacrifice of good habitat. If though, through proper planning and cooperation, some projects might fall away from the larger scheme, then perhaps some sacrifices might be in order. His preference would be for City Council to make a decision on the Water Supply and Demand Management Policy before the Water Board makes a recommendation about Halligan. That aside, Halligan does seem to be a cost competitive alternative for the City for the identified need of 10,000 acre feet. However, cost isn't the sole decision metric that should be used here. Existing and draft water supply policies and resolutions encourage us to look for regional cooperation and dedication to environmental sensitivity, support for regional agriculture and an opposition to a main stem dam on the Poudre. All those things are, in one form or another, in the policies. His concern was that the proposed 40,000 acre feet reservoir, is excellent quality riparian and rivering habitat. For that reason, he recommended that Council thank NPIC for their generous offer and look forward to partnering with them on enlarging Halligan for the benefit of municipal and agricultural users, but inform them that the City prefers to maintain the leadership role it's been planning for many years, so that we can maintain our control of the project, our emphasis on environmental responsibility and in fact, lend ourselves to leaning towards all the policies we have been encouraged to incorporate into decisions.

And, he added, we recommend to the Council that we go ahead and exercise our option to purchase Halligan on or before December 31, 2003, but state that we are not explicitly ready to recommend sizing Halligan to its maximum 40,000 acre foot capacity or recommend who the full suite of regional partners might be. That would come at a later time when all the environmental information is really in, and we can look at those tradeoffs and the balance between the reservoir capacity we really want as well as cooperate with partners to weigh cost and environmental concerns and issues that will inevitably come up.

Chairman Sanders asked John Bartholow if he was making a motion. John replied that he would make that a discussion right now and appreciate the Board's help in shaping it into a sensible motion.

Board member Robert Ward agreed with John Bartholow in that it seems premature to make a decision on a size given so much uncertainty about what others are doing until more discussion has taken place.

Doug Yadon stated that there is still is no guarantee that the current Halligan project that the City is pursuing is permissible and will come on board in a best time frame. There is always potential for issues to arise and derail the project. This is the City's water supply and we are interested in maintaining as direct control on our water supply and our future. It puts a burden on staff and the community to be the ones responsible for overcoming those hurdles and make the project happen at reasonable prices and on a reasonable schedule. If we adopt Alternative #4, it shifts the burden onto different folks who would then have Steve Smith and his group's responsibility to bring that through. It can go either way but it's just a question for the City; does the City for their 10,000 acre feet share want more direct control to shape, direct and marshal that process or will we take a little bit more risk and trust another entity to provide us that source. He added that in an agreement you could require guaranteed delivery of the 10,000 acre feet no later than a specified date so that there is protection. It would be putting the risk on the other party that way, but when in the business of permitting and building dam projects there needs to be some pretty tough negotiating to be fair and reasonable as possible.

Board member Bill Fisher stated he agreed with some of Doug's comments but since his firm represents Cache La Poudre Water Users Association, he may have a conflict of interest in any decision.

Brian Janonis responded that one of the things that we have been talking with Cache La Poudre Water Users Association about is one eighth ownership in the Grey Mountain decree and how that might be used to help Halligan fill.

Bill Fischer stated that he should excuse himself from the conversation because he works with the Association and it would be a conflict of interest.

Chairman Tom Sanders questioned whether he really should excuse himself from the conversation. Bill Fischer replied that it had just come to his attention and that he had not really thought it through yet. Chairman Sanders asked him to just wait and listen and if we come to a vote you can withdraw yourself from the vote.

Bill Fischer explained that his thinking was that if option #4 put NPIC and the City in a better negotiating position with the Cache La Poudre Water Users Association and he voted, for example, for Alternative #4, that means, that he would vote to put the City and NPIC in a better negotiating position against his client, so he would have a conflict.

Chairman Sanders agreed that he understood and asked if anyone else wanted to raise their concerns. Board member Tom Brown responded that there was just a point, there is two big jobs that we are lumping together in our conversation. One is, to design with the enlargement with the permitting process and the other is to operate and maintain it in the future. They are two quite different jobs. The City might want to be intimately involved in the first job and not involved at all in the second.

