A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was held October 27, 2016, at 8:30 a.m., in the Walter Kirch Room of the Eagle River Water & Sanitation District (District), 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable statutes of the State of Colorado.

ATTENDANCE

The following Directors were present, thereby constituting a quorum:

- Tom Allender, EagleVail Metropolitan District
- Geoff Dreyer, Arrowhead Metropolitan District
- Pam Elsner, Beaver Creek Metropolitan District
- George Gregory, Berry Creek Metropolitan District
- Sarah Smith Hymes, town of Avon
- Mick Woodworth, Edwards Metropolitan District

Also in attendance were:

- District Staff
- Linn Brooks
- Jason Cowles
- Carol Dickman
- Maureen Egan
- Catherine Hayes
- Debbie Hoffman
- Diane Johnson
- John McCaulley
- Jeff Schneider
- Brian Tracy
- James Wilkins
- Consultants
- Jim Collins, Collins Cockrel & Cole
- Glenn Porzak, Porzak Browning & Bushong LLP
- Public
- Mike Reisinger, Berry Creek Metropolitan District

DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST

The Board noted it 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:

Directors Allender and Gregory and alternate Director Simmons disclosed that they serve on the Board of the Eagle River Water and Sanitation District. Director Allender also disclosed that he is a former employee of Vail Resorts, which tangentially deals with the Authority and District, as well as being employed part time by SE Group, which does planning and environmental work for Vail Resorts and other ski areas. Director Elsner disclosed her membership with the Vilar Performing Arts Center Guild, which operates within the Authority’s service area. Director Gregory also disclosed that he occasionally undertakes small development and construction activities within the Authority and District service areas. Alternate Director Simmons noted he serves on the Edwards Metropolitan District board and is employed by Beaver Creek Metropolitan District, an Authority member. Director Woodworth disclosed that he is employed by the Eagle River Fire Protection District, which operates within the Authority’s service area.

CALL TO ORDER

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

ACTION ITEMS

Consideration of Minutes – The minutes of the regular meeting of September 22, 2016, were considered. Upon motion duly made and seconded, it was unanimously

RESOLVED that the minutes of the September 22, 2016, regular meeting be accepted and hereby are approved as presented.

Cordillera Rate Surcharge – Mr. Cowles presented his board action request and a related Cordillera water system fire flow analysis, copies of which are attached hereto as Exhibits A and B, respectively, and incorporated herein by this reference. Discussion ensued regarding Cordillera’s current $18.50/SFE surcharge, funds from which are used for capital improvements to address water system deficiencies that existed when the Authority originally accepted the Cordillera water system. Discussion ensued regarding which upgrades were the responsibility of
the Authority and which were borne by the individual Authority or contract member. The Board recommended further staff analysis on the matter and requested such information at a future meeting. No recommendation concerning a change to the $18.50/SFE surcharge will be made to Cordillera in the meantime.

GENERAL MANAGER REPORT

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

Lake Creek Wells – Ms. Brooks updated on the status of the Lake Creek test wells. She noted drilling was complete; water quality and production testing will follow. Further information will be provided at an upcoming meeting.

Water Demand Management Update – Ms. Egan discussed her memo and presented information regarding the water demand management program, copies of which are attached hereto as Exhibits E and F, respectively, and incorporated herein by this reference. She referenced the water demand management pilot program, which began in 2015 and continued into the 2016 irrigation season. Ms. Egan discussed the program purpose, which is to use water more efficiently and serve an expanding population with existing supply. She also reviewed goals and successes, including: maintain quality landscapes while using less water; utilize efficient irrigation strategies and new technology; and lower system-wide usage. Based on the 2016 results, staff will work to improve customer access to information, develop water budgets, and partner with land use authorities to continue to achieve success in reducing overall water demand. Ms. Egan will also work on an Authority water conservation plan. She contracted with ELEMENT Water Consulting, which will apply for and expects to receive a Colorado Water Conservation Board grant for this work. The board thanked Ms. Egan for her very informative and well-presented information.

FINANCE REPORT

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

2017 Draft Budget Update – Mr. Wilkins discussed the 2017 draft budget and process by which it was created. Related documents are attached hereto as Exhibit H and incorporated herein by this reference. He noted the Capital Improvements Program staff was consulted early in the process to better understand timing for capital projects and spending over time. The Board also discussed Traer Creek tank cost and design. The final budget will be presented for Board consideration at the November 17 meeting, which was previously noticed as a public budget and
rate increase hearing. The budget subcommittee, Chair Gregory and Treasurer Dreyer, recommended budget approval.

OPERATIONS REPORT

The Operations Report was presented, a copy of which is attached hereto as Exhibit I and incorporated herein by this reference.

**Low Flow Operations** – In response to specific questions about the instream flow (ISF) levels, Ms. Brooks noted that current streamflows were well below average. The Authority and District can modify system operations to improve streamflows, including moving diversions downstream to the lowest point in the interconnected system. Many Authority and District water rights are senior to the ISF, but both entities recognize the importance of leaving water in the river for aquatic health purposes.

**Eagle Park Reservoir Company Quarterly Report** – Ms. Brooks briefly discussed the EPRC quarterly report and noted a meeting of the EPRC board would be held later that day.

COMMUNICATION AND PUBLIC AFFAIRS REPORT

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

**Vail Farmers’ Market** – Ms. Johnson reviewed a successful season at the Vail Farmers’ Market. Eighteen different employees distributed water and interacted with market attendees during the 16-week season. She estimated that staff gave out over 2,100 gallons of water.

**Climate Change and Colorado River Operations** – Ms. Johnson discussed various articles included in board packets regarding climate change and its effect on Colorado River operations, as well as water supply and demand in the west. Discussed ensued, and Ms. Johnson offered to coordinate a speaker on the topic for an upcoming meeting.

GENERAL COUNSEL REPORT

**Traer Creek Update** – Mr. Collins reported that the court reviewed the Authority’s request for declaratory judgment and requested the Authority join all parties in the matter. Work towards this end is ongoing. Once all parties are joined, the court will re-entertain the motion for declaratory judgment.

**Letter to the Department of Natural Resources (DNR) re Well Locations** – Mr. Collins discussed a letter sent to the DNR requesting the state engineer stop publishing well locations of water providers. This is a matter of security regarding the public drinking water supply.

WATER COUNSEL REPORT

**Arrowhead, Smith Creek Water Rights** – Mr. Porzak discussed the Arrowhead Water Rights report presented at the September 22 meeting. He noted Smith Creek Metropolitan District
(SCMD) was included within Arrowhead and thus, its water rights were summarized in that report. The report found that SCMD water use at full build-out will exceed its original water dedication. Mr. Porzak said he would meet with the chair of SCMD, Doug Lovell, later in the day to discuss the matter. Mr. Porzak noted SCMD was controlled by Vail Resorts, and he also outlined recent promotions and changes to the executive team at Vail Resorts.

**Lake Creek Well Augmentation Plan** – Mr. Porzak presented the Lake Creek Well Augmentation Plan, a copy of which is attached hereto as Exhibit K and incorporated herein by this reference. He said all needed parties consented to the decree, which adjudicates all of the Lake Creek Wells.

**Homestake Reservoir Exchange Diligence Application** – Mr. Porzak discussed the Homestake Diligence Application, a copy of which is attached hereto as Exhibit L and incorporated herein by this reference. After discussion and upon motion duly made and seconded, it was unanimously

**RESOLVED** that the filing of the completed Homestake Reservoir Exchange Diligence Application be and hereby is approved.

**Eagle Park Reservoir and Climax Matters** – Mr. Tracy and Mr. Porzak discussed matters related to Eagle Park Reservoir and Climax Mine. Mr. Tracy noted the reservoir quality was good and outlined monitoring efforts to ensure its continued protection. He also noted the possible need to drill an additional monitoring well at a lower point near the inlet to get more accurate metals data. Mr. Porzak summarized the various protections EPRC has against water quality degradation, including the original purchase agreement with Climax. Mr. Tracy discussed Climax's proposal to apply groundwater standards to monitoring wells that could adversely affect water quality in Eagle Park Reservoir, as well as efforts to engage in a transparent dialogue with Climax to maintain a good relationship in light of upcoming Eagle River MOU projects.

All staff with the exception of Ms. Brooks and Ms. Johnson left the meeting at 10:21 a.m.

**EXECUTIVE SESSION**

Mr. Porzak requested the Board enter into Executive Session to receive legal advice regarding CRCA matters, pursuant to §24-6-402(4)(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 10:22 a.m. to discuss attorney-client privileged issues concerning CRCