Upper Eagle Regional Water Authority  
Board of Directors Meeting  
July 23, 2015  
MINUTES

A special meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was  
held July 23, 2015, at 8:00 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 23  Melissa Mills McLoota
Linn Brooks 24  Siri Roman
Jason Cowles 25  Brian Tracy
Carol Dickman 26  Ed Trainer
Angelo Fernandez 27  James Wilkins
Todd Fessenden 28  Consultants
Catherine Hayes 29  Jim Collins, Collins Cockrel & Cole
Leslie Isom 30  Glenn Porzak, Porzak Browning & Bushong LLP
Diane Johnson 31  Bob Weaver, Leonard Rice Engineers

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.

CALL TO ORDER

Chairman Gregory called the meeting to order at 8:00 a.m.

GENERAL MANAGERS REPORT

Ms. Brooks discussed the General Managers Report, a copy of which is attached hereto as Exhibit A  
and incorporated herein by this reference.

ACTION ITEMS

Consideration of Minutes – The minutes of the Regular Meeting of June 25, 2015, were considered.  
Upon motion duly made and seconded, it was unanimously  
RESOLVED that the minutes of the June 25, 2015, Regular Meeting be accepted and hereby are  
approved as amended.

STRATEGY ITEMS

Wilderness Process Plan – Ms. Brooks suggested forming a joint Board committee to discuss  
 wilderess policy and work with staff and consultants to ultimately recommend direction to the Board.
She noted the complex background information to consider and recommended the Board take its time on a thorough review to arrive at a defensible policy. Ms. Brooks suggested a policy recommendation for the full Board was unlikely to be ready until at least the September Board meeting. Chairman Gregory and Director Woodworth volunteered to serve on the joint committee.

FINANCE REPORT

June Water Sales – Mr. Wilkins discussed the June water sales report, a copy of which is attached hereto as Exhibit B and incorporated herein by this reference. He noted the Authority’s actual May and June sales were 10% and 20% below projections, respectively, likely due to the wet weather. Mr. Wilkins said he is modeling to determine how lower projections throughout the summer could affect revenue and debt service, among other items. He is also determining which usage tiers are being most affected by the lower sales. Ms. Brooks noted the Authority’s shift to base fees in recent years, which should somewhat insulate revenue from weather-related fluctuations. She also said tap fees are stronger than projected. Mr. Wilkins will continue to monitor the situation and report back to the Board with revenue models in August.

Development Impact Fee Revenue – Mr. Wilkins discussed the development impact fee revenue report, a copy of which is attached hereto as Exhibit C and incorporated herein by this reference. He said impact fee revenue had surpassed projections and was expected to further increase later in the summer as more construction projects commence.

OPERATIONS REPORT

Mr. Fessenden presented the Operations Report, a copy of which is attached hereto as Exhibit D and incorporated herein by this reference.

Mobile Pumping Facility – Mr. Fessenden noted the District Board would be asked to purchase a mobile pumping facility, which would benefit the Authority in various upcoming projects, including the Mountain Star booster pump station (BPS) upgrade. Purchasing the equipment will be more cost effective than renting, and it will provide systemwide redundancy.

Traer Creek Tank Update – Mr. Fessenden updated on the Traer Creek Tank failure. He noted a forensic engineer was hired, and walls are being shored up to minimize damage due to floor settlement and lack of support.

Eagle River MOU Projects Update – Mr. Fessenden discussed the Eagle River Memorandum of Understanding (ERMOU) Phase 1 study, which looked at various in-basin storage options, the most viable of which appear to be the Eagle Park Reservoir expansion and the Whitney Creek Forebay. He noted Eagle Park Reservoir Company (EPRC) budgeted funds for the current proposal on behalf of the Authority and District. Current cost estimates are roughly $318,000, with EPRC covering a fourth of the cost. In response to a question, Mr. Weaver said a Reudi Reservoir expansion could be controversial and would draw much public scrutiny.
Upper Eagle Regional Water Authority

Updated Nutrient Information and MMI Scores – Ms. Roman and Mr. Weaver presented information regarding results of the latest sampling in Gore Creek and the Eagle River. This is the sixth year of the study that monitors bug populations in the streams; the results indicate the health of the river at the designated sampling sites. Mr. Weaver said he continues to observe mostly failing scores along Gore Creek and noted poor scores at many sample sites along the Eagle River as well. He also discussed proposed changes to the state’s 303(d) list of impaired streams; he is reviewing the changes and will respond to the state accordingly, as data does not appear to support some of the proposed revisions.

ORGANIZATIONAL DEVELOPMENT REPORT

Mr. Fernandez presented the Organizational Development Report, a copy of which is attached hereto as Exhibit E and incorporated herein by this reference.

Wild and Scenic Stakeholders Group – Mr. Fernandez reported that the US Forest Service and Bureau of Land Management issued a record of decision accepting the Alternate Management Plan for the Upper Colorado River segments 4 – 7. He said the Plan specifically references ERMOU projects and said Mr. Porzak worked diligently to ensure these were included.

COMMUNICATIONS AND PUBLIC AFFAIRS REPORT

Ms. Johnson presented the Communications and Public Affairs Report, a copy of which is attached hereto as Exhibit F and incorporated herein by this reference.

Gore Canyon Whitewater Park – Ms. Johnson said the grand opening celebration took place July 13 and included representatives from the Colorado Water Conservation Board (CWCB). The park was made possible, in part, due to agreements related to the Colorado River Cooperative Agreement. She said the CWCB supported the Gore Canyon Park and recently voted against a proposed Glenwood Springs park at an administrative hearing.

GENERAL COUNSEL REPORT

Lake Creek Test Wells – Mr. Collins noted an upcoming meeting with involved parties to discuss gaining the needed access to the well sites, which have been appraised. He expects to bring a condemnation resolution to the Board in August, as other methods attempting access have not been successful.

Mountain Star Update – Mr. Collins and Mr. Fessenden discussed design work for the needed Mountain Star tank. Mr. Fessenden said the work is being phased, with the most cost-sensitive items being addressed first, including geotechnical issues. Mr. Collins said $20,000 from both the town of Avon and Jen Wright’s sewer cost recovery fund would be used to study the geotechnical issues.

WATER COUNSEL REPORT

Colorado Water Plan Update – Mr. Porzak and Ms. Johnson discussed the second draft of the Plan. They highlighted policy information added to chapter 9, the action plan in chapter 10, and
the ongoing discussion about the “7 points”/“conceptual framework.” Mr. Porzak noted the goals of the action plan support in-basin reservoir development and align with District and Authority efforts in this area. The draft Plan also indicates opposition to Forest Service efforts to take ownership of water rights that originate or are used on Forest Service land, including Forest Service attempts to implement bypass flows. Mr. Porzak also said there was a disproportionate Plan focus on municipal conservation as such a small amount of water used falls into this category. Ms. Johnson referenced studies about the increasing efficiency of agricultural water use, which could result in farmers using more water as they increase crop yields. Mr. Porzak emphasized the importance of continued work towards a Compact Water Bank, as lower basin states involved in the Compact are taking steps to protect themselves.

Seniors First Supreme Court Appeal – Mr. Porzak said the state filed its reply to the appeal, to which he will reply with another brief. The case involves a mandate from the state engineer that the Authority divert a senior water right prior to a junior one, despite the differences in the rights and past precedent that a water provider should be able to divert whichever right it chooses.

Lake Creek Well Augmentation Plan – Mr. Porzak said the augmentation plan was filed; ten objectors have been identified. Mr. Porzak noted all objections are general in scope; he will address issues and concerns.

Roaring Fork Club Supreme Court Decision – Mr. Porzak discussed a recent Supreme Court ruling regarding the Roaring Fork Club in Carbondale, a copy of which is attached hereto as Exhibit G and incorporated herein by this reference. The Court ruled that the Club’s aesthetic, recreational, and piscatorial water diversion is not a beneficial use. Mr. Porzak noted a number of Authority and District decrees in which the above-referenced uses were considered beneficial. He also clarified that the ruling did not apply to storage rights.

Compact Water Bank Update – Mr. Porzak discussed an upcoming meeting with CWCB Director James Eklund to discuss a storage bank of pre-Compact water rights to protect the Authority, District, and other Colorado entities from a compact call. He noted other states are taking similar measures to protect themselves.

Waters of the US (WOTUS) Revised Rules – Mr. Porzak noted multiple lawsuits filed on behalf of 26 states, including Colorado, in seven different federal courts regarding the revised WOTUS rules. The new rules subject nearly every water source to Environmental Protection Agency (EPA) regulations, posing a variety of potential issues. Messrs. Porzak and Weaver will discuss this in more detail at the August Board meeting.

Lake Mead Levels – Mr. Porzak said Lake Mead levels are still dropping despite above-average precipitation because California continues to exceed its allotment of water under the Colorado River Compact. He noted Lake Powell is also low, due to the ongoing drought. Lake Powell is an equalizer between wet and dry years and can release water to Lake Mead if needed. Mr. Porzak
Upper Eagle Regional Water Authority

said the lower basin states’ overuse is now contributing to issues affecting the dynamic between Lakes Powell and Mead, which is in turn affecting the upper basin states.

EXECUTIVE SESSION

Mr. Collins requested the Board enter Executive Session to receive legal advice regarding the Traer Creek Tank, Mountain Star Water System, and Lake Creek Wells, 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 9:55 a.m. to discuss attorney-client privileged issues concerning the Traer Creek Tank, Mountain Star Water System, and Lake Creek Wells, 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 the Shoshone Acquisition, 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 10:15 a.m. to discuss attorney-client privileged issues concerning the Shoshone Acquisition, 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 10:55 a.m.
ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 10:56 a.m.

Respectfully submitted,

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Secretary to the Meeting

MINUTES APPROVED, FORMAL CALL, AND
NOTICE OF MEETING WAIVED

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Arrowhead Metropolitan District

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Town of Avon

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Beaver Creek Metropolitan District

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Berry Creek Metropolitan District

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EagleVail Metropolitan District

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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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Jim Collins, General Counsel    Glenn Porzak, Water Counsel