

Upper Eagle Regional Water Authority

Board of Directors Meeting

September 24, 2015

MINUTES

1 A special meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was
2 held September 24, 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 Mick Woodworth, Edwards Metropolitan District

12 The following Director was absent and excused:

13 Jim Power, Beaver Creek Metropolitan District

14 The following Alternate Director was present and acting:

15 Pam Elsner, Beaver Creek Metropolitan District

16 Also in attendance were:

17	<u>ERWSD Staff</u>	26	
18	Linn Brooks	27	Siri Roman
19	Jason Cowles	28	Brian Tracy
20	Carol Dickman	29	James Wilkins
21	Angelo Fernandez	30	<u>Consultants</u>
22	Todd Fessenden	31	Jim Collins, Collins Cockrel & Cole
23	Leslie Isom	32	Glenn Porzak, Porzak Browning & Bushong LLP
24	Diane Johnson	33	<u>Public</u>
25	Melissa Mills McLoota	34	Holly Loff

35 DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST

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

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

46 CALL TO ORDER

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

48 STRATEGY ITEMS

49 **Wilderness Process Plan** – Mr. Porzak discussed the Policy on Future Wilderness and Roadless Area
50 Designations, a copy of which is attached hereto as **Exhibit A** and incorporated herein by this
51 reference. This included a general statement of intent, background information regarding roadless
52 areas vs. wilderness designations, a breakdown of current designations, and policy and criteria for
53 future designations. Mr. Porzak explained that wilderness areas are much more restrictive than
54 roadless areas. The Wilderness Committee members, Chairman Gregory and Directors Goulding and
55 Woodworth, recommended adopting the proposed policy as submitted during a public hearing at a joint
56 October Board meeting with the District. Discussion ensued regarding solicitation of public comment

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1 regarding the policy prior to the meeting. The Board determined that written public comments would be
2 requested one week prior to the October 22 Board meeting.

3 **Eagle River Watershed Council Update and 2016 Funding Request** – Ms. Loff, executive director of
4 the Watershed Council, discussed background information on the organization, a copy of which is
5 attached hereto as **Exhibit B** and incorporated herein by this reference. She noted the Watershed
6 Council is focused on the health and quality of all local rivers and tributaries. She noted the organization
7 focuses on research, education, and projects towards this end. She demonstrated the current water
8 quality report card for all local rivers and tributaries; prior to creation of this database and water quality
9 report card, the data was not accessible in one location and was difficult to interpret and understand.
10 Ms. Loff outlined specific projects for river health, including Vail Pass traction sand sedimentation
11 basins and cleaning of the basins; involvement in the Urban Runoff Group efforts; continued work to
12 ensure mitigation of the Eagle Mine Superfund site; and Watershed Wednesday presentations. Ms. Loff
13 requested \$50,000 from the Authority for 2016 Watershed Council efforts; \$25,000 would be for water
14 quality monitoring and \$25,000 would be for general operating support. Ms. Brooks noted the request
15 would be added to the 2016 budget for Board approval.

16 **GENERAL MANAGERS REPORT**

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

19 **ACTION ITEMS**

20 **Consideration of Minutes** – The minutes of the Special Meeting of August 27, 2015, were considered.
21 Upon motion duly made and seconded, it was unanimously

22 **RESOLVED** that the minutes of the August 27, 2015, Special Meeting be accepted and hereby
23 are approved as presented.

24 The minutes of the Joint Special Meeting of August 27, 2015, with the District were considered. Upon
25 motion duly made and seconded, it was unanimously

26 **RESOLVED** that the minutes of the August 27, 2015, Joint Special Meeting be accepted and
27 hereby are approved as presented.

28 **FINANCE REPORT**

29 Mr. Wilkins presented his report, a copy of which is attached hereto as **Exhibit D** and incorporated herein
30 by this reference.

31 **August Water Sales** – Mr. Wilkins discussed the August water sales report, a copy of which is
32 attached hereto as **Exhibit E** and incorporated herein by this reference. He noted August water
33 sales for the Authority were 17% higher than projected; this offset a portion of the revenue
34 shortfall created by low June and July sales.

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1 **Development Impact Fee Revenue** – Mr. Wilkins discussed the development impact fee
2 revenue report, a copy of which is attached hereto as **Exhibit F** and incorporated herein by this
3 reference. He said impact fee revenue had surpassed projections by about \$150,000.

4 **Budget Committee Update** – Mr. Wilkins noted staff met with the Authority budget committee, to
5 which he will be presenting a draft budget in early October. He plans to present the proposed
6 budget to the full Board at its October 22 meeting, with Board approval requested after a public
7 budget hearing at the November meeting.

