

# Upper Eagle Regional Water Authority

## Board of Directors Meeting

November 17, 2016

### MINUTES

1 A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was  
2 held November 17, 2016, at 8:30 a.m., in the Walter Kirch Room of the Eagle River Water & Sanitation  
3 District (District), 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable  
4 statutes of the State of Colorado.

#### 5 ATTENDANCE

##### 6 The following Directors were present, thereby constituting a quorum:

7 Tom Allender, EagleVail Metropolitan District  
8 Pam Elsner, Beaver Creek Metropolitan District  
9 George Gregory, Berry Creek Metropolitan District  
10 Sarah Smith Hymes, town of Avon  
11 Mick Woodworth, Edwards Metropolitan District

##### 12 The following Director was absent and excused:

13 Geoff Dreyer, Arrowhead Metropolitan District

##### 14 Also in attendance were:

15 <u>District Staff</u>	24	Brian Tracy
16 Linn Brooks	25	James Wilkins
17 Jason Cowles	26	<u>Consultants</u>
18 Carol Dickman	27	Jim Collins, Collins Cockrel & Cole
19 Maureen Egan	28	Kristin Moseley, Porzak Browning & Bushong LLP
20 Catherine Hayes	29	<u>Public</u>
21 Debbie Hoffman	30	Michael Lindholm, Traer Creek
22 Diane Johnson	31	Mike Reisinger, Berry Creek Metropolitan District
23 Siri Roman		

#### 32 DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST

33 The Board noted it had received more than 72 hours prior to the meeting certain disclosures of Potential Conflicts of Interest  
34 Statements for the following Directors indicating the following conflicts:

35 Directors Allender and Gregory and alternate Director Simmons disclosed that they serve on the Board of the Eagle River Water  
36 and Sanitation District. Director Allender also disclosed that he is a former employee of Vail Resorts, which tangentially deals with  
37 the Authority and District, as well as being employed part time by SE Group, which does planning and environmental work for Vail  
38 Resorts and other ski areas. Director Elsner disclosed her membership with the Vilar Performing Arts Center Guild, which operates  
39 within the Authority's service area. Director Gregory also disclosed that he occasionally undertakes small development and  
40 construction activities within the Authority and District service areas. Alternate Director Simmons noted he serves on the Edwards  
41 Metropolitan District board and is employed by Beaver Creek Metropolitan District, an Authority member. Director Woodworth  
42 disclosed that he is employed by the Eagle River Fire Protection District, which operates within the Authority's service area.

#### 43 CALL TO ORDER

44 Chair Gregory called the meeting to order at 8:30 a.m.

#### 45 PUBLIC COMMENT

46 Mr. Lindholm commented on the proposed Integrated Project Delivery resolution to be considered later in  
47 the meeting.

#### 48 ACTION ITEMS

49 **Consideration of Minutes** – The minutes of the regular meeting of October 27, 2016, were considered.

50 Upon motion duly made and seconded, it was unanimously

51 **RESOLVED** that the minutes of the October 27, 2016, regular meeting be accepted and hereby  
52 are approved as presented.

53 The minutes of the joint meeting of October 27, 2016, were considered. Upon motion duly made and  
54 seconded, it was unanimously

# Upper Eagle Regional Water Authority

1           **RESOLVED** that the minutes of the October 27, 2016, joint meeting with the Eagle River Water &  
2           Sanitation District be accepted and hereby are approved as presented.

## 3   **PUBLIC HEARING: 2017 Proposed Budget**

4   Chairman Gregory opened a public hearing at 8:34 a.m. to discuss the 2017 budget, a copy of which is  
5   attached hereto as **Exhibit A** and incorporated herein by this reference. A call for public input solicited no  
6   response. The public hearing was closed at 8:35 a.m. Mr. Wilkins presented Resolutions to Adopt the  
7   2017 Budget and to Appropriate Sums of Money, copies of which are attached hereto as **Exhibits B** and  
8   **C**, respectively, and incorporated herein by this reference. After discussion and upon motion duly made  
9   and seconded, it was unanimously

10           **RESOLVED** that the Resolutions to Adopt the 2017 Budget and Appropriate Sums of  
11           Money be and hereby are approved as presented.

