Upper Eagle Regional Water Authority  
Board of Directors Meeting  
June 25, 2015  
MINUTES  

A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was held June 25, 2015, at 8:30 a.m., in the Walter Kirch Room of the Eagle River Water & Sanitation District (District), 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable statutes of the State of Colorado.

ATTENDANCE

The following Directors were present, thereby constituting a quorum:

- Tom Allender, EagleVail Metropolitan District
- Geoff Dreyer, Arrowhead Metropolitan District
- Todd Goulding, Town of Avon
- George Gregory, Berry Creek Metropolitan District
- Jim Power, Beaver Creek Metropolitan District
- Mick Woodworth, Edwards Metropolitan District

Also in attendance were:

- ERWSD Staff
- Linn Brooks
- Jason Cowles
- Carol Dickman
- Angelo Fernandez
- Todd Fessenden
- Catherine Hayes
- Leslie Isom
- Diane Johnson
- Elena Jones
- John McCaulley
- Glen Phelps
- Brian Tracy
- Ed Trainer
- James Wilkins
- Consultants
- Jim Collins, Collins Cockrel & Cole
- Glenn Porzak, Porzak Browning & Bushong LLP

DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST

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

- Director Allender disclosed that he is the Director of Resort Planning for Vail Associates, Inc., which has significant land ownership and business interests within the Authority. Also, he is appointed by Vail Associates, Inc. to serve as a Director of both the Eagle Park Reservoir Company and the Clinton Ditch and Reservoir Company; he also serves on the Eagle River Water & Sanitation District Board of Directors, which manages the Authority. Director Goulding disclosed that he serves on the Boards of the Eagle County Health Service District and Vail Mountain Rescue, which have occasional dealings with the Authority. He also disclosed he is the owner of Goulding Development Advisors, LLC, which may have occasional dealings with the Authority and its member districts. Director Woodworth disclosed that he is employed by the Eagle River Fire Protection District, which operates within the Authority's service area; he also serves on the Edwards Metropolitan District Board.

CALL TO ORDER

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

ACTION ITEMS

Consideration of Minutes – The minutes of the Regular Meeting of May 28, 2015, were considered. Upon motion duly made and seconded, it was unanimously RESOLVED that the minutes of the May 28, 2015, Regular Meeting be accepted and hereby are approved as presented.

FY2014 Audit – Mr. Wilkins presented a board action request form and the 2014 audited financial statement, copies of which are attached hereto as Exhibits A and B and incorporated herein by this reference. He discussed the depreciation rate of Authority assets and compared this to other utilities, including Denver Water, which depreciates some assets at a much slower rate. Discussion ensued regarding whether to investigate and implement a slower depreciation rate for future assets and the true value of the Authority’s capital assets. Mr. Porzak noted the value of
the Authority's water rights is not accurately reflected in the audit, but the document does
reference the true value in an Appendix. The Board also discussed minor suggested revisions to
certain parts of the audit commentary. After discussion and upon motion duly made and
seconded, it was unanimously

RESOLVED that the FY2014 audited financial statement be and hereby is approved as
amended.

Water Sales – Mr. Wilkins discussed the May water sales report, a copy of which is attached hereto as
Exhibit C and incorporated herein by this reference. As expected, sales were lower than projected due
to the wet month. Mr. Wilkins will continue to closely track sales in the coming months and will apprise
the Board of any needed action should the lower sales continue.

Traer Creek Tank Committee – Ms. Brooks said Directors Allender and Goulding volunteered to serve
on a committee regarding the Traer Creek Tank. After discussion and upon motion duly made and
seconded, it was unanimously

RESOLVED that the Board hereby does approve the appointment of Directors Allender and
Goulding to serve on the Traer Creek Tank Committee.

STRATEGY ITEMS

Unallocated Water Committee Update – Ms. Brooks noted a meeting of the Unallocated Water
Committee is scheduled for July 10. She and Mr. Porzak compiled a list of topics for the group, and
they will report back to the Board on the discussion.

Wilderness Policy Update – Ms. Brooks said at their May meetings, both the Authority and District
Boards approved language for wilderness policy talking points. Ms. Brooks requested the Boards hold a
joint meeting on July 23 to further discuss the matter, which will better prepare both Boards to respond
to future wilderness proposals. The Board agreed to hold such a meeting.