8 **OPERATIONS REPORT**

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

11 **Traer Creek Tank Update** – Mr. Fessenden updated on the Traer Creek Tank failure, noting that
12 the investigation is ongoing. Supports have been placed to prevent further tank shifting.
13 Additional discussion was reserved for executive session.

14 **Urban Runoff Group** – Mr. Fessenden noted the Town of Vail was making progress on its
15 strategic action plan to address Gore Creek water quality issues. He also called attention to the
16 efforts of the Eagle River Watershed Council, which Ms. Loff had previously discussed.

17 **Camp Hale Restoration** – Mr. Fessenden said some stream delineation by the Forest Service
18 occurred in the lower part of Camp Hale and delineation was also needed in the upper part. Ms.
19 Brooks noted the District Board would be asked to provide a bridge loan of \$45,000 to the Eagle
20 Park Reservoir Company to allow further delineation to occur immediately; the loan would be
21 reimbursed by the Company to the District at its October Board meeting. Discussion ensued
22 regarding where the delineation will occur.

23 **Instream Flow (ISF) on Eagle River** – Mr. Fessenden said ISF levels were reached on the
24 Eagle River near Avon; Eagle Park releases and operational changes were started immediately,
25 even though there was not a call on the river. There were minor complications because the
26 Edwards Drinking Water Facility was offline for repairs at that time. Mr. Fessenden noted the
27 operational flexibility of the Authority and District systems allowed the needed changes to be
28 made in response to the ISF. Mr. Fessenden said minimal releases were made over a 48-hour
29 period, as Homestake Reservoir releases began in response to some transmountain diversions.

30 **Colorado Springs Utilities Tour** – Mr. Fessenden noted he attended a two-day tour of the
31 Colorado Springs Utilities system. He presented information to other tour attendees regarding the
32 Eagle River Memorandum of Understanding.

33 **Edwards Wastewater Treatment Facility Project** – Mr. Fessenden briefly updated the Board on
34 the new exterior color scheme at the facility, which is more modern and visually pleasing than the
35 previous colors.

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1 **REPORT BY COMMUNICATIONS AND PUBLIC AFFAIRS MANAGER**

2 Ms. Johnson presented her report, a copy of which is attached hereto as **Exhibit H** and incorporated
3 herein by this reference.

4 **National Prescription Drug Take Back Day** – Ms. Johnson reminded Directors of the September 26
5 drug take back event, which she helps coordinate locally. Law enforcement partners are hosting
6 collection sites in Vail, Edwards, and Gypsum. The event keeps pharmaceuticals out of the waste
7 stream, in part to protect water quality.

8 **Club 20** – Ms. Johnson reported on Club 20's Fall Meeting that included a session facilitated by
9 Building a Better Colorado. The new non-profit is working to engage elected officials and community
10 leaders in discussions about Colorado's election systems, initiative process, and financial future –
11 which may lead to 2016 ballot issues.

12 **GENERAL COUNSEL REPORT**

13 **Lake Creek Well Easements** – Mr. Collins noted some positive response from the owner
14 regarding the needed access to the well site; further condemnation discussions will be postponed
15 until next month.

16 **Mountain Star Tank Update** – Mr. Collins said Ms. Brooks was effectively moving forward on
17 tank discussions.

18 **WATER COUNSEL REPORT**

19 **Letter to 463 Borders Road Resident** – Mr. Porzak summarized last month's discussion
20 regarding the Beaver Creek resident who wanted a self-sufficient water system. A letter was sent
21 to the property manager, Mr. Simon, in response to the request, a copy of which is attached
22 hereto as **Exhibit I** and incorporated herein by this reference. At its August meeting, the Board
23 denied the resident's request to drill a well to accommodate their own water systems; this would
24 adversely affect the Authority's water rights and would be subject to the instream flow at least part
25 of the year, for which there would be no source of augmentation water. Mr. Porzak said no
26 response has been received to date.

27 **Colorado Water Plan Second Draft Comment Letter** – Mr. Porzak discussed the Authority and
28 District's comment letter regarding the second draft of the Plan, a copy of which is attached
29 hereto as **Exhibit J** and incorporated herein by this reference. The letter was supportive of the
30 state's strategic goals and actions outlined in the Plan. The letter also noted support for the
31 portion of the Plan that wishes to ensure separation of control between state and local entities
32 and particularly with regard to the Plan's denouncement of the Forest Service's attempt to gain
33 ownership of water rights that originate on Forest Service land. Mr. Porzak also pointed out that
34 the municipal water gap discussed in the Plan is overestimated. The Plan discusses diversion
35 amounts instead of consumptive use; diversions may be considerable but the actual consumption
36 is far less in the care of municipal uses, where the gap has primarily been identified.