John Bartholow interjected that these are really three decisions in a way; size of reservoir, who leads, who does O & M.

Mike Smith stated that the immediacy right now is that NPIC has sent a letter to the City Council asking them to consider this and we owe them an answer. It could be an answer of thank you, we're going to take this under consideration and get back to you, or whatever the Board wishes.

Board member Bill Fischer asked Brian, how would NPIC's ownership put them in a better negotiating position than the City. Brian responded that NPIC is more of a regional entity than the City and that NPIC represents all of the shareholders including a lot of municipalities and irrigators, and when the City is in the lead it only represents the City. Bill Fischer responded that he did not know how that improves a negotiating position to take the lead. Ted Borstad stated that he doesn't even know how we are just representing the City when we would be enlarging a reservoir that is used also by the agricultural users and perhaps some other municipal entities. Brian responded that that is one of the key questions, do we enlarge it just for ourselves in which case we have all the extra water going to the City or do we incorporate other entities into the enlargement. To summarize briefly, there are huge economic advantages to building a larger reservoir and incorporating other entities into this project, than there is if we go after it just as a city and just build it for our needs of 10,000 acre feet which is a total 17,400 acre foot reservoir. It relatively cuts the City's cost in half.

Bill Fischer asked what is there to be negotiated with NPIC . Brian replied that staff has sent a proposed agreement to NPIC on how we might store water in Halligan in conjunction with the Grey Mountain decree, that's something we've got to negotiate. And with the Cache La Poudre Water Users Association, owning money interests of Grey Mountain, if they were in behind the project, they might give us a negotiating advantage. Bill Fischer stated he was not quite sure he 100 percent agreed with him but understood his concern and thanked him for explaining it.

Ted Borstad asked what percent of NPIC does the City own. Brian replied about 35 percent. Ted replied that it was closely divided and asked if our role changed significantly other than who leads, whether it's Alternative 2 or 4, will we still have the same level of interest of involvement in the project, or are we just going to sit back and wait for the 10,000 to show up if we turn it over. Brian replied that could very well be the alternative. If we turn it over to NPIC then all the City would get would be the 10,000. Ted Borstad asked if then does the role of the City Council change in either

scenario because of the water supply policy still being worked on, and with the Council's role, would it impact either scenario one more than the other. Mike replied that the Council's role would be one of confirming or not confirming or deciding on what degree of storage they think we need, regardless of what we recommend. The Council ultimately will say what the policy is and if they, for example, would agree and say the City ultimately needs 10,000 in storage somewhere, then that doesn't say where it's at. The secondary issue is, if we are trying to resolve the Halligan issue, do we want to pursue doing it ourselves, or do we want to give it back to North Poudre and just get 10,000 acre feet of storage. If the Board recommended today to go do one of the Halligan options and the Council decided that we don't need any storage for some reason, then the whole point would be moot. But they are the ones that have to approve the option anyway. The recommendation of the Board doesn't make it happen, it's just puts it on the Council's table "here's what the Board thinks".

Chairman Sanders reminded the Board that their function is to give the Council the best possible technical advice they can and leave the political decisions to them. Mike added, that the Council's decision could be somewhat political in that there are a lot of individual interests in this project for other reasons than just water supply. In other words there are people who are interested in no growth and so it could be that we make a water decision based on trying to control land use issues, which he hopes doesn't happen.

Doug Yadon stated that he wanted to make this point that there is an astounding difference in cost per acre foot of delivered water of the 40,000 acre feet, if those several parties all agree and are successful, compared to buying the CBT shares and any of the other options. Doug asked what would be in this agreement; we could say we'd like our 10,000 acre feet, or are we going to say we'd like our 10,000 acre feet at a not to exceed per acre foot cost down here or up here or just wherever it happens to come in. There would be some kind of understanding going into an agreement like that. Brian replied that maybe Steve can speak to this, but it is his understanding that your interests are in building the largest reservoir for the lowest cost. The Board agreed that that was the general consensus. Doug Yadon agreed that that probably is something that the parties can come together with in an agreement that that would be the intent.

