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Clarke: Halligan hassle could lead to water fight

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Mark Twain is often quoted, “Liquor is for drinking, water is for fighting.”

Given the loss of a 1985 conditional right to 33,462 acre feet of water on the north fork of the Poudre River, due to the city’s water lawyers’ failure to file a required report, it seems to me that some kind of a fight could ensue.

Colorado water law is very complicated. It is governed by the state constitution, state statutes and water courts. To determine the true value of the rights that were lost would require some very complex research by water law experts.

One thing I believe is that a 1985 conditional decree has a better chance of putting the water to beneficial use than a 2013 conditional decree. According to a Coloradoan story by Kevin Duggan, Fort Collins lost 925 places in line because the report was not filed. Duggan further explains that “Fort Collins water officials compare Colorado’s water-appropriation system to a soup line. People with different sized bowls get in line based on the year their claim to a serving was established. The amount of ‘soup’ available depends on precipitation, particularly mountain snow, and it varies from year to year. The soup is served until it’s gone.” The only thing I would clarify is that each person at the head of the soup line leaves with a full bowl — the soup is not equally divided among all those in the line. Those at the end get nothing.

Currently, the Army Corps of Engineers is preparing an environmental impact statement on the expansion of Halligan Reservoir by the city of Fort Collins and the North Poudre Irrigation Company. In my discussion with Donnie Dustin, Fort Collins water resources manager, he told me the corps will likely only approve an expansion of the reservoir to the size that the applicants need to store their water. Therefore, it seems to me that the approved size of the expansion may be smaller because of the reduced amount of potential water the city can store since they lost their place in line.

Another complication is the corps has a charge to approve a plan that is least damaging to the environment. They could decide that a Halligan expansion is the wrong solution. That leads me to wonder if the corps might find that use of the proposed Glade Reservoir — which should be ahead of Halligan in the approval process — is a more environmentally sensitive place to store north fork water? But the city of Fort Collins is on record in opposition to Glade, and that would make a partnership with that project cumbersome at best. Plus, Glade is at a much lower altitude than Halligan, which can make it harder to exchange water with downstream water users.

Then there is the statement by Colorado Division of Water Resources David Nettles, in an email to the Coloradoan: “There could be periods when a 1985 right would be in effect but not a 2013 right, but that would likely happen a few days a year at most.”

The value of the lost water right may never be known; but for a teetotaler like me, one thing is for sure, water is for fighting.

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