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1 **State Legislation** – Mr. Porzak noted the most recent iteration of the state legislation to prevent
2 water rights takings. He noted Democratic Rep. K.C. Becker agreed to sponsor the bill in the
3 House. If the bill passes in the House, Republican Sen. Sonnenberg will then cosponsor the bill in
4 the Senate with Democratic Sen. Donovan if she agrees to support the bill. Mr. Porzak outlined
5 upcoming meetings to discuss the legislation prior to the start of the legislative session with many
6 involved parties. The text of the proposed bill is attached hereto as **Exhibit K** and incorporated
7 herein by this reference.

8 **Authority Unallocated Water Policy** – Mr. Porzak discussed a draft of the Unallocated Water
9 Policy and a summary of the unallocated water amounts, copies of which are attached hereto as
10 **Exhibits L and M**, respectively, and incorporated herein by this reference. The proposed policy
11 uses language directly from the 2015 Authority Agreement; it also points out that the Board may
12 create a reserve account for unanticipated situations or use it for a Colorado River Compact
13 storage bank to protect against a compact call. The Unallocated Water Committee will meet on
14 September 28 to further discuss the proposed policy before it is presented to the full Board.

15 **Eagle River MOU Projects** – Mr. Porzak discussed recent meetings to discuss potential ERMOU
16 projects, including an Eagle Park Reservoir enlargement and potential Whitney Creek Forebay.
17 Mr. Porzak said involved parties were surprised that the engineers didn't plan to complete the
18 preliminary engineering until March 2016; the engineers have since agreed to complete phases of
19 the work more quickly to facilitate moving forward with the projects analysis by the ERMOU
20 group. The Board agreed to schedule a meeting of ERMOU principals to further speed the
21 process.

22 **Special District Association (SDA) District of the Year** – Ms. Brooks distributed an article from the
23 SDA newsletter regarding the District as recipient of the SDA District of the Year Award, a copy of which
24 is attached hereto as **Exhibit N** and incorporated herein by this reference. She noted Directors could still
25 RSVP to attend tomorrow's luncheon at which the District will be recognized.

26 **EXECUTIVE SESSION**

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

31 **RESOLVED** to enter executive session at 9:16 a.m. to discuss attorney-client privileged
32 issues concerning the Shoshone Acquisition, pursuant to §24-6-402(4)(a)(b) and (e) C.R.S.
33 with no electronic record created as Mr. Porzak opined the contents of the discussion would
34 contain privileged attorney-client communications.*

35 Mr. Collins requested the Board continue Executive Session to receive legal advice regarding the Traer Creek
36 Tank, pursuant to §24-6-402(4)(a)(b) and (e) C.R.S. He asked that no electronic record be made, as the

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1 discussion would be entirely privileged attorney-client communications. Upon motion duly made and
2 seconded, it was unanimously

3 **RESOLVED** to continue the executive session at 9:25 a.m. to discuss attorney-client
4 privileged issues concerning the Traer Creek Tank, pursuant to §24-6-402(4)(a)(b) and (e)
5 C.R.S. with no electronic record created as Mr. Collins opined the contents of the discussion
6 would contain privileged attorney-client communications.*

7 The regular meeting resumed at 9:48 a.m.

8 **Water Infrastructure and Supply Efficiency (WISE) Project** – Mr. Hecox of the South Metro Water
9 Supply Authority presented information about the SMWSA, the South Metro WISE Authority, the WISE
10 Partnership, and the WISE Project. Mr. Hecox and Ms. Johnson provided background information in a
11 related memo, a copy of which is attached hereto as **Exhibit O** and incorporated herein by this reference.
12 Mr. Hecox said the Project is a regional water supply project between Aurora Water, Denver Water, and
13 the WISE Authority to combine available water supplies and system capacities to create a sustainable
14 new water supply for the WISE Authority and its members. He highlighted provisions in the Colorado
15 River Cooperative Agreement (CRCA) that pertain to the WISE project and noted the Authority's
16 involvement in the CRCA.

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35 **ADJOURNMENT**

36 There being no further business to come before the Board, the meeting adjourned at 10:50 a.m.

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Respectfully submitted,

Secretary to the Meeting

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

Arrowhead Metropolitan District

Town of Avon

Beaver Creek Metropolitan District

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.

Jim Collins, General Counsel

Glenn Porzak, Water Counsel

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