

**Eagle River Water and Sanitation District
Upper Eagle Regional Water Authority
Joint Special Meeting
August 27, 2015
MINUTES**

1 A joint special meeting of the Boards of Directors of the Upper Eagle Regional Water Authority
2 (**Authority**) and Eagle River Water and Sanitation District (**District**) was held August 27, 2015, at 11:30
3 a.m., in the District's Walter Kirch Room, 846 Forest Road, Vail, Eagle County, Colorado, in accordance
4 with the applicable statutes of the State of Colorado.

5 **ATTENDANCE**

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

7 Tom Allender, EagleVail Metropolitan District
8 Geoff Dreyer, Arrowhead Metropolitan District
9 George Gregory, Berry Creek Metropolitan District
10 Todd Goulding, Town of Avon
11 Jim Power, Beaver Creek Metropolitan District
12 Mick Woodworth, Edwards Metropolitan District

13 **The following District Directors were present, thereby constituting a quorum:**

14 Tom Allender
15 Debbie Buckley
16 Kim Langmaid
17 Steve Friedman
18 Frederick P. Sackbauer IV
19 Bill Simmons
20 Paul Testwuide

21 **Also in attendance were:**

ERWSD Staff

Linn Brooks
Carol Dickman
Todd Fessenden
Leslie Isom
Diane Johnson
Melissa Mills McLoota
Siri Roman
Brian Tracy
James Wilkins

Consultants

Jim Collins, Collins Cockrel & Cole
Mark Mitisik, Leonard Rice Engineers
Glenn Porzak, Porzak Browning & Bushing LLP
Bob Weaver, Leonard Rice Engineers

22 **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

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

25 **For the Authority:**

26 Director Allender disclosed that he is the Director of Resort Planning for Vail Associates, Inc., which has significant land ownership
27 and business interests within the Authority. Also, he is appointed by Vail Associates, Inc. to serve as a Director of both the Eagle
28 Park Reservoir Company and the Clinton Ditch and Reservoir Company; he also serves on the Eagle River Water & Sanitation
29 District Board of Directors, which manages the Authority. Director Goulding disclosed that he serves on the Boards of the Eagle
30 County Health Service District and Vail Mountain Rescue, which have occasional dealings with the Authority. He also disclosed that
31 he is employed by Chaffee Construction Company, which has significant business interests within the Authority. Director Woodworth
32 disclosed that he is employed by the Eagle River Fire Protection District, which operates within the Authority's service area; he also
33 serves on the Edwards Metropolitan District Board.

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35 **For the District:**

36 Director Allender disclosed that he is the Director of Resort Planning for Vail Associates, Inc., which has significant land ownership
37 and business interests within the District and Authority. He also serves on the Boards of the Upper Eagle Regional Water
38 Authority, Eagle Park Reservoir Company, and the Clinton Ditch and Reservoir Company. Director Friedman serves on the
39 Boards of the Beaver Creek Metropolitan District and the Vail Valley Foundation. Director Langmaid disclosed that she founded
40 and is employed by Walking Mountains Science Center, which receives funding from parties with which the District does business,
41 including the US Forest Service, Vail Resorts, Towns of Vail and Avon, Vail Recreation District, Eagle County, and Holy Cross

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1 Energy. Directors Sackbauer is employed by Vail Resorts, Inc., which has significant land ownership and business interests within
2 the District. Director Simmons disclosed that he is the General Manager of the Beaver Creek Metropolitan District, an alternate
3 Director for the Authority, and on the Boards of the Edwards, Holland Creek, and Red Sky Ranch Metropolitan Districts. Director
4 Testwuide disclosed that he performs consulting for Vail Resorts, his former employer, owns water rights in two states, and
5 occasionally uses the District's water counsel, Glenn Porzak, as his personal attorney.
6

7 **CALL TO ORDER**

8 Chairman Sackbauer of the Eagle River Water and Sanitation District called the meeting to order at 11:40 a.m.
9 Chairman Gregory of the Upper Eagle Regional Water Authority concurred.

10 **INTRODUCTIONS**

11 Mr. Weaver introduced his associate Mr. Mitisek, from Leonard Rice Engineers.

12 **SPECIAL DISTRICT ASSOCIATION RESOLUTION** – Chairman Sackbauer announced that the District was
13 named District of the Year by the Colorado Special District Association (SDA). He acknowledged the role the
14 District's employees played in this achievement and read the Resolution of the Board of Directors of the Eagle
15 River Water & Sanitation District Honoring Its Outstanding Employees, a copy of which is attached hereto as
16 **Exhibit A** and incorporated herein by this reference. The Award will be presented to the District on September
17 25, at the SDA Conference, in Keystone.

18 **WATERS OF THE US**

19 Mr. Weaver gave a presentation on the final ruling regarding the Waters of the US (WOTUS), a copy of
20 which is attached hereto as **Exhibit B** and incorporated herein by this reference. He explained the ways
21 in which the Authority and District will be affected, including increased permitting requirements such as
22 more frequent and more complex 404 Permits. Messrs. Weaver and Porzak anticipate significant
23 challenges on the ruling. Currently there are seven lawsuits pending and litigation has been filed in 25
24 states. The Board also received a Memorandum from Mr. Weaver titled Final Rule Defining "Waters of the
25 United States" protected under the Clean Water Act, an email from Kristin Moseley regarding what other
26 agencies are doing regarding the WOTUS final rule issued by the EPA and the Army Corps of Engineers,
27 and an email from the Colorado Water congress with an article regarding the WOTUS final rule, copies of
28 which are attached hereto as **Exhibits C, D, and E** respectively and incorporated herein by this
29 reference.

30 **WATER RIGHTS HYDROLOGY MODEL**

31 Mr. Weaver and Mr. Mitisek gave a presentation on the progress and status update of the Water Rights
32 Hydrology Model which Leonard Rice Engineers has been preparing for the District and Authority. A copy
33 of the presentation is attached hereto as **Exhibit F** and incorporated herein by this reference. They
34 explained the purpose of the model is to represent and simulate the Eagle River Basin stream flows and
35 water supply systems, represent a variety of processes such as: precipitation and stream flows
36 (Hydrologic Cycle); water diversions, storage, return flows; water rights allocations; and water supply
37 systems operations. The Model will answer questions regarding the effect of alternate operations, effects
38 of feasibility of new or modified structures and the resiliency of the current system to extreme climate
39 events.

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1 Mr. Weaver explained that the Model’s objectives are to determine water availability at specific locations,
2 determine the impacts of water diversions and depletions on stream flows, simulate “what if” scenarios
3 under varying operational strategies, water rights changes, future water demands, and changing water
4 quality and quantity. The Model will serve as a powerful tool for water supply planning and management.
5 The Model is based on the StateMod Model using historical water demand and supplies data from 1975-
6 2013 in Gore Creek and the Eagle River. For example, preliminary modeling shows Gore Creek instream
7 flows shortages for sections of Gore Creek and the Eagle River during the 2002 drought. It also models
8 the simulated available Historic Consumptive Use (HCU) Credits versus the HCU utilization, as well as
9 Upper Eagle River stream flows and depletions over certain normal and drought years. Mr. Weaver
10 concluded the presentation by reviewing the next steps for the Model, which include incorporating
11 feedback from the District and Authority, continued model development and future simulation and
12 scenarios.

13 The District and Authority Board members thanked Mr. Weaver and Mr. Mitisek for the two presentations.
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1 **ADJOURNMENT**

2 There being no further business to come before the Boards, the meeting adjourned at 1:10 p.m.

3 Respectfully submitted,

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7 _____
8 Secretary to the Meeting

9 **EAGLE RIVER WATER & SANITATION DISTRICT**

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11 _____
12 Tom Allender, Director

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15 Debbie Buckley, Secretary

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18 Stephen Friedman, Treasurer

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20 _____
21 Kim Langmaid, Director

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23 _____
24 Frederick P. Sackbauer IV, Chairman/President

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27 Bill Simmons, Director

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29 _____
30 Paul Testwuide, Director

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Eagle River Water and Sanitation District
Upper Eagle Regional Water Authority

UPPER EAGLE REGIONAL WATER AUTHORITY

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Arrowhead Metropolitan District

Town of Avon

Beaver Creek Metropolitan District

Berry Creek Metropolitan District

EagleVail Metropolitan District

Edwards Metropolitan District