Board member David Lauer stated that he thought the City of Fort Collins' primary role is to make sure that it's customers are well served but a large part of serving them well is being a responsible regional actor. He added that his second point was that, he would prefer to second John's motion if we can get it down to a reasonable language so that at a minimum it recommends to City Council that we exercise our option by the 31st of December and that we work with NPIC to build a larger reservoir that will not invade the upper tract of the 40,000 foot perimeter that we were talking about.

Board member Jim Finley stated two things: one is that if part of the charge of the City and Board in regards to evaluating Halligan is based on the environmental impact, that is pretty hard to make a decision one way or the other, especially in regards to the size, before that assessment has actually been made. Secondly, the whole idea of this 10,000 acre feet being a secondary right; whatever, the negotiation is with the NPIC is a critical component. It's second in line for storage behind Grey Mountain, so the whole issue with Halligan almost becomes secondary.

Mike Smith, responded that he doubted whether the issue will be resolved before the end of the year.

We are going to have to make a decision. He added that what he has heard from NPIC is they have a number of shareholders that are very interested in getting additional capacity in the reservoir. His concern was that if the City does it and for some reason decides to heck with everyone else, we don't care what you want, we are just going to build what we want, and the company that we have cooperated with to get this is going will be out in the cold. They are trying to protect their own interest as a company. Right now, if we exercise the option, we control it. That's the bottom line.

Chairman Sanders added that if we throw out the 40,000 as an upper limit, I think that helps them as well in being a good neighbor again. When we didn't build Rockwell and we didn't support Grey Mountain, we turned off an awful lot of the farming community in the water supply. We made the environmentalists happy but we really had a problem with them, particularly with Rockwell and that issue. This is something that the Water Board was created for to be a good liaison between the water users and the farmers and the irrigators and the City and we are supposed to be able to make that work.

Bill Fischer stated that assuming the City exercised its option, one would assume that that would preclude further negotiations if desired between NPIC and the City for an option something along the lines of number four. Let's assume that the City exercises the option, what's to prevent the City a year from now in talking with NPIC in saying we'll take 10,000 or 15,000 acre feet, whatever we feel appropriate.

Tom Brown stated they could reach some other agreement, not give it all up after a year, but there's a lot of room for agreements with NPIC if we exercise the option now.

Mike replied that he doesn't think NPIC particularly wants to operate or maintain the reservoir or oversee the construction but that they have shareholders that want some capacity and that will be the issue. If we exercise the option and the Board and the Council decide no that we are going to build a 17,400 acre foot reservoir, we're going to force those other shareholders to go elsewhere to look at other water storage projects.

David Lauer stated that this is just reinforcing the responsibility we have to the regional players, not only with the agricultural part of NPIC but with the Tri Districts. There are really three entities here, the City of Fort Collins has 35 percent, the agricultural interests that have 30 percent and there are the Tri Districts. We have to be responsible to those two other entities in that company, maybe not to the same extent that we are to our own customers but close to it.

Mike replied that what staff is looking at is if we do option 2 or option 4 we really need to balance the regional needs and the issues that John brought up on the environment. I think we are fairly supportive of the environmental issues. So we have to weigh those, but to just say we are only going to do what we need and to heck with anyone else in a regional sense, is irresponsible.

David Lauer stated that the other dimension or extension of that is our relationship with Greeley and Seaman downstream. He asked Brian to talk a little bit about the inner relationship of an enlarged Seaman at their present dam site and what that would mean for flows, both upstream and enlarged Halligan in between.

Brian Janonis replied that he and Greeley staff have been discussing the possibility of Halligan on how that would work with the Seaman reservoirs and how we might be able to manipulate stream flows between the two reservoirs to improve both aquatic and mouse habitat. The U.S. Fish and Wildlife Service have identified that as good mouse habitat. So, we have been talking with Greeley staff about that, they are excited about the opportunity. He said that they met with the mouse consultant, who then walked the whole river from Halligan to Seaman and went horseback riding with the Greeley staff around Seaman Reservoir. So we have really been working closely with them and are trying to work regionally to promote some regional environmental solutions as well as water solutions, with Greeley, the Tri Districts and NPIC.