12   The 2017 rates for service charges and tap fees are set as follows:

### 13   **UERWA Water Service Rates for 2017**

#### 14   Base Rates per Single Family Equivalent:

\$17.29 Monthly Base Service Rate	\$0.34 increase from 2016
\$3.06 Monthly Debt Service for 2010B Bonds	\$0.03 decrease from 2016
\$2.56 Monthly Debt Service for 2013A Bonds	\$0.02 decrease from 2016
\$3.39 Capital Replacement Program Base Rate	\$0.07 increase from 2016
\$26.30 Total Base Rate per SFE	1.4% increase from 2016

#### 15   Usage Rates per 1,000 Gallons of Metered Water Use per Single Family Equivalent:

Tier 1	First 10,000 gallons	\$3.62	\$0.07 increase
Tier 2	Next 10,000 gallons	\$5.43	\$0.11 increase
Tier 3	Next 10,000 gallons	\$8.14	\$0.16 increase
Tier 4	Next 10,000 gallons	\$12.22	\$0.24 increase
Tier 5	Over 40,000 gallons	\$18.33	\$0.36 increase

### 16   **ERWSD Wastewater Service Rates for 2017**

17           Water System Impact Fee: to increase 3.0% effective Jan. 1, 2017

18           *Residential Fees are based on square footage (s.f.)*

0 – 2,500 s.f.	\$3.84/s.f.
2,501 – 3,500 s.f.	\$4.73/s.f.
3,501 – 5,000 s.f.	\$5.77/s.f.
5,001 s.f. and over	\$7.40/s.f.

23           *Commercial fees are based on meter flows and fixture counts and will increase 3.0% Jan. 1,*  
24           *2017.*

## 25   **PUBLIC HEARING: 2017 Proposed Rates**

26   Chairman Gregory opened a public hearing at 8:36 a.m. to discuss the 2017 rate sheet, a copy of which  
27   is attached hereto as **Exhibit D** and incorporated herein by this reference. A call for public input solicited  
28   no response. Mr. Collins noted the Authority had posted the required formal notice of the public hearing at  
29   which the Board would consider a rate change at least 30 days in advance. A copy of the notice is  
30   attached hereto as **Exhibit E** and incorporated herein by this reference. The public hearing was closed at  
31   8:37 a.m. Mr. Wilkins presented a resolution to adopt the 2017 rates, a copy of which is attached hereto

## Upper Eagle Regional Water Authority

1 as **Exhibit F** and incorporated herein by this reference. Chair Gregory clarified that the rates are per  
2 single family equivalent. Upon motion duly made and seconded, it was unanimously

3 **RESOLVED** that resolution to adopt the 2017 rates be and hereby is approved as  
4 presented.

### 5 GENERAL COUNSEL REPORT

6 **Traer Creek Update** – For the benefit of public attendees, Mr. Collins summarized the integrated  
7 project delivery (IPD) resolution for which the Board would receive advice of counsel in Executive  
8 Session. The resolution would allow the Authority to contract for the reconstruction of the Traer  
9 Creek tank at the best value. Mr. Collins also noted the Authority's continued accommodation of  
10 construction in the Traer Creek area despite the lack of a functional water tank. Mr. Collins  
11 reminded the Board that the court has yet to determine responsibility for the tank failure but  
12 recommended commencing reconstruction without such ruling because the tank is needed as  
13 part of the Authority's water system. Service to the valley floor in the Traer Creek area is not  
14 limited, but development on the upper bench of the Traer Creek area is limited due to lack of  
15 physical water system infrastructure without the tank.

16 **Executive Session** – Mr. Collins requested the Board enter into Executive Session to receive legal  
17 advice regarding the Traer Creek tank and related matters, pursuant to §24-6-402(4)(b) and (e)  
18 C.R.S. He asked that no electronic record be made, as the discussion would be entirely privileged  
19 attorney-client communications. Upon motion duly made and seconded, it was unanimously

20 **RESOLVED** to enter Executive Session at 8:40 a.m. to discuss attorney-client privileged  
21 issues concerning Traer Creek tank and related matters, pursuant to §24-6-402(4)(b) and (e)  
22 C.R.S. with no electronic record created as Mr. Collins opined the contents of the discussion  
23 would contain privileged attorney-client communications.\*

24 The regular meeting resumed at 9:23 a.m.

25 **Integrated Project Delivery (IPD) Resolution** – Mr. Collins discussed the IPD resolution, noting that  
26 the Authority believes moving forward with tank reconstruction benefits Traer Creek and future  
27 development there, as well as the Authority. After discussion and upon motion duly made and  
28 seconded, it was unanimously

29 **RESOLVED** that the resolution for integrated project delivery for reconstruction of the Traer  
30 Creek tank be and hereby is approved as presented.

