

# Upper Eagle Regional Water Authority

## Board of Directors Meeting

June 23, 2022

### MINUTES

1  
2 A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was  
3 held June 23, 2022, at 8:30 a.m., in the Walter Kirch Room of the Eagle River Water & Sanitation District  
4 (District), 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable statutes of the  
5 state of Colorado.

#### 6 7 **ATTENDANCE**

8 **The following Directors were present and acting:**  
9 Geoff Dreyer, Arrowhead Metropolitan District  
10 George Gregory, Berry Creek Metropolitan District  
11 Kim Bell Williams, EagleVail Metropolitan District  
12 Mick Woodworth, Edwards Metropolitan District

13 **The following Alternate Director was present and acting:**  
14 Mike Towler, Beaver Creek Metropolitan District

15 **The following Director was present and acting for part of the meeting:**  
16 Sarah Smith Hymes, Town of Avon (acting from 9:15-10:20)

17 **The following Alternate Director was present and acting for part of the meeting:**  
18 Eric Heil, Town of Avon (acting from 8:30-9:15)

19 **The following Director was present but not acting:**  
20 Kevin Hillgren, Beaver Creek Metropolitan District

#### 21 22 **Also in attendance were:**

23	<u>District Staff</u>	36	Jeffrey Schneider
24	Tom Borawski	37	Brian Thompson
25	Jason Cowles	38	Brad Zachman
26	Jesse Hooker	39	
27	Diane Johnson	40	<u>Consultants</u>
28	Kira Koppel	41	Matthew Miller, McMahan & Associates
29	Melissa Marts	42	Kristin Moseley, Somach Simmons & Dunn
30	Niko Nemcanin	43	Calvin Seneker, McMahan & Associates
31	David Norris	44	Kathryn Winn, Collins Cole Flynn Winn & Ulmer, PLLC
32	Chuck Owen	45	
33	Louise Reiter	46	<u>Public</u>
34	Siri Roman	47	Mike Trueblood, Edwards Metropolitan District Alternative
35	Kailey Rosema		

#### 48 49 **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

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

52 Director Gregory disclosed that he serves on the board of the Eagle River Water & Sanitation District; also that he occasionally  
53 undertakes small development and construction activities within the Authority and District service areas. Director Bell Williams  
54 disclosed that she is the Eagle County Housing Director. Director Woodworth disclosed that he is employed by the Eagle River Fire  
55 Protection District, which operates within the Authority's service area.

#### 56 57 **CALL TO ORDER**

58 Having determined that quorum was established, Chair Gregory called the meeting to order at 8:30 a.m.

#### 59 **CONSULTANT/GUEST INTRODUCTION**

60 Chair Gregory introduced Alternate Director Heil as the acting director for the first portion of the meeting  
61 as Vice Chair Hymes was expected to arrive about 9:15 a.m. Chair Gregory introduced Alternate Director

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1 Towler as Director Hillgren was unsure if he could attend virtually. Ms. Johnson introduced Mr. Thompson  
2 as the new ERWSD Government Affairs Administrator.

### 3 OATH OF OFFICE

4 Chair Gregory administered the oath of office to Alternate Director Towler, a copy of which is attached  
5 hereto as **Exhibit A** and incorporated herein by this reference. Ms. Johnson filed the certificate of  
6 appointment with the Eagle County Clerk and Recorder.

### 7 PUBLIC COMMENT

8 Public comment was called for and there was none.

### 9 ACTION/OTHER ITEMS

10 **Consideration of FY 2021 Audited Financial Statement** – Mr. Norris presented a memorandum, a  
11 copy of which is attached hereto as **Exhibit B** and incorporated herein by this reference. Mr. Miller,  
12 McMahan and Associates Managing Member, presented a memorandum and the audited financial  
13 statement, copies of which are attached hereto as **Exhibits C and D**, respectively, and incorporated  
14 herein by this reference. Mr. Miller noted that UERWA received an unmodified opinion with no  
15 recommendations or concerns reported in the board communication letter and commended ERWSD  
16 staff for their timeliness and preparation throughout the audit process. Upon discussion and motion duly  
17 made and seconded, it was unanimously

18 **RESOLVED** that the Board accept the FY 21 Audited Financial Statement as presented and  
19 direct final reports be distributed; and be it

20 **FURTHER RESOLVED** that the Board authorize the general manager and finance manager to  
21 sign the letter of representation addressed to McMahan and Associates

22 **Consideration of Minutes** – The minutes of the May 26, 2022, regular meeting were considered. Upon  
23 motion duly made and seconded, it was unanimously

24 **RESOLVED** that the minutes of the May 26, 2022, regular meeting be accepted and hereby are  
25 approved, with Secretary Bell Williams abstaining as she was not present at the meeting.