Doug Yadon asked Brian if his understanding is correct in that those discussions don't extend to Greeley having a share in the Halligan project.

Brian responded that he thinks that the Tri Districts, NPIC and the City would take all of the capacity in Halligan and Greeley hasn't expressed an interest in being involved in Halligan, it just expressed concerns about how we can operate. He added that they seem to be very environmentally motivated and advocate that kind of approach.

David Lauer stated they are they directly or indirectly doing that through the idea of a much larger Seaman.

Mike responded that he thinks it boils down to an issue of not actually giving up the one right versus the other, but managing the water that in a way is beneficial to everyone.

David Lauer asked if Halligan is enlarged to something just under 40,000 acre feet, what is that going to do to the future potential capacity of an enlarged Seaman.

Dennis Bode responded that he thought the North Fork is not enough to support a very large reservoir at Seaman without taking water from the main stem. David Lauer stated, right, this is his point, this is what I want us to be aware of when we are talking about partnering with the City of Greeley.

Mike added that there are two different pieces of the enlarged Seaman to him; there is the part that is Greeley's issue and then there is a part that could be a piece of the Northern Integrated Supply project which is the Grey Mountain Glade, a very large Seaman.

David Lauer stated here is another consideration if we want to have the City of Greeley on board with us we would have to take that into consideration as to how much water in the North Poudre system we would want to store in Halligan in order for them to be a willing partner.

Chairman Sanders stated what they need to stop at 5:00 o'clock no matter what, and what he'd like to ask, is there anyone who would like to put a motion on the floor to accept number two as written?

Doug Yadon stated that he would move to make a motion that the Water Board's recommendation

to the City Council is to consider alternative number two as written in the memo from staff. It says:

Alternative #2 Exercise the Option Agreement and proceed to design and enlarge the existing reservoir to 40,000 acre feet and sell excess storage to other entities.

Chairman Sanders accepted the motion. Bill Fischer asked Chairman Sanders if they don't already have a motion on the floor. Chairman Sanders replied no.

Robert Ward seconded the motion.

Chairman Sanders thanked Bill Fischer who then left the meeting.

Doug Yadon stated that the intent of the motion is that our recommendation or approach be to design and construct a maximum practical size Halligan for the benefit of the City and such partners that we can attract in order to get the advantages of the cost and the permit ability on the project. He thought staff meant the 40,000 acre feet to physically represent that upper end. Brian Janonis replied that that was the intent.

Chairman Sanders asked Robert Ward if he agreed with that. Robert Ward replied that he liked the way Doug worded it and seconded it. Chairman Sanders noted that Robert Ward seconded and agreed to the motion.

The Board asked Board member Doug Yadon to repeat his motion.

Doug Yadon stated that it is to recommend to City Council their adoption of staff's alternative number two with the clarification that the portion to that alternative referring to 40,000 acre feet in effect means that the City proceed with development of a Halligan enlargement project to the maximum practical size with every intent to attract the appropriate partners for the project for the purposes of both minimizing costs and maximizing permit ability to the project, or words to that effect.

Chairman Sanders asked Ted Borstad if that was agreeable. Ted replied that he would be happier if there was something in there about environmental effects.

Chairman Sanders replied the words "permit ability" are practical and conclusive. He stated that he thought, if you look at other options I don't think anyone could be more sensitive to habitat and environment than this City and this staff.

Doug Yadon replied that "permit ability" is definitely in there and he would be happy to offer the clarification that the project is fully environmentally acceptable because if it isn't it is not permissible.

John Bartholow stated his problem is not that he disagrees with Board member Yadon's intent, but he does disagree with the message that we are sending to Council that it absolutely be sized as large as practical and permissible. I personally have not come to that decision yet myself. I also think you are doing a good job at looking at the cost, but I think we have to be pretty careful about that,

Halligan might not be the most cost effective place.