31 Director Hymes abstained, as she noted the town of Avon has abstained from all related resolutions  
32 due to its unique relationship and involvement with Traer Creek. Chair Gregory noted that an IPD  
33 method resulted in \$300,000 in savings for the Authority's recently completed Mountain Star tank. A  
34 copy of the resolution is attached hereto as **Exhibit G** and incorporated herein by this reference.

35 **Inclusion of Mountain Star Tank Site** – Mr. Collins reported that later in the day the District would  
36 consider inclusion of the Mountain Star tank site in Avon into its boundaries at the request of Eagle

## Upper Eagle Regional Water Authority

1 County. The inclusion would prevent the need for Eagle County to create an entirely new tax district  
2 in which there is no taxable property.

### 3 **GENERAL MANAGER REPORT**

4 Ms. Brooks noted she did not include a written report in packets. Monthly reports were acknowledged,  
5 copies of which are attached hereto as **Exhibit H** and incorporated herein by this reference.

### 6 **FINANCE REPORT**

7 Mr. Wilkins presented the finance report, a copy of which is attached hereto as **Exhibit I** and incorporated  
8 herein by this reference. He noted water sales were slightly below projections and that future budgets  
9 would not be based on previous years' figures since sales are largely weather-dependent and difficult to  
10 predict on a year-to-year basis.

11 **Quarterly Financial Report** – Mr. Wilkins discussed the quarterly report, a copy of which is  
12 attached hereto as **Exhibit J** and incorporated herein by this reference. The Board acknowledged  
13 receipt of the report.

### 14 **OPERATIONS REPORT**

15 The Operations Report was presented, a copy of which is attached hereto as **Exhibit K** and incorporated  
16 herein by this reference.

17 **Multimetric Index Scores** – Ms. Roman presented the 2015 results of the macroinvertebrate  
18 sampling events at various locations along Gore Creek and the Eagle River. The number and  
19 type of macroinvertebrates found in the samples are an indicator of stream health, and the District  
20 has performed such sampling for a number of years. Lower scores are associated with poorer  
21 river health. Copies of the memo and presentation are attached hereto as **Exhibits L** and **M**,  
22 respectively, and incorporated herein by this reference. Ms. Roman noted Gore Creek results  
23 followed recent trends, with scores dropping fairly dramatically within urban areas. The Eagle  
24 River is showing some improvement, according to results, and this could be partly attributed to  
25 recent restoration efforts along certain sections of the river. Ms. Roman noted that a large rain  
26 event occurred about two weeks before the sampling, which could have washed some bugs out  
27 of the sampling sites and could partially explain the lower scores at the reference sites in Vail.  
28 The Eagle River is showing some improvement, according to results. Future biomonitoring will be  
29 essential for the validation of this observation and the assessment of future changes in the  
30 aquatic conditions

### 31 **COMMUNICATION AND PUBLIC AFFAIRS REPORT**

32 Ms. Johnson noted she did not include a written report for the monthly packets.

33 **Colorado River Risk Study** – Ms. Johnson discussed phase 2 of the Colorado River  
34 Development and Curtailment Risk Study, led by the River District and funded, in part, by the  
35 West Slope Basin Roundtables. Some Front Range entities are concerned about the study's

## Upper Eagle Regional Water Authority

1 direction, even though many of their representatives are involved in the technical advisory group,  
2 and have appealed to the Colorado Water Conservation Board to lead such efforts. She  
3 mentioned several letters and media reports and offered to send them to those interested.

4 **City of Aspen Water Rights Diligence** – Ms. Johnson said many groups are opposed to the city  
5 of Aspen’s filing for diligence on conditional water rights it has maintained since 1965 for potential  
6 storage reservoirs on upper Castle and Maroon creeks.