26 **Information Reports** – Directors reviewed the development report, board committees, and May meeting  
27 summary, copies of which are attached hereto as **Exhibits E, F, and G**, respectively, and incorporated  
28 herein by this reference. In response to a question, Mr. Cowles clarified that the location of “Belden  
29 Place” is not “Vail” as listed on the report and said it will be corrected to “Minturn.” He also provided  
30 updates on development properties in Wolcott that are in exploratory phases.

### 31 STRATEGY ITEMS

32 Chair Gregory asked for general input. In response to a question, Mr. Cowles explained how  
33 augmentation water is used and clarified that the Authority’s unallocated, unrestricted water is Eagle Park  
34 Reservoir water. In response to another question, he said water rights in the Authority’s portfolio, such as  
35 Beaver Creek rights, can only be used in Beaver Creek; similarly other rights in the portfolio can only be  
36 used in the location for which they’re decreed. The Authority has 26.19 acre-feet of unallocated  
37 unrestricted water, plus 25 acre-feet pledged to the Authority by the District.

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## ACTING GENERAL MANAGER REPORT

Ms. Roman reported there are no COVID-19 cases currently amongst staff. Also, recent wastewater sampling conducted as part of Colorado's SARS-CoV-2 Wastewater Surveillance Collaborative confirmed the presence of COVID-19 BA.4 and BA.5 omicron subvariants in wastewater at each district facility.

**Analysis of Miscellaneous Fees** – Mr. Norris presented a memorandum, a copy of which is attached hereto as **Exhibit H**, and incorporated herein by this reference, and discussed the District Board's direction to create an analysis of fees and costs associated with services. Based on this analysis, Mr. Norris requested direction on scheduling a public hearing to consider a transfer of service fee, reactivation fee, and construction application fees, as well as seven adjustments to current fees. He highlighted that these fees would cover costs directly from customers receiving services rather than these costs being distributed across all ratepayers. Directors expressed support for the proposal with potential changes to be effective this summer, asked that fees be annually reviewed and incorporated in the annual budget process, and directed staff to post notice for a public hearing at the July meeting.

## **OPERATIONS REPORT**

Ms. Roman presented the operations report, a copy of which is attached hereto as **Exhibit I** and incorporated herein by this reference.

**EPA PFAS Health Advisory** –Ms. Rosema presented a PowerPoint, a copy of which is attached hereto as **Exhibit J** and incorporated herein by this reference, and provided an update on the Environmental Protection Agency's June 15 health advisory related to per-and polyfluoroalkyl substances (PFAS). She noted the EPA significantly lowered existing health advisories for such substances and that current laboratory methods cannot detect such low levels. She said the announcement is an advisory, with no currently enforceable regulations.

**Avon Wastewater Nutrient Upgrade Project Update** – Ms. Marts presented a memorandum, a copy of which is attached hereto as **Exhibit K** and incorporated herein by this reference, and reported that capital improvements continue to be on schedule and within budget.

**Fenno Wellhouse** – Mr. Schneider presented a memo and related PowerPoint, copies of which are attached hereto as **Exhibits L and M**, respectively, and incorporated herein by this reference. He reported the Fenno Wellhouse capital project was completed within 3% of the original bid price despite experiencing supply chain issues that delayed its completion for seven months. He highlighted that having the facility operating during low-demand season with high quality groundwater helps to reduce disinfection byproducts in the distribution system.

**Eagle Park Reservoir Company (EPRC) Quarterly Operations Report** – Ms. Roman referenced the company's confidential memorandum and recapped the June 21 annual shareholders meeting and quarterly board of directors meeting. Highlights include new directors, approval of the FY 2023 budget, and that the reservoir filled.