Doug Yadon replied that the main reason he made the motion is it maintains the City's control of the project and we don't have that with a Seaman or any other of those combined projects. I think inherent in the motion is the idea that the City's been on a course to take that responsibility and to have that control.

John Bartholow stated that in that sense he agreed with him.

Ted Borstad questioned that as this goes through the approval process, he would understand the motion, let's say Council, for whatever reasons say they only want 7,000 acre feet, that doesn't reduce the forty that the motion is recommending we design. That just means there is 3,000 freed up for someone else, or whatever the maximum permissible is.

Mike Smith replied that what Council decides, they decide.

David Lauer stated that he has objections that are quite similar to John's. What he didn't hear you say in the motion anything that sets specifically 40,000 acre feet.

Doug Yadon stated he didn't want to put the 40,000 in as an absolute number because we don't know what the maximum permissible practical size is, because the habitat studies haven't been done nor do we have permit applications in and negotiations done. He stated that this is an opportunity to have a major future positive impact on the storage needs not only for ourselves but for others and do it in a manner that we benefit from by having the most cost effective project that we can where we still maintain control and meet all of the environmental requirements.

Chairman Sanders mentioned that apparently Halligan has been spilling this whole time, so if we had this extra storage, we'd have enough storage for ten years.

Robert Ward stated that there is a large amount of uncertainty about the environmental side of this and the other water rights involved and there is no way that we can get our hands around that by the deadline. In his opinion, we are going to have to decide who we want to take the lead with a huge amount of uncertainty. We can proceed to design and enlarge but he didn't think there was any way we can begin to sort out and answer these questions by the deadline.

Mike Smith responded that the real issue here is exercising the option or not and to you just look at that and just look at that only. We can address other issues later on.

Chairman Sanders asked since we have a motion on the table right now and we have to accept it or reject it and we can ask for other motions. I haven't disagreed with you in twenty years on this but I disagree with you on this today. Mike Smith responded that that was okay. Chairman Sanders stated he would like to bring this to vote.

Board member Tom Brown stated he would just take this opportunity to say that he thinks that Mike has a very good idea. He agrees with Robert that there is not going to be a whole lot of resolution

of uncertainty in the next month but there is one bit of uncertainty that would be resolved and that is the precise wording of the motion as it has been stated but not precisely written down. This month would at least give them the chance to have it clearly put down so that we know what we're voting on in terms of the size issue He is perfectly willing to settle the first issue about whether we exercise the option today but prefers to wait a month to settle the other.

