

# Upper Eagle Regional Water Authority

## Board of Directors Meeting

### August 27, 2015

#### MINUTES

1 A special meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was  
2 held August 27, 2015, at 8:00 a.m., in the Walter Kirch Room of the Eagle River Water & Sanitation  
3 District (District), 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable  
4 statutes of 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 Todd Goulding, Town of Avon  
10 George Gregory, Berry Creek Metropolitan District  
11 Jim Power, Beaver Creek Metropolitan District  
12 Mick Woodworth, Edwards Metropolitan District

##### 13 Also in attendance were:

14 <u>ERWSD Staff</u>	20	Diane Johnson
15 Linn Brooks	21	Brian Tracy
16 Carol Dickman	22	James Wilkins
17 Angelo Fernandez	23	<u>Consultants</u>
18 Todd Fessenden	24	Jim Collins, Collins Cockrel & Cole
19 Leslie Isom	25	Glenn Porzak, Porzak Browning & Bushong LLP

#### 26 DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST

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

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

#### 37 CALL TO ORDER

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

#### 39 GENERAL MANAGERS REPORT

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

#### 42 ACTION ITEMS

43 **Consideration of Minutes** – The minutes of the Special Meeting of July 23, 2015, were considered.

44 Upon motion duly made and seconded, it was unanimously

45 **RESOLVED** that the minutes of the July 23, 2015, Special Meeting be accepted and hereby are  
46 approved as presented.

47 **Mountain Star Tank** - On behalf of Mr. Cowles, Ms. Brooks presented the Board Action Request  
48 and the Resolution Authorizing Integrated Project Delivery for the Mountain Star Tank, copies of  
49 which are attached hereto as **Exhibits B and C** respectively and incorporated herein by this  
50 reference. The alternate delivery system is also known as Construction Manager At Risk  
51 (CMAR). Ms. Brooks requested that Board's approval of the Resolution.

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1 Following discussion and upon motion duly made and seconded, it was unanimously  
2 **RESOLVED** that the Resolution Authorizing Integrated Project Delivery for the Mountain  
3 Star Tank be and hereby is approved as presented.

### 4 **STRATEGY ITEMS**

5 **Treated Water Storage Fee Elimination** – Ms. Brooks explained that the Treated Water Storage Fee  
6 is now included in the Water System Impact Fee (WSIF) calculation and recommended that the Board  
7 authorize elimination of the fee. The Board agreed. The Resolution to reflect this change and  
8 amendments to the Rules and Regulations will be presented to the Board at a future meeting.

### 9 **INFORMATION ITEMS**

10 **CWC Events** – Ms. Brooks presented an overview of the Colorado Water Congress (CWC)  
11 Conference and the District/Authority's Facility Tour and Dinner which went very well and  
12 reflected well on the District. There were well over 300 attendees at the CWC Conference. Some  
13 of the District and Authority board members and staff attended. The conference touched on  
14 many current water events. Former District Director, Ludwig Kurz, gave a presentation and an  
15 interactive discussion on the importance of water in the State's recreational economy showing  
16 that it rises and falls with the availability of water. Director Testwuide gave a presentation at the  
17 Dinner regarding the importance of partnerships among the water community which enabled the  
18 development of snowmaking for the ski industry and augmentation water for the community. Ms.  
19 Brooks mediated a CWC session and Ms. Johnson also participated in a session. Mr. Porzak  
20 congratulated staff for a first rate performance during this time. Chairman Gregory said the SDA  
21 District of the Year Award to be presented to the District, on September 25, states this as well.

22 **Wilderness Policy Committee Update** – Ms. Brooks reported the 1<sup>st</sup> draft of a Wilderness Policy  
23 was discussed by the consultants. Water Counsel is working on a 2<sup>nd</sup> draft, which will be  
24 presented to the Committee.

25 **Traer Creek Tank** – Ms. Brooks reported jack chairs are being installed to support the tank  
26 structure. Drilling and geotechnical testing will begin next week and field crews will televise pipes  
27 that go in and out of the tank. The consultant contracts have not yet exceeded the \$200,000 limit  
28 approved by the Board, but may soon. The Traer Creek Tank Sub-committee requested  
29 authorization to approve expenses beyond the limit. The Board approved this request. The  
30 Authority expects to recover all costs.

31 **Mountain Star Project** – Ms. Brooks reported the design of the booster pump station is going  
32 well. The RFP for the contractor is underway and Ms. Brooks is working to draft the letter to Avon  
33 as to how the Authority will use the \$40,000.