7 **Mountain Star Tank Ribbon Cutting** – Ms. Brooks said staff is planning a ribbon-cutting  
8 ceremony at the newly completed Mountain Star tank, possibly in the coming weeks, depending  
9 on weather conditions. She noted an integrated project delivery method was used for the tank,  
10 resulting in a cost savings of nearly \$300,000 from the original estimate. This savings will be  
11 refunded to the Mountain Star homeowners.

12 **Water Testing and Contaminant Analysis** – In response to a question, staff discussed water  
13 testing and contaminant analysis. Mr. Tracy said staff cannot reasonably test for every possible  
14 contaminant, citing technology and resource limitations. Ms. Brooks noted use of risk analysis to  
15 determine the need (or not) for specific contaminant testing (e.g., the Authority and District do not  
16 test for expected byproducts of industrial processes that are not performed in the area). Some  
17 known contaminants naturally occur in the area at very low levels and are monitored, but such  
18 levels are not public health risks.

### 19 WATER COUNSEL REPORT

20 Chair Gregory noted Ms. Moseley was attending the meeting in Mr. Porzak’s place due to a scheduling  
21 conflict.

22 **Authority Water Rights Report** – Ms. Moseley presented the Authority water rights report, a  
23 copy of which is attached hereto as **Exhibit N** and incorporated herein by this reference. The  
24 report was completed at the request of the Authority Board following the update of individual  
25 member water rights reports. The report analyzed water dedicated by the members; dedicated by  
26 contract; and purchased by the Authority to determine the amount of unallocated water, which is  
27 lower than previously expected. This is due to dedication by the Authority of additional historic  
28 consumptive use (HCU) credits to meet the water demands of the Cordillera service area, in  
29 addition to water deficits by some members that are covered by Authority water. The Board  
30 directed the staff working with Ms. Moseley and Mr. Porzak to complete a risk analysis regarding  
31 the current amount of unallocated water.

32 **Cash in Lieu of Water Rights Increase** – Ms. Moseley noted the proposed cash in lieu of water  
33 rights fee increases were approved as part of the 2017 budget at the beginning of the meeting.

34 All staff with the exception of Ms. Brooks and Ms. Johnson left the meeting at 10:21 a.m.

### 35 **EXECUTIVE SESSION**

## Upper Eagle Regional Water Authority

1 Ms. Moseley requested the Board enter into Executive Session to receive legal advice regarding Eagle River  
2 MOU caps and CRCA matters, pursuant to §24-6-402(4)(b) and (e) C.R.S. She asked that no electronic  
3 record be made, as the discussion would be entirely privileged attorney-client communications. Upon motion  
4 duly made and seconded, it was unanimously

5 **RESOLVED** to enter Executive Session at 10:02 a.m. to discuss attorney-client privileged  
6 issues concerning Eagle River MOU caps and CRCA matters, pursuant to §24-6-402(4)(b)  
7 and (e) C.R.S. with no electronic record created as Ms. Moseley opined the contents of the  
8 discussion would contain privileged attorney-client communications.\*

9 All remaining staff left the meeting at 10:08 a.m., prior to discussion of the CRCA matters.

10 The regular meeting resumed at 10:15 a.m.

# Upper Eagle Regional Water Authority

1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 10:16 a.m.

3 Respectfully submitted,

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5  
6 \_\_\_\_\_  
7 Secretary to the Meeting

8 **MINUTES APPROVED, FORMAL CALL, AND**  
9 **NOTICE OF MEETING WAIVED**

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12 \_\_\_\_\_  
13 **Arrowhead Metropolitan District**

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17 **Town of Avon**

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21 **Beaver Creek Metropolitan District**

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25 **Berry Creek Metropolitan District**

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29 **EagleVail Metropolitan District**

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33 **Edwards Metropolitan District**

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36 \*The undersigned attorney for the applicable Executive Session affirms that the portion of the discussion  
37 in Executive Session not recorded constituted privileged attorney-client communications.

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41 \_\_\_\_\_  
42 **James P. Collins, General Counsel**

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44 \_\_\_\_\_  
**Kristin Moseley, Water Counsel**