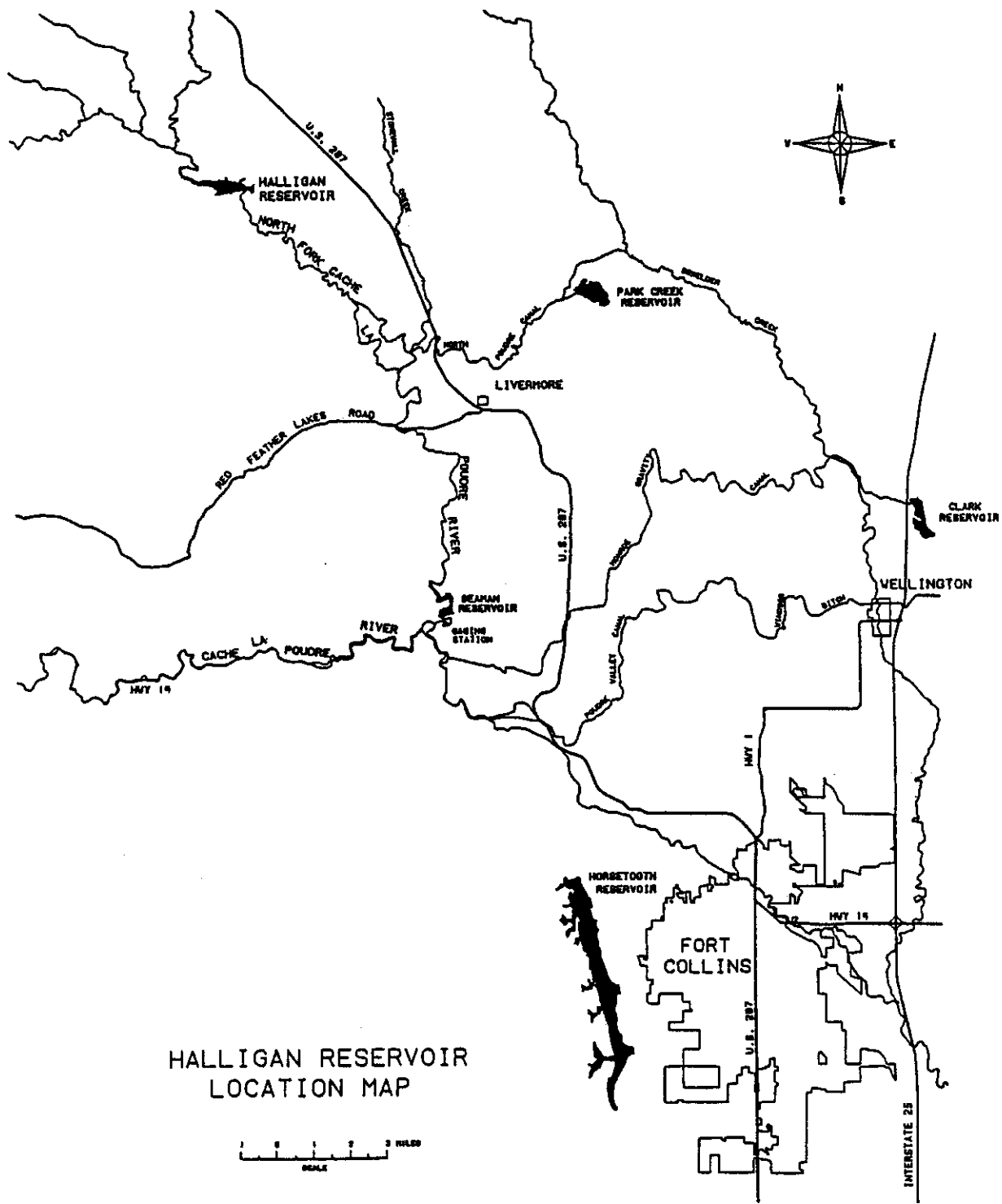
Chairman Sanders stated that he thought that Doug explained it as well as you could on the size, but if you voted against this motion, then another motion could be put on the board and then we could split it up.

John Bartholow asked if it would be worthwhile to repeat the second part of his motion, which is really kind of what Mike is saying although Mike may have said it better. John stated that we recommend to exercising our option to purchase Halligan on or before December 31st, but we are explicitly not ready to recommend sizing Halligan to it's maximum potential capacity or recommend who the full suite of regional partners might be. In other words, it just recommends exercising the option. So, if this motion is defeated, you will get this other one.

Chairman Sanders agreed that that was a reasonable thing to do. He stated that he just felt like they have been putting it off and putting it off and trying to get more certainty in everything we're doing. I don't know that we tell them in the first place what to build and how big to build it. It's not in his motion, there, it's just getting more capacity to co-op.

Doug Yadon stated he had a concern that if we do go this other route, do we inadvertently send a message to City Council that says NPIC can be on their own, we're not that concerned. That's not the Water Board's general opinion, that we are very sensitive and committed and would like the City to do a regional approach.

Chairman Sanders stated I think you all know what the motion is, I won't ask Doug to repeat it again, or we'll be arguing another 25 minutes on the wording of that. If you vote "aye" you're voting for going with option two with all of the ramifications, if you vote negative, then we're back here discussing whether to make a motion on anything at all. Yeas: 5; Nays: 3; Abstention: 1.



HALLIGAN RESERVOIR
LOCATION MAP