# Upper Eagle Regional Water Authority

## 1 FINANCE REPORT

2 **Water Sales Revenue Impact Study** – Mr. Wilkins presented his Monthly Report, a copy of  
3 which is attached hereto as **Exhibit D** and incorporated herein by this reference. He reported that  
4 the Authority was 10%, 20% and 10% below projected sales in May, June, and July respectively,  
5 due to wet weather. He presented an analysis reflecting a hypothetical 20% water sales shortfall.  
6 With such a shortfall, the Authority can still meet its debt service requirements and the  
7 unrestricted fund balance is still in a good position.

8 **Quarterly Financial Report** – Mr. Wilkins presented The Financial Report for the 2<sup>nd</sup> Quarter  
9 Ending June 30, 2015, a copy of which is attached hereto as **Exhibit E** and incorporated herein  
10 by this reference. Following discussion, the Board acknowledged receipt of the Quarterly  
11 Financial Report.

12 **Development Impact Fee Revenue Report** - Mr. Wilkins then presented July 2015 Activity, a  
13 copy of which is attached hereto as **Exhibit F** and incorporated herein by this reference.

## 14 OPERATIONS REPORT

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

17 **Eagle River MOU Projects Status Update** – Mr. Fessenden discussed the Scope of Services  
18 for Phase 2 of the ERMOU Project Alternatives Study which has been finalized. A copy of the  
19 letter to the ERMOU Partners in this matter titled Scope of Services- Eagle River MOU Project  
20 Alternatives Study – Phase 2 Draft is attached hereto as **Exhibit H** and incorporated herein by  
21 this reference.

22 **Camp Hale Stakeholders Update** - Mr. Fessenden reported on the meeting held 8/17 with  
23 ERMOU Partners, USFS, and National Forest Foundation to discuss water needs for the  
24 proposed Camp Hale wetlands bank. He also discussed that the National Forest Foundation has  
25 advanced options for wetland bank credits. Climax has reserved 60 units. Colorado Springs and  
26 Aurora reserved a second 60 units which leaves roughly 80 units available.

27 **Eagle Mine Update and Tour** - Mr. Fessenden reported the Watershed Council arranged the  
28 tour which included CDPHE Staff, District Staff, District Director Langmaid and Authority  
29 Chairman Gregory as well as a large number of other guests. Improvements have occurred at the  
30 treatment plant however concerns remain regarding preventative maintenance and real time  
31 monitoring throughout the site. Staff reviewed the CBS annual report and pipeline conveyance  
32 report and sent a letter to the EPA commenting on concerns of real time monitoring, pressure,  
33 flows, water seepages. A copy of the letter is attached hereto as **Exhibit I** and incorporated  
34 herein by this reference. The Watershed Council also submitted a letter to the EPA, a copy of  
35 which is attached hereto as **Exhibit J** and incorporated herein by this reference.

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1           **Monthly State Reports** - Mr. Fessenden reported on the Water Department's handling of water  
2 reports to the State in July and August when the SCADA system stopped archiving data for a  
3 short period of time. After discussions with the State regulators, they determined that adequate  
4 monitoring had occurred and no violation was issued.

5           **Urban Runoff Group** – Mr. Fessenden reported the Eagle River Water Quality Improvement  
6 Plan (WQIP) efforts are continuing downstream from Gore Creek to Eagle-Vail as well as  
7 including a review of Eagle County regulations. The Town of Vail is moving forward with some  
8 recommendations in the Gore Creek WQIP, including a number of projects.

### 9           **ORGANIZATIONAL DEVELOPMENT REPORT**

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

12           **Water Demand Management Pilot Project** – Mr. Fernandez discussed the Water Demand  
13 Management Pilot Project. Ten properties in Mt. Star are participating and have experienced a  
14 40-50% reduction in water usage. Data will be reported to the Board in September.

15           **Public Employers Leadership Academy** – Mr. Fernandez, Ms. Brooks, Vail Leadership  
16 Institute, Town of Vail and Eagle County have been working together to develop the Academy,  
17 which will offer ongoing leadership development to public agencies. It is anticipated that this will  
18 result in better collaboration and stronger relationships among public agencies county wide and  
19 lower costs for participants. A pilot program will be offered this fall.