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## 1 **ENGINEERING AND WATER RESOURCES REPORT**

2 Mr. Cowles presented his report, a copy of which is attached hereto as **Exhibit N** and incorporated herein  
3 by this reference, and confirmed the completion of the 6 West infrastructure acceptance. He responded to  
4 questions about the accounting of water committed to development and the water rights extension  
5 timeline for Edwards River Park.

## 6 **COMMUNICATIONS AND PUBLIC AFFAIRS REPORT**

7 Ms. Johnson noted she did not include a written report. She provided updates on the Special District  
8 Association's regional workshops and board member manuals, the Aug. 18-19 water law training for  
9 directors, and the success of the June 9 "State of the River" program. She also reported that the annual  
10 UERWA and ERWSD consumer confidence reports were mailed to customers and will be available online  
11 for those who don't receive them directly.

## 12 **GENERAL COUNSEL REPORT**

13 Ms. Winn reported that she is awaiting comments from Minturn on a draft intergovernmental agreement  
14 for Minturn's 1041 process concerning the construction of Bolts Lake.

## 15 **WATER COUNSEL REPORT**

16 Ms. Moseley had no further items for open session.

## 17 **EXECUTIVE SESSION**

18 Ms. Moseley requested the Board move into executive session to receive legal advice and to discuss  
19 matters currently in negotiations on the topic of stipulations in Case Nos. 21CW3029 and 21CW3030.  
20 Upon motion duly made and seconded, it was unanimously

21 **RESOLVED** to move into Executive Session at 10:06 a.m. pursuant to §24-6-402(4)(b),  
22 C.R.S., to have a conference with Counsel to receive legal advice on specific legal questions,  
23 and §24-6-402(4)(e), C.R.S., to determine positions relative to matters that may be subject to  
24 negotiations, develop a strategy for negotiations, and/or instruct negotiators on the topic of  
25 stipulations in Case Nos. 21CW3029 and 21CW3030, with no electronic record created as  
26 Ms. Moseley opined the contents of the discussion would contain privileged attorney-client  
27 communications.

28 Directors and counsel went into executive session at 10:06 a.m. for the sole purpose of discussing and  
29 receiving advice regarding the matters stated in the motion to move into executive session. The Board did  
30 not engage in substantive discussion of any matters not enumerated in §24-6-402(4), C.R.S, or take any  
31 formal action. The executive session adjourned at 10:17 a.m. and reconvened in regular session.

## 32 **CONSIDERATION OF STIPULATION AGREEMENTS**

33 Ms. Moseley presented a stipulation agreement with Minturn regarding Case Nos. 21CW3029 and  
34 21CW3030, a copy of which is attached hereto as **Exhibit O** and incorporated herein by this reference.  
35 After discussion and upon a motion duly made and seconded, it was unanimously

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1           **RESOLVED** that the Board approve the stipulation agreement for Case Nos. 21CW3029  
2           and 21CW3030 as presented; and be it  
3           **FURTHER RESOLVED** that the Board grant the general manager of the Eagle River  
4           Water and Sanitation District authority to address future stipulations unless the stipulation  
5           is unique, unusual, or otherwise requires Board approval.  
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1 **ADJOURNMENT**

2 There being no further business to come before the board at this meeting and upon motion duly  
3 moved and seconded, it was unanimously

4 **RESOLVED**, that the signing of the minutes of this meeting shall be deemed to  
5 constitute full and complete adoption, ratification, and approval of the business  
6 conducted and the resolutions passed; and be it

7 **FURTHER RESOLVED**, that the meeting be adjourned at 10:20 a.m.

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9 Respectfully submitted,

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12 \_\_\_\_\_  
13 Secretary to the Meeting

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16 **MINUTES APPROVED, FORMAL CALL, AND**  
17 **NOTICE OF MEETING WAIVED**

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21 **Arrowhead Metropolitan District**

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25 **Town of Avon**

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29 **Beaver Creek Metropolitan District**

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33 **Berry Creek Metropolitan District**

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37 **EagleVail Metropolitan District**

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41 **Edwards Metropolitan District**

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44 The undersigned attorney for the applicable Executive Session affirms that the portion of the discussion  
45 in Executive Session not recorded constituted privileged attorney-client communications.

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49 \_\_\_\_\_  
50 **Kathryn Winn, General Counsel**

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51 **Kristin Moseley, Water Counsel**