

**Eagle River Water and Sanitation District  
Upper Eagle Regional Water Authority  
Joint Special Meeting  
October 22, 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 October 22, 2015, at 11:00  
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 Alternate Authority Director was present:**

14 Sarah Smith Hymes, Town of Avon

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

16 Tom Allender  
17 Kim Langmaid  
18 Frederick P. Sackbauer IV  
19 Bill Simmons  
20 Paul Testwuide

21 **The following District Directors were absent and excused:**

22 Debbie Buckley  
23 Steve Friedman

24 **Also in attendance were:**

25 <b><u>ERWSD Staff</u></b>	45	Scott Braden, Conservation CO
26 Linn Brooks	46	James Carullo, citizen
27 Jason Cowles	47	Tim Drescher, citizen
28 Carol Dickman	48	Nissa Erickson, Rep. Polis staff
29 Angelo Fernandez	49	Anne Esson, citizen
30 Todd Fessenden	50	George Gillette, citizen
31 Leslie Isom	51	David Gorsuch, citizen
32 Diane Johnson	52	Tommy King, citizen
33 Melissa Mills McLoota	53	Noah Koerper, Sen. Bennet staff
34 Siri Roman	54	Josh Kuhn, Conservation CO
35 Brian Tracy	55	Ludwig Kurz, Vail Town Council
36 James Wilkins	56	Josh Lautenberg, citizen
37 <b><u>Consultants</u></b>	57	Scott Miller, the Wilderness Society
38 Jim Collins, Collins Cockrel & Cole	58	Martha Moore, Colorado River Water Conservation District
39 Kristin Moseley, Porzak Browning &	59	Dave Neely, US Forest Service
40 Bushong	60	Brooke Ranney, Eagle River Watershed Council
41 Glenn Porzak, Porzak Browning & Bushong	61	Margaret Rogers, citizen
42 Bob Weaver, Leonard Rice Engineers	62	Sloan Shuemaker, Wilderness Workshop
43 <b><u>Public</u></b>	63	Ross Wilmore, US Forest Service
44 Greg Aplet, the Wilderness Society		

65 **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

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

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**For the Authority:**

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 that he is employed by Chaffee Construction Company, which has significant business interests within the Authority. 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.

**For the District:**

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 District and Authority. He also serves on the Boards of the Upper Eagle Regional Water Authority, Eagle Park Reservoir Company, and the Clinton Ditch and Reservoir Company. Director Friedman serves on the Boards of the Beaver Creek Metropolitan District and the Vail Valley Foundation. Director Langmaid disclosed that she founded and is employed by Walking Mountains Science Center, which receives funding from parties with which the District does business, including the US Forest Service, Vail Resorts, Towns of Vail and Avon, Vail Recreation District, Eagle County, and Holy Cross Energy. Directors Sackbauer is employed by Vail Resorts, Inc., which has significant land ownership and business interests within the District. Director Simmons disclosed that he is the General Manager of the Beaver Creek Metropolitan District, an alternate Director for the Authority, and on the Boards of the Edwards, Holland Creek, and Red Sky Ranch Metropolitan Districts. Director Testwuide disclosed that he performs consulting for Vail Resorts, his former employer, owns water rights in two states, and occasionally uses the District's water counsel, Glenn Porzak, as his personal attorney.

**CALL TO ORDER**

Chairman Gregory of the Upper Eagle Regional Water Authority called the meeting to order at 11:00 a.m.

Chairman Sackbauer of the Eagle River Water and Sanitation District concurred.

**Review of Postings of Joint Special Meeting**

Chairman Gregory confirmed that the joint meeting was properly posted per special district regulations.

**Staff and Consultants Presentation on the Issues**

Ms. Brooks provided opening remarks, a copy of which is attached hereto as **Exhibit A** and incorporated herein by this reference. She stated that it was commonly recognized that wilderness designation is the best tool available to reduce the risk of human-caused degradation of watersheds and that the primary natural threat to the District's and Authority's watershed is wildfire. She provided background information describing the District and Authority involvement in previous wilderness proposals and the need for the two entities to develop a policy on future wilderness and roadless designations and a position on the current bill. She described the process which the Boards have undertaken to date to develop the drafts under consideration today. She explained that the purpose of this Joint Meeting was to have the District and Authority Boards consider the adoption of the Draft Policy on Future Wilderness and Roadless Area Designations (Draft Wilderness Policy) and the Draft Position Statement on the Continental Divide Wilderness and Recreation Act, HR2554 (Draft Position Statement), to ensure that the District and Authority have the ability to protect their watershed in the event of a natural disaster. Copies of Ms. Brooks' memo to the Boards of Directors on this matter, the Draft Wilderness Policy and the Draft Position Statement are attached hereto as **Exhibits B, C, and D** respectively, and incorporated herein by this reference. In their consideration of the adoption of the Draft Wilderness Policy and Draft Position Statement, the Boards, staff and consultants wanted to invite wilderness stakeholders and members of the community to submit written comments prior to this meeting and to attend this meeting to comment in

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1 person. Copies of the written comments presented prior to the meeting are attached hereto as **Exhibit E**  
2 and incorporated herein by this reference.

3 Mr. Porzak noted that the written comments from the public, in Exhibit E, could be summarized  
4 into two categories: 1. Arguments that the Wilderness Act already allows mechanized equipment; and 2.  
5 Concern that the proposed language for HR 2554 attempts to rewrite the Wilderness Act. A copy of Mr.  
6 Porzak's memo to the Board titled "Wilderness Policy Summary of Public comments and Discussion" is  
7 attached hereto as **Exhibit F** and incorporated herein by this reference. Mr. Porzak noted that The Town  
8 of Avon also raised compelling questions regarding the reservation of reserved water rights under the  
9 Wilderness designation. This calls into question the potential impact that such a designation could have  
10 on the District and Authority's water supply in the event that the new reserved rights designations are  
11 located downstream and the USFS attempts to manage the reservations as instream flows. The Town of  
12 Avon recommended that the Draft Wilderness Policy be amended to add a seventh criteria to the Policy  
13 and Criteria to Evaluate Wilderness Legislative Proposals as follows:

- 14 7. Whether the designation would create any reserved water rights, and if so, whether those  
15 reserved water rights adversely impact the water rights of the District and Authority.

16 Mr. Porzak also noted that there have been other wilderness bills passed by Congress that contain  
17 language modifying, expanding upon or departing from the management standards in the original  
18 Wilderness Act. A copy of the chart titled "Examples of Special Provisions in Wilderness Acts" is attached  
19 hereto as **Exhibit G** and incorporated herein by this reference.

20 Chairman Gregory explained the Boards' belief that work in the wilderness is at the discretion of  
21 the Forest Service and that there is no clear criteria to allow rapid response in the event of a forest fire.  
22 He stated that the District and Authority support wilderness designations but need to protect the  
23 watershed quickly to prevent harm to the water needed to serve our community.

24 The Boards noted that the Draft Wilderness Policy and the Draft Position Statement had been  
25 developed by a Subcommittee of both Boards.

26 **Motions by the Authority Board**

27 A Motion was duly made and seconded to approve the Draft Policy on Future Wilderness and  
28 Roadless Areas, as amended to include the proposed seventh criteria suggested by the Town of  
29 Avon, stated above.

30 A Motion was duly made and seconded to approve the Draft Position Statement on the  
31 Continental Divide Wilderness and Recreation Act, HR 2554.

32 **Motions by the District Board**

33 A Motion was duly made and seconded to approve the Draft Policy on Future Wilderness and  
34 Roadless Areas, as amended to include the proposed seventh criteria suggested by the Town of  
35 Avon, stated above.

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1 A Motion was duly made and seconded to approve the Draft Position Statement on the  
2 Continental Divide Wilderness and Recreation Act, HR 2554.

3 **Open of Joint Public Hearing**

4 **Public Input Received** – In addition to the public input received prior to the meeting, Exhibit E,  
5 Ms. Erikson, a staff member of Rep. Polis, read the letter from Rep. Polis, a copy of which is  
6 attached hereto as **Exhibit H**, and incorporated herein by this reference.

7 **Public Comment** – Public comment was also received from the following attendees: Mr.  
8 Lautenberg, Mr. Neely, Mr. Miller, Mr. Gorsuch, Mr. Braden, Ms. Rogers, Ms. Esson, Ms.  
9 Shuemaker, Mr. Aplet, Mr. Gillette, and Mr. Carullo. It was noted that the public comment was  
10 focused primarily on opposition to the Draft Position Statement, referring to it as a “poison pill”  
11 that would effectively kill the Wilderness Act, HB 2554. The public comment also noted that the  
12 District and Authority were the only local entities opposed to the passage of the Wilderness Act,  
13 HB 2554, as written, and urged the Boards to reconsider their position.

14 **Close of Joint Public Hearing**

15 The public hearing was closed at 12:30 p.m.

16 **Board Discussion** – In the discussion which followed the Board members agreed that it was not their  
17 intention to kill the Wilderness Act, HB 2554. However, they had the obligation to protect the municipal  
18 water supplies. The Boards agreed that further discussions were needed with the stakeholders to see if  
19 mutually acceptable language could be developed. The Board asked Ms. Erickson, who had been  
20 working with District staff on the proposed legislation, if the timing of the passage of the bill could  
21 accommodate the proposed continued discussions. In response to questions raised by Mr. Porzak, Ms.  
22 Erikson said that Rep. Polis had not yet obtained any support of the majority Republican members of the  
23 House Committee considering the bill. Thus, it would be a number of months before the bill would come  
24 to a committee vote. She further indicated that Rep. Polis wanted the District’s and Authority’s support.

25 **Motions by the Authority** – Upon Motion duly made and seconded it was unanimously

26 **RESOLVED** to table consideration of the Draft Policy on Future Wilderness and Roadless Areas,  
27 as amended to include the proposed seventh criteria suggested by the Town of Avon, stated  
28 above, and it is further

29 **RESOLVED** to table consideration of the Draft Position Statement on the Continental Divide  
30 Wilderness and Recreation Act, HR 2554.

31 **Motions by the District** – Upon Motion duly made and seconded it was unanimously

32 **RESOLVED** to table consideration of the Draft Policy on Future Wilderness and Roadless Areas,  
33 as amended to include the proposed seventh criteria suggested by the Town of Avon, stated  
34 above, and it is further

35 **RESOLVED** to table consideration of the Draft Position Statement on the Continental Divide  
36 Wilderness and Recreation Act, HR 2554.

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1 The Boards agreed to schedule two meetings with the wilderness stakeholders within the next two  
2 months to try to develop language acceptable to all parties.  
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Eagle River Water and Sanitation District  
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UPPER EAGLE REGIONAL WATER AUTHORITY

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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