### 20          **COMMUNICATIONS AND PUBLIC AFFAIRS REPORT**

21          Ms. Johnson presented the Communications and Public Affairs Report.

22           **CWC Dinner Presentations** - Ms. Johnson reported that the CWC dinner presentations by Town  
23 of Vail landscape architect Gregg Barrie and Paul Testwuide were videoed and will air on  
24 Channel 5. They are also available online; she will send the link to the Board.

25           **Colorado Water Plan** - Ms. Johnson said that at the CWC Conference, one session focused on  
26 the integration of water and land use planning, which has been a major theme in the development  
27 of Colorado's Water Plan. The Roundtables continue to review the Plan and work towards  
28 implementing Basin Implementation Plans. The Eagle County Conservation District made a  
29 preliminary funding request at the August 24 Colorado Basin Roundtable meeting; some  
30 agricultural and ranch landowners are concerned about what information will be made public. The  
31 IBCC agreed on a revised "conceptual framework" which is now in Chapter 8 of the Plan and  
32 details the seven points related to possible future trans-mountain diversions.

33           **River District Seminar** – Ms. Johnson distributed the flier for the September 10 seminar that  
34 directors may attend. Presentations are normally recorded and available on the River District  
35 website a few weeks after the annual seminar. A copy of the flier is attached hereto as **Exhibit L**  
36 and incorporated herein by this reference.

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## GENERAL COUNSEL REPORT

**Lake Creek Test Wells** – Mr. Collins reported on the status of the acquisition of easements for the wells from the owners of the two properties. The Authority has offered compensation to the owners for the easements based upon the appraisals the Authority received. One owner is cooperating, the other is not. A Condemnation Resolution was discussed and tabled for further discussion at the next meeting.

## WATER COUNSEL REPORT

**Lake Creek Wells Augmentation Plan** – Mr. Porzak reported on the status of the Lake Creek Wells Augmentation Plan. It is proposed as a well field and is requesting the right to dig wells anywhere within the well field. Objections received posed no issues that would prevent the settlement of this case and he is optimistic that the case will be settled. However, he stressed the need to obtain the well field easements. The next status conference will be held in November.

**Request by Beaver Creek Property Owner** – Mr. Porzak reported that a Beaver Creek property owner wants to be self-sufficient and is proposing solar panels, drilling a private well (requiring an augmentation plan) and using geothermal for heating for his home. The Board directed Glenn to draft a Resolution in opposition of the well.

**Piney River Unit Diligence** – Mr. Porzak reported there was one objector in this case which has been settled. He has filed the Motion for the Court to approve the Decree. A copy of the Motion for Entry of Decree is attached hereto as **Exhibit M** and incorporated herein by this reference.

**Wolford Mountain Reservoir** – Mr. Porzak reported on a letter received from the River District stating that they have decided to do major work on the dam. A copy of the letter is attached hereto as **Exhibit N** and incorporated herein by this reference.

**Forest Service Directives** - Mr. Porzak reported that the State Water Plan takes the USFS to task on its water right directives.

**Seniors First Supreme Court Appeal** – Mr. Porzak reported that the Authority's Reply Brief, in Supreme court Case No: 2015SA26, known as the Seniors First Issue, a copy of which is attached hereto as **Exhibit O** and incorporated herein by this reference.

## **EXECUTIVE SESSION**

Mr. Porzak requested the Board enter Executive Session to receive legal advice regarding the Colorado Water Rights Protection Act, the Compact Water Bank, the Colorado Water Plan Meeting, and the Shoshone Acquisition Update, 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 9:49 a.m. to discuss attorney-client privileged issues concerning the Colorado Water Rights Protection Act, the Compact Water Bank, the

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1 Colorado Water Plan meeting, and the Shoshone Acquisition, pursuant to §24-6-402(4)(a)(b)  
2 and (e) C.R.S. with no electronic record created as Mr. Porzak opined the contents of the  
3 discussion would contain privileged attorney-client communications.\*

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

8 **RESOLVED** to enter executive session at 10:26 a.m. to discuss attorney-client privileged  
9 issues concerning the Traer Creek Tank and Avon Drinking Water Facility Land Negotiations  
10 pursuant to §24-6-402(4)(a)(b) and (e) C.R.S. with no electronic record created as Mr. Collins  
11 opined the contents of the discussion would contain privileged attorney-client  
12 communications.\*

13 The regular meeting resumed at 10:36 a.m.  
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# Upper Eagle Regional Water Authority

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## ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 10:37 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.

\_\_\_\_\_  
Jim Collins, General Counsel

\_\_\_\_\_  
Glenn Porzak, Water Counsel