

# Upper Eagle Regional Water Authority

## Board of Directors Meeting

May 25, 2017

### MINUTES

1 A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was  
2 held May 25, 2017, at 8:30 a.m., in the Walter Kirch Room of the Eagle River Water & Sanitation District  
3 (District), 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable statutes of  
4 the State of Colorado.

#### 5 ATTENDANCE

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

7 Tom Allender, EagleVail Metropolitan District  
8 Geoff Dreyer, Arrowhead Metropolitan District  
9 Pam Elsner, Beaver Creek Metropolitan District, *via phone*  
10 George Gregory, Berry Creek Metropolitan District  
11 Sarah Smith Hymes, town of Avon  
12 Mick Woodworth, Edwards Metropolitan District

##### 13 Also in attendance were:

14 <u>District Staff</u>	23	Amy Schweig
15 Linn Brooks	24	James Wilkins
16 Jason Cowles	25	<u>Consultants</u>
17 Carol Dickman	26	Jim Collins, Collins Cockrel & Cole
18 Catherine Hayes	27	Kristin Moseley, Porzak Browning & Bushong LLP
19 Glen Phelps	28	Joe Norris, Collins Cockrel & Cole
20 Siri Roman	29	Glenn Porzak, Porzak Browning & Bushong LLP
21 Jeff Schneider	30	<u>Public</u>
22 Micah Schuette	31	Mike Reisinger, Berry Creek Metropolitan District

#### 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 INTRODUCTIONS

46 Mr. Collins introduced Mr. Norris of his firm.

#### 47 ACTION ITEMS

48 **Consideration of Minutes** – The minutes of the regular meeting of April 27, 2017, were considered.

49 Upon motion duly made and seconded, it was unanimously

50 **RESOLVED** that the minutes of the April 27, 2017, regular meeting be accepted and hereby are  
51 approved as presented. In response to a question, Mr. Cowles clarified that Filanc Construction,  
52 the firm selected for the Traer Creek tank construction, was based out of California but had an  
53 office in Denver.

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## STRATEGY

1 **Community Climate Action Plan (CAP)** – Mr. Phelps presented information on the CAP; a  
2 related memo, resolution, and presentation are attached hereto as **Exhibits A, B, and C**,  
3 respectively, and incorporated herein by this reference. Discussion ensued regarding the six  
4 tenets of the CAP, specific goals for local emissions reductions, and current and future District  
5 efforts for efficiency and sustainability. Secretary Hymes clarified that local per capita emissions  
6 are 30% higher than the national average because of the high number of visitors in the area,  
7 which the per capita calculation does not take into account. Staff noted the benefits of local action  
8 among a number of organizations, which makes the reduction goals achievable. The Board  
9 agreed to amend the resolution to defer to the Intergovernmental Panel on Climate Change’s  
10 position concerning the cause and consequences of climate change. After discussion and upon  
11 motion duly made and seconded, it was unanimously  
12

13 **RESOLVED** that the Resolution to Adopt the Climate Action Plan for the Eagle County  
14 Community be and hereby is approved as amended.

## GENERAL MANAGER REPORT

15 Ms. Brooks noted she did not include a written report in packets. Monthly reports were acknowledged,  
16 copies of which are attached hereto as **Exhibit D** and incorporated herein by this reference.  
17

18 **Tap Fee and Housing White Paper** – Ms. Brooks discussed the staff-produced white paper  
19 regarding local tap fees and the current housing issues, a copy of which is attached hereto as  
20 **Exhibit E** and incorporated herein by this reference. The main takeaways from the paper were  
21 that there is sound legal basis for the Authority and District’s growth pays for growth philosophy;  
22 the square-footage based fee structure is accepted industry-wide and is equitable to customers;  
23 and that the current local housing crisis is largely a factor of lack of supply to meet high demand,  
24 not due to water and wastewater tap fees.

## FINANCE REPORT

25 Mr. Wilkins presented the quarterly financials and the monthly finance report, copies of which are  
26 attached hereto as **Exhibits F and G**, respectively, and incorporated herein by this reference. He noted  
27 Authority water sales were slightly above projections in April, and development fees continue to be low,  
28 which is typical of the earlier months of the year. Discussion ensued regarding continued staff efforts to  
29 account for rollovers when budgeting; the Authority is bound by Colorado law, so some rollovers due to  
30 timing are unavoidable when complying with state statutes. The Board also discussed lower overall water  
31 sales for the year and whether other factors are at play, including lower skier visits due to high lift ticket  
32 prices and the general cost of vacationing in the area, in addition to two large hotels in Vail being offline.  
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## 1 OPERATIONS REPORT

2 The operations report was presented, a copy of which is attached hereto as **Exhibit H** and incorporated  
3 herein by this reference.

4 **Space Needs Assessment and Feasibility Study** – In response to a question, Mr. Schneider  
5 said the analysis at the Avon Drinking Water Facility is investigating a number of proposed  
6 projects to address space needs for staff, parking, and equipment both within the water  
7 department and throughout the entire District.

## 8 ENGINEERING REPORT

9 Mr. Cowles noted he did not include a written report in packets. He updated on the Traer Creek tank  
10 litigation, noting that all documents were given to the Authority's attorneys for discovery. He also  
11 congratulated Mr. Schneider on his recent promotion to Engineering Supervisor.

## 12 COMMUNICATION AND PUBLIC AFFAIRS REPORT

13 Ms. Schweig presented her report, a copy of which is attached hereto as **Exhibit I** and incorporated  
14 herein by this reference.

15 **Vail SNOTEL Site** – In response to a question, Ms. Brooks said the Vail SNOTEL site conditions  
16 changed in past years, with less tree cover, and more sunlight and exposure than the site  
17 historically saw. Staff also reviews the Copper Mountain and Fremont Pass sites, and the  
18 combination of sites offer a better overall picture of local snowpack conditions than any one site.

## 19 GENERAL COUNSEL REPORT

20 **Lake Creek Wells** – Mr. Collins noted the test well equipment would be removed from the site.  
21 These wells may be revisited in the future, but there are no current plans to utilize the wells.

22 **Cordillera Water Improvements** – Mr. Collins noted staff was working with Cordillera  
23 representatives to identify and prioritize needed water system upgrades. The Cordillera  
24 Metropolitan District recently voted to discontinue charging Cordillera residents a water  
25 surcharge, but previously collected funds will be used for the identified projects.

26 **Well Site Locations** – Mr. Collins reported that the state agreed that well site locations should be  
27 confidential for safety and security reasons. The Authority and District previously contributed  
28 comments regarding the matter, at the request of the Colorado Department of Public Health and  
29 Environment.

30 **Edwards Metropolitan District Vacation of Easement** – Mr. Collins noted the vacation of  
31 easement for an Edwards-based development site, which was approved by the Authority board at  
32 the April 27 meeting upon certain conditions being agreed upon by Edwards Metropolitan District  
33 (EMD), which EMD approved. A signed copy of the agreement as attached hereto as **Exhibit J**  
34 and incorporated herein by this reference.

35 Ms. Moseley entered the meeting at 9:30 a.m.

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## WATER COUNSEL REPORT

1 **Bachelor Gulch Water Service Agreement** – Mr. Porzak noted the agreement was fully  
2 executed by all parties, a copy of which is attached hereto as **Exhibit K** and incorporated herein  
3 by this reference. An additional 31 acre feet of water was conveyed to the Authority by Bachelor  
4 Gulch Metro District (BGMD), and the Authority agrees to serve BGMD at full build-out, including  
5 the undeveloped parcels that are outlined in the agreement. In response to a question, Mr.  
6 Porzak said the agreement does not affect the Authority's unallocated water pool, since the  
7 original water service agreement limited the amount of the Authority's water service obligation  
8 and the 31 acre feet conveyed will be required to serve the BGMD at full build out.

9 **Homestake Reservoir Exchange Diligence** – Mr. Porzak presented the Ruling of the Referee  
10 for the Homestake Exchange Case, which was a joint diligence application by the Authority,  
11 District, and Cities of Aurora and Colorado Springs. A copy is attached hereto as **Exhibit L** and  
12 incorporated herein by this reference. He explained this is the exchange by which the Authority  
13 and District pay the Cities back for Homestake Reservoir water. Mr. Porzak said he is awaiting  
14 the judge's signature on the ruling which will make this the final Decree of the Water Court.  
15 However, the 20-day protest period has expired.

16 **St. Jude's Recreation Water Bill** – Mr. Porzak said the bill passed in both the House and  
17 Senate; Gov. Hickenlooper is expected to sign the bill today. The bill protects current Authority  
18 and District absolute and conditional recreational water rights; future conditional recreation rights  
19 were not covered under the final version of the bill. Mr. Porzak also noted that through work on  
20 this bill, strong relationships were forged with Sen. Sonnenberg and Rep. K.C. Becker.

21 **Water Service Requests** – Mr. Porzak and Ms. Moseley discussed outstanding water service  
22 requests for the Authority; a related memo is attached hereto as **Exhibit M** and incorporated  
23 herein by this reference. If all requests are granted, the Authority would have 86 acre feet of  
24 unallocated water left. Mr. Cowles noted an upcoming meeting with Eagle County to discuss  
25 obtaining its Eagle Park Reservoir water for workforce housing projects. Discussion ensued  
26 regarding efficiency measures that could reduce the amount of indoor water use for the proposed  
27 developments, as evidenced by the lower water usage per day per unit of some local workforce  
28 housing after installation of efficient fixtures. Staff noted that further study was needed to make  
29 the determination that the fixtures significantly contributed to reduced use. Outdoor efficiency can  
30 be promoted through water budgeting, which will likely be part of the Authority and District's  
31 regional water efficiency plan; additionally, Eagle County and local municipalities can also  
32 encourage efficient use through land use regulations, and staff will provide input on updated  
33 regulations. Ms. Brooks noted outdoor water efficiency would reap the biggest savings, as  
34 outdoor use is much more consumptive than indoor. Mr. Porzak confirmed that the Edwards  
35 developments would contribute to the hole in the river between the Edwards Drinking Water  
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1 Facility and Edwards Wastewater Treatment Facility and would require full augmentation of  
2 diversions most months of the year.

3 **Request for Conditional Capacity to Serve at 6 West (formerly VIA PUD) and Fox Hollow –**  
4 Mr. Cowles discussed the requests and developments specifics. Discussion ensued regarding  
5 reasonable estimates for daily water use for the developments. The Board directed Mr. Cowles to  
6 prepare conditional capacity to serve letters for 6 West and Fox Hollow, conditionally approving  
7 200 gallons per unit per day.

8 Ms. Moseley, Mr. Schneider, and Mr. Schuette left the meeting at 10:18 a.m.

### 9 **EXECUTIVE SESSION**

10 Mr. Collins requested the Board enter into Executive Session to receive legal advice regarding Traer  
11 Creek and Arrowhead Exclusion, pursuant to §24-6-402(4)(b) and (e) C.R.S. He asked that no  
12 electronic record be made, as the discussion would be entirely privileged attorney-client  
13 communications. Upon motion duly made and seconded, it was unanimously

14 **RESOLVED** to enter Executive Session at 10:19 a.m. to discuss attorney-client privileged  
15 issues concerning Traer Creek and the Arrowhead Exclusion, pursuant to §24-6-402(4)(b)  
16 and (e) C.R.S. with no electronic record created as Mr. Collins opined the contents of the  
17 discussion would contain privileged attorney-client communications.\*

18 Mr. Porzak requested the Board continue Executive Session to receive legal advice regarding the  
19 Eagle River MOU matters, Minturn/Battle Mountain status report, and CRCA matters, pursuant to  
20 §24-6-402(4)(b) and (e) C.R.S. He asked that no electronic record be made, as the discussion  
21 would be entirely privileged attorney-client communications. Upon motion duly made and  
22 seconded, it was unanimously

23 **RESOLVED** to continue Executive Session at 10:27 a.m. to discuss attorney-client privileged  
24 issues concerning Eagle River MOU matters, Minturn/Battle Mountain status report, and  
25 CRCA matters, pursuant to §24-6-402(4)(b) and (e) C.R.S. with no electronic record created  
26 as Mr. Porzak opined the contents of the discussion would contain privileged attorney-client  
27 communications.\*

28 At 11:09 a.m., before the discussion of CRCA matters, Mr. Collins and all remaining staff left the room, with  
29 the exception of Ms. Brooks.

30 The regular meeting resumed at 11:12 a.m.

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1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 11:13 a.m.

3 Respectfully submitted,

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6 Secretary to the Meeting

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

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12 **Arrowhead Metropolitan District**

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15 **Town of Avon**

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18 **Beaver Creek Metropolitan District**

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21 **Berry Creek Metropolitan District**

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24 **EagleVail Metropolitan District**

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27 **Edwards Metropolitan District**

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

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42 **James P. Collins, General Counsel**

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42 **Glenn Porzak, Water Counsel**