

Upper Eagle Regional Water Authority

Board of Directors Meeting

June 23, 2016

MINUTES

1 A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was
2 held June 23, 2016, at 8:30 a.m., in the Walter Kirch Room of the Eagle River Water & Sanitation District
3 (District), 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable statutes of
4 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 George Gregory, Berry Creek Metropolitan District
10 Sarah Smith Hymes, town of Avon
11 Mick Woodworth, Edwards Metropolitan District

12 The following Director was absent and excused:

13 Pam Elsner, Beaver Creek Metropolitan District

14 The following Alternate Director was present and acting:

15 Bill Simmons, Beaver Creek Metropolitan District

16 Also in attendance were:

17 <u>District Staff</u>	24	Jason Sica
18 Linn Brooks	25	Brian Tracy
19 Jason Cowles	26	James Wilkins
20 Carol Dickman	27	<u>Consultants</u>
21 Catherine Hayes	28	Jim Collins, Collins Cockrel & Cole
22 Diane Johnson	29	Glenn Porzak, Porzak Browning & Bushong LLP
23 Glen Phelps		

30 DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST

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

33 Director Allender and alternate Director Simmons disclosed that they serve on the Board of the Eagle River Water and Sanitation
34 District. Director Allender also disclosed that he is a former employee of Vail Resorts, which tangentially deals with the Authority and
35 District, as well as being employed part time by SE Group, which does planning and environmental work for Vail Resorts and other
36 ski areas. Alternate Director Simmons also noted he serves on the board of the Edwards Metropolitan District and is employed by
37 Beaver Creek Metropolitan District, an Authority member. Director Woodworth disclosed that he is employed by the Eagle River Fire
38 Protection District, which operates within the Authority's service area.

39 CALL TO ORDER

40 Director Gregory called the meeting to order at 8:30 a.m.

41 ACTION ITEMS

42 **Conflict of Interest Disclosure** – An updated conflict of interest letter was filed for Alternate Director
43 Simmons, a copy of which is attached hereto as **Exhibit A** and incorporated herein by this reference.

44 **Consideration of Minutes** – The minutes of the regular meeting of May 26, 2016, were considered.

45 Upon motion duly made and seconded, it was unanimously

46 **RESOLVED** that the minutes of the May 26, 2016, regular meeting be accepted and hereby are
47 approved as presented.

48 GENERAL MANAGER REPORT

49 Ms. Brooks presented her report, a copy of which is attached hereto as **Exhibit B** and incorporated
50 herein by this reference. The monthly reports were also acknowledged, copies of which are attached
51 hereto as **Exhibit C** and incorporated herein by this reference.

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1 **Traer Creek Tank Update** – Mr. Cowles presented a memo regarding the Traer Creek tank, a
2 copy of which is attached hereto as **Exhibit D** and incorporated herein by this reference. He
3 noted a pressure reducing valve (PRV) project at the Bachelor Gulch regional tank will give the
4 Authority some additional capacity for service in the Avon, EagleVail, and Traer Creek areas; the
5 Authority is currently limited as to the number of SFEs it can serve in that area due to the Traer
6 Creek tank failure. Mr. Collins said the PRV project will be combined with a previously planned
7 Authority booster pump station project for spring 2017, making this the most cost effective option.
8 Discussion ensued regarding responsibility for funding the PRV portion of the project.

9 **Mountain Star Tank Update** – Mr. Cowles updated on the Mountain Star tank, construction of
10 which is proceeding on time and on budget. He noted the borings for the piers were completed;
11 this item carried the largest cost risk.

12 **FINANCE REPORT**

13 Mr. Wilkins presented the finance report, a copy of which is attached hereto as **Exhibit E** and
14 incorporated herein by this reference.

15 **Water Sales and Development Impact Fee Revenues** – Mr. Wilkins noted May water sales
16 were well above projections and development impact fee revenues were coming in as spring
17 construction projects commence. He summarized last month's discussion regarding future years'
18 sales projections, noting that staff would begin to take into account Beaver Creek and Vail
19 Mountain closing dates, weather projections, and peak tourist weeks, among other items.

20 **Wells Fargo Purchasing Program Rebate** – Mr. Wilkins discussed the District's purchasing
21 card program, which was implemented four years ago. A related memo is attached hereto as
22 **Exhibit F** and incorporated herein by this reference. Based on projected spending levels, the
23 District is likely to qualify for a rebate of approximately \$14,000 this year.

24 **SpyGlass Telecommunications Audit** – Mr. Wilkins discussed a District telecommunications
25 audit performed by SpyGlass in fall 2015 to identify cost saving opportunities. A related memo is
26 attached hereto as **Exhibit G** and incorporated herein by this reference. Mr. Wilkins said some
27 recommendations have been successfully implemented; others will be employed in the coming
28 months and are expected to yield additional savings. He also outlined staff-level efforts that have
29 resulted in significant savings, noting that these items were done in the spirit of the business
30 optimization initiative (BOI), although were not part of any formal BOI events.

31 **OPERATIONS REPORT**

32 Ms. Brooks presented the Operations Report, a copy of which is attached hereto as **Exhibit H** and
33 incorporated herein by this reference.

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1 **Eagle Park Reservoir Company Quarterly Report** – Mr. Tracy discussed the EPRC quarterly
2 operations report and noted the board of directors and annual shareholders meetings would be
3 held later that day.

4 **Regulation 31 Rulemaking Hearing Update** – Mr. Tracy summarized recent developments
5 regarding the Reg. 31 rulemaking hearing and discussed related information, copies of which are
6 attached hereto as **Exhibit I** and incorporated herein by this reference. Reg. 31 deals with
7 temperature and metals standards for cold water streams. He noted the most recent rulemaking
8 hearing results were favorable for the Authority and District. Ms. Brooks emphasized the success
9 the Authority and District have had in getting involved with such rulemaking hearings at the
10 beginning, rather than waiting until costly and ineffective regulations are enacted. This front-end
11 involvement allows both entities to impact the decision-making process; provide relevant data and
12 comments; and achieve significant cost savings. In response to a question, Ms. Brooks said the
13 temperature of treated wastewater effluent returned to the stream is warmer than the ambient
14 stream temperature.

15 **COMMUNICATIONS AND PUBLIC AFFAIRS REPORT**

16 Ms. Johnson presented the Communications and Public Affairs Report, a copy of which is attached
17 hereto as **Exhibit J** and incorporated herein by this reference.

18 **Vail Farmers' Market** – Ms. Johnson said the Vail Farmers' Market began on June 19. The
19 District is again staffing a booth to provide drinking water and interact with customers. The market
20 runs until early October.

21 **Local River Flows** – Ms. Johnson noted local river flows are slightly higher than normal for this
22 time of year, as peak runoff occurred later than usual.

23 **Colorado River Basin Update** – Ms. Johnson discussed levels in Lakes Powell and Mead and
24 the continuing media coverage this topic is receiving, especially as Lake Mead continues to drain
25 year to year. Discussion ensued regarding California's water use under the Colorado River
26 Compact. In response to a question, Mr. Porzak noted that California does not regulate
27 groundwater, which could lead to depletion of groundwater supplies and adversely affect surface
28 water availability. The Board discussed possible federal actions that could be implemented if
29 critical water levels are reached in Lake Mead. Ms. Johnson said Colorado River Water
30 Conservation District general manager Eric Kuhn is very knowledgeable and offered to discuss
31 this topic further at the July 28 meeting. The Board agreed to hold a joint meeting with the District
32 Board for this presentation.

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GENERAL COUNSEL REPORT

1 **Avon Drinking Water Facility Ground Lease** – Mr. Collins discussed the lease, which is moving
2 forward. He expects completion soon, and he thanked Director Smith Hymes for her assistance
3 with this effort.
4

5 **Lake Creek Groundwater Facility** – Mr. Collins updated on the groundwater facility and needed
6 easements. He said negotiations are ongoing; condemnation could be used as a last resort.

7 **Angler's Preserve Easement** – Mr. Collins said it appeared that the needed easement was
8 being finalized by the developer and property owner.

WATER COUNSEL REPORT

10 **Member Water Rights Reports** – Mr. Porzak said he and water engineer Tom Williamsen were
11 updating the Authority member water rights reports, per Board direction to revise the reports at
12 least every two years. He indicated that the section regarding the Traer Creek water rights
13 deeded to the Authority would be included in the Avon report. He hopes to present the updated
14 reports at the August Board meeting.

15 **Federal Water Rights Protection Act** – Mr. Porzak discussed a recent conversation with Sen.
16 Bennet's Washington D.C. staff regarding the federal Water Rights Protection Act. Mr. Porzak
17 urged passage of the act and suggested the recently approved Colorado Water Rights Protection
18 Act could serve as a template. He also gave Sen. Bennet's staff background on Forest Service
19 conduct from 2011 to present, noting the adverse effects of the proposed Forest Service
20 directives as well as the importance of water rights to western states.

21 **Wilderness Update** – Mr. Porzak said recent work with Sen. Bennet's Washington D.C. staff on
22 wilderness language for future legislation has been very productive. The group discussed adding
23 language in a separate provision that would include use of mechanized equipment, including
24 aircraft, to remediate damage to watershed wilderness areas caused by fire and flooding events.
25 Mr. Porzak also noted a July 21 meeting was scheduled with Rep. Polis and the board chairmen
26 in Vail.

27 **Traer Creek Water Rights Diligence Filing** – Mr. Porzak said diligence for the Traer Creek
28 water right was due at the end of August. He noted extensive expenditures regarding the Traer
29 Creek development and the perfection of the Traer Creek conditional rights.

30 **Meeting with Climax Mine Representatives** – Mr. Porzak discussed a recent meeting he and
31 staff attended with Climax Mine local and corporate officials. Topics of discussion included
32 partnership on a potential Eagle Park Reservoir enlargement. The group also discussed the
33 importance of maintaining the high water quality in the reservoir, which Climax must do based on
34 the original purchase agreement and the more recent agreement concerning the environmental
35 protections to Eagle Park Reservoir required as part of the approval of the amended permit for

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1 the Climax Mine. Ms. Brooks said attendees on behalf of EPRC were able to effectively
2 communicate that when Climax requests relaxed regulations and permit standards, the Reservoir
3 Company has no choice but to comment to the Water Quality Control Commission to ensure
4 protection of water quality for downstream users, including the Authority, the District, and their
5 customers.

6 **ERMOU Projects Update** – Mr. Porzak discussed a recent meeting with Eagle River MOU
7 parties to review potential options for collaborative projects.

8 At 9:53 a.m., all staff left the meeting, with the exception of Ms. Brooks and Ms. Johnson.

9 **EXECUTIVE SESSION**

10 Mr. Porzak requested the Board enter into Executive Session to receive legal advice regarding CRCA
11 matters, pursuant to §24-6-402(4)(b) and (e) C.R.S. He asked that no electronic record be made, as the
12 discussion would be entirely privileged attorney-client communications. Upon motion duly made and
13 seconded, it was unanimously

14 **RESOLVED** to enter Executive Session at 9:54 a.m. to discuss attorney-client privileged
15 issues concerning CRCA matters, pursuant to §24-6-402(4)(b) and (e) C.R.S. with no
16 electronic record created as Mr. Porzak opined the contents of the discussion would contain
17 privileged attorney-client communications.*

18 The regular meeting resumed at 10:05 a.m.

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ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 10:06 a.m.

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.

Glenn Porzak, Water Counsel