REPORT BY WATER COUNSEL

Colorado Water Plan Meeting with James Eklund – Mr. Porzak discussed the Plan, an
updated draft of which is forthcoming. He noted his acceptance of an August meeting with James
Eklund and a group of Colorado water attorneys to discuss the plan; an invitation is attached
hereto as Exhibit D and incorporated herein by this reference. Mr. Porzak said the group will
follow the Chatham House Rules, meaning the attendees can use information exchanged at the
meeting but cannot disclose the identity or affiliation of the speaker(s).

Forest Service Water Right Permit Clause – Mr. Porzak said the Forest Service was making
progress on a revision of the clause that should include the most recent comments of Mr. Porzak
and others who weighed in on the draft. He noted the Forest Service still needs legal review. He
summarized the history of the clause, by which the Forest Service originally wanted to take
ownership of any water rights that originated on Forest Service land.
Summary of Horne vs. Dept. of Agriculture – Mr. Porzak discussed the recent Supreme Court ruling regarding a requirement that raisin farmers using federal land must turn over a percentage of their annual crop to the government. He distributed a summary of the case, a copy of which is attached hereto as Exhibit E and incorporated herein by this reference. The U.S. Supreme Court ruled in favor of Horne, the farmer, noting that the constitutional provision prohibiting the taking of property without paying compensation applies to both real and personal property. Mr. Porzak discussed the similarities between this case and the Forest Service’s attempted water rights takings and with respect to bypass flows; the raisin case puts forth the precedent that in any taking of real or personal property, the loss must be compensated.

REPORT BY GENERAL COUNSEL

Water Agreement with Vail/Arrowhead Inc. – Mr. Collins presented a water agreement between the Authority and Vail/Arrowhead Inc., a copy of which is attached hereto as Exhibit F and incorporated herein by this reference. Mr. Collins discussed the old agreement between the Arrowhead Metropolitan District and Vail/Arrowhead Inc., which was set to expire and outlined the need for additional water rights should the McCoy Springs property ever be developed. Mr. Collins suggested it was more desirable that the Authority execute a new agreement with the water-providing entity. After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED that the Water Agreement between the Authority and Vail/Arrowhead Inc. be and hereby is approved as presented.

Authority Agreement Effective Date – Mr. Collins said the Authority Agreement was last executed by Arrowhead Metropolitan District on May 27 and suggested this was the most logical effective date of the Agreement. After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED that the effective date of May 27 for the Authority Agreement be and hereby is approved as presented.

Mountain Star Update – Mr. Collins discussed the Mountain Star Tank and related developments, including a positive meeting the previous week with Mountain Star HOA president Steve Coyer. Mr. Collins suggested staff proceed with tank design using the $105,000 donated by Jen Wright, which will inform estimates of tank cost and should allow the HOA to hold a vote concerning tank financing. Ms. Brooks said the town of Avon will be asked to release about $97,000 in Mountain Star tap fees collected, as design fees are estimated to be around $200,000. Mr. Cowles noted design completion was expected in March 2016. After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED that the Board hereby approves the use of $105,000 donated by Jen Wright to proceed with tank design.
Traer Creek Tank Update – Mr. Collins and Ms. Brooks reported on steps taken after discovering a leak in the tank. Litigation counsel Kyle Kreischer was hired, and notice was given to all involved parties and has been accepted by each surety or bonding company. Ms. Brooks noted Close and Associates of Lakewood was hired as the forensic engineer based on staff research and recommendations. Mr. Close has a history of neutrality on these matters and works mainly in mediation and settlement situations. Ms. Brooks said he has specific ideas for the Traer Creek Tank regarding damage minimization and potential fixes. Ms. Brooks recommended the Authority perform the entire investigation of site, tank, and related items and proceed with a report to all sureties and liability carriers, which should negate the need for the individual parties to engage their own experts. In response to a question, Mr. Collins said any other needed subcontractors for this investigation would be contracted by Close and Associates. After discussion and upon motion duly made and seconded, it was unanimously RESOLVED that the Authority fund up to $200,000 for forensic sampling by Close and Associates, with the expectation of recovery of the costs.

Mr. Cowles presented a brief presentation of the tank, including current state, leak location, and photographic images of some damaged areas.

REPORT BY GENERAL MANAGER
Ms. Brooks presented her report, a copy of which is attached hereto as Exhibit G and incorporated herein by this reference.

August System Tour – Ms. Brooks discussed the Colorado Water Congress summer meeting, which is being held in Vail starting August 19. She suggested hosting an abbreviated system tour and dinner on August 18 for select attendees to showcase aspects of the District’s system. After discussion and upon motion duly made and seconded, it was unanimously RESOLVED that staff is authorized to spend up to $2500 on a system tour and dinner for Colorado Water Congress attendees.

REPORT BY DIRECTOR OF OPERATIONS
Mr. Fessenden presented the Operations Report, a copy of which is attached hereto as Exhibit H and incorporated herein by this reference.

System Shutdowns – Mr. Fessenden reported on a system shutdown in Beaver Creek to replace pressure reducing valves (PRVs); the replacement valves are less prone to corrosion and increase the safety of District staff working in the PRV vaults, as well as ensuring fire flows to the area when needed. Discussion ensued regarding communication of the shutdown and additional people to include on similar future notices. Mr. Fessenden also noted an upcoming shutdown at the Walking Mountains Science Center.

Mountain Star Update – Mr. Fessenden said a recent water supply issue in Mountain Star was the result of a malfunctioning motor, not excessive use. The equipment was replaced and operations
there are back to normal. Mr. Fernandez noted the advanced metering infrastructure (AMI) installation in Mountain Star will be complete soon, allowing staff to provide residents with daily water usage figures for their properties. Mr. Fessenden also noted that planned booster pump station upgrades in the area were around 60% design; the project is planned to begin in 2016.

**Eagle River MOU Project Status Update** – Mr. Fessenden said the Phase 2 work plan for the ERMOU projects was still in progress but is expected soon. He believes the money budgeted by the Eagle Park Reservoir Company will be sufficient to cover the proposed projects.

**Urban Runoff Group/Stormwater Update** – Mr. Fessenden discussed the town of Vail’s strategic action plan to improve Gore Creek, which will be reviewed by Urban Runoff Group members prior to finalization. He also noted that Wastewater Manager Siri Roman and town of Vail Environmental Manager Kristen Bertuglia would host a bike tour along Gore Creek in September to coincide with the annual Colorado Association of Stormwater and Floodplain Managers Conference.

**Eagle Park Reservoir Company Quarterly Update** – Mr. Fessenden said Eagle Park Reservoir filled in May. He also noted the annual shareholders meeting would be held later in the day, during which the FY2016 budget would be considered.

**Forest Service Fuel Mitigation Project** – Mr. Fessenden clarified that a planned Forest Service fuel mitigation project in Intermountain would begin in 2016.

**Lake Creek Wells Update** – Mr. Fessenden reported on the proposed well field, for which a water rights application has been filed and a 1041 permit is being drafted. The project involves working with South Fork Meadows HOA and Eagle River Meadows owners. Mr. Fessenden noted some difficulty in working with the Eagle River Meadows owners to gain access to the area to do wetlands impact monitoring via some monitoring wells. He also said staff has worked to minimize the planned footprint in the area. Discussion ensued regarding possible action to help move the study along.

**Eagle Mine Update** – Mr. Fessenden said improvements at the Mine are being made, though they are reactive, not proactive. He suggested the Authority and District provide comments to the Colorado Department of Public Health and Environment (CDPHE) and the Environmental Protection Agency (EPA) regarding the desire to see more preventative and predictive maintenance at the site. In response to a question, Mr. Fessenden said Eagle Mine Ltd received an EPA grant for presenting technical data from the Mine and there are strict rules regarding grant fundees commenting on related matters.

**REPORT BY DIRECTOR OF ORGANIZATIONAL DEVELOPMENT**

Mr. Fernandez presented his report, a copy of which is attached hereto as Exhibit I and incorporated herein by this reference.
Water Demand Management Pilot Study – Mr. Fernandez discussed the study and noted some water use regulation variances were being granted to homeowners based on their use of advanced technology that uses weather, evapotranspiration, and microclimate data. Mr. Fernandez clarified that the pilot studies include mainly Authority accounts, but a few Vail customers are participating. Mr. McCaulley discussed the AMI installation in Wildridge; upon completion, it will be deployed in Mountain Star first.

BOI Board Packet Process Event – Mr. Fernandez said a business optimization event was recently held with staff regarding the internal process of developing, assembling, and distributing packets. During a later phase of the project, staff will seek Board input on the parts of the process that directly affect them.

REPORT BY COMMUNICATIONS AND PUBLIC AFFAIRS MANAGER
Ms. Johnson presented her report, a copy of which is attached hereto as Exhibit J and incorporated herein by this reference.

Consumer Confidence Report (CCR) – Ms. Johnson said the annual water quality report is posted on the District website and is being mailed to every customer account as required by the Colorado Department of Public Health and Environment (CDPHE) and Environmental Protection Agency (EPA). The report shows that Authority drinking water surpasses all federal and state drinking water standards and had no violations during the Jan. 1 – Dec. 31, 2014, monitoring period. A copy of the Authority CCR is attached hereto as Exhibit K and incorporated herein by this reference. Ms. Brooks thanked the Water Department employees, including former and current department managers Glen Phelps and Brian Tracy, respectively, for their diligence in ensuring the Authority had no violations in 2014.

Colorado Water Plan and Basin Roundtable Update – Ms. Johnson said pending the early July release of the second draft of the Plan, the Colorado Basin Roundtable created definitions for some terms used in the Interbasin Compact Committee (IBCC) developed “conceptual framework,” since the group is concerned about the inclusion of the framework in the Colorado Water Plan. She also briefly reviewed the balance of the Colorado Water Conservation Board’s Water Supply Reserve Account (WSRA), which funds activities and projects associated with the 2005 legislation that created the IBCC and basin roundtables.

WISE Partnership – Ms. Johnson said the Water Infrastructure and Supply Efficiency (WISE) Partnership is applying for a WSRA grant, from both the statewide account and the basin accounts. The WISE Partnership is a regional water supply project between Aurora Water, Denver Water, and the South Metro WISE Authority to combine available water supplies and system capacities to create a sustainable new water supply for the WISE Authority and its members. The purpose of the WISE Authority is to implement the WISE Project, including developing new infrastructure, which will reduce the South Metro area’s reliance on the Denver Basin Aquifer. The Board requested that staff schedule a presentation on WISE at a future meeting.
Authority U: Online payment and E-Billing – Ms. Jones and Mr. McCaulley discussed a memo and presented information on the upcoming e-billing and online bill pay system, the history of the technology and testing required to ensure the safety and accuracy of customer information, and the current and future automated payment options. A copy of the memo is attached hereto as Exhibit L and incorporated herein by this reference. E-billing and online payments are being tested internally and will be available to customers soon.

EXECUTIVE SESSION

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

RESOLVED to enter executive session at 10:37 a.m. to discuss attorney-client privileged issues concerning the Traer Creek Tank and a personnel matter, pursuant to §24-6-402(4)(a)(b) and (e) C.R.S. with no electronic record created as Mr. Collins opined the contents of the discussion would contain privileged attorney-client communications.*

Mr. Porzak requested the Board continue Executive Session to receive legal advice regarding Compact Water Banking, pursuant to §24-6-402(4)(a)(b) and (e) C.R.S. He asked that no electronic record be made, as the discussion would be entirely privileged attorney-client communications. Upon motion duly made and seconded, it was unanimously

RESOLVED to enter executive session at 10:45 a.m. to discuss attorney-client privileged issues concerning Compact Water Banking, pursuant to §24-6-402(4)(a)(b) and (e) C.R.S. with no electronic record created as Mr. Porzak opined the contents of the discussion would contain privileged attorney-client communications.*

The regular meeting resumed at 11:09 a.m.
ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 11:10 a.m.

Respectfully submitted,

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Secretary to the Meeting

MINUTES APPROVED, FORMAL CALL, AND
NOTICE OF MEETING WAIVED

___________________________________
Arrowhead Metropolitan District

___________________________________
Town of Avon

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Beaver Creek Metropolitan District

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Berry Creek Metropolitan District

___________________________________
EagleVail Metropolitan District

___________________________________
Edwards Metropolitan District

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

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Eric Jorgenson, General Counsel      Glenn Porzak, Water Counsel