Eagle River Water and Sanitation District
Upper Eagle Regional Water Authority
Joint Special Meeting
October 22, 2015
MINUTES

A joint special meeting of the Boards of Directors of the Upper Eagle Regional Water Authority (Authority) and Eagle River Water and Sanitation District (District) was held October 22, 2015, at 11:00 a.m., in the District's Walter Kirch Room, 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable statutes of the State of Colorado.

ATTENDANCE

The following Authority Directors were present, thereby constituting a quorum:
 Tom Allender, EagleVail Metropolitan District
 Geoff Dreyer, Arrowhead Metropolitan District
 George Gregory, Berry Creek Metropolitan District
 Todd Goulding, Town of Avon
 Jim Power, Beaver Creek Metropolitan District
 Mick Woodworth, Edwards Metropolitan District

The following Alternate Authority Director was present:
 Sarah Smith Hymes, Town of Avon

The following District Directors were present, thereby constituting a quorum:
 Tom Allender
 Kim Langmaid
 Frederick P. Sackbauer IV
 Bill Simmons
 Paul Testwuide

The following District Directors were absent and excused:
 Debbie Buckley
 Steve Friedman

Also in attendance were:
ERWSD Staff
 Linn Brooks
 Jason Cowles
 Carol Dickman
 Angelo Fernandez
 Todd Fessenden
 Leslie Isom
 Diane Johnson
 Melissa Mills McLota
 Siri Roman
 Brian Tracy
 James Wilkins
 Consultants
 Jim Collins, Collins Cockrel & Cole
 Kristin Moseley, Porzak Browning & Bushong
 Glenn Porzak, Porzak Browning & Bushong
 Bob Weaver, Leonard Rice Engineers
 Public
 Greg Aplet, the Wilderness Society

DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST

The Boards noted they 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:
Eagle River Water and Sanitation District  
Upper Eagle Regional Water Authority

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

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

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

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

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

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

**Motions by the Authority Board**

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

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

**Motions by the District Board**

A Motion was duly made and seconded to approve the Draft Policy on Future Wilderness and Roadless Areas, as amended to include the proposed seventh criteria suggested by the Town of Avon, stated above.
A Motion was duly made and seconded to approve the Draft Position Statement on the Continental Divide Wilderness and Recreation Act, HR 2554.

Open of Joint Public Hearing

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

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

Close of Joint Public Hearing

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

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

Motions by the Authority – Upon Motion duly made and seconded it was unanimously RESOLVED to table consideration of the Draft Policy on Future Wilderness and Roadless Areas, as amended to include the proposed seventh criteria suggested by the Town of Avon, stated above, and it is further RESOLVED to table consideration of the Draft Position Statement on the Continental Divide Wilderness and Recreation Act, HR 2554.

Motions by the District – Upon Motion duly made and seconded it was unanimously RESOLVED to table consideration of the Draft Policy on Future Wilderness and Roadless Areas, as amended to include the proposed seventh criteria suggested by the Town of Avon, stated above, and it is further RESOLVED to table consideration of the Draft Position Statement on the Continental Divide Wilderness and Recreation Act, HR 2554.
The Boards agreed to schedule two meetings with the wilderness stakeholders within the next two months to try to develop language acceptable to all parties.
ADJOURNMENT

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

Respectfully submitted,

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Secretary to the Meeting

EAGLE RIVER WATER & SANITATION DISTRICT

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Tom Allender, Director

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Debbie Buckley, Secretary

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Stephen Friedman, Treasurer

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Kim Langmaid, Director

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Frederick P. Sackbauer IV, Chairman/President

________________________________________
Bill Simmons, Director

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Paul Testwuide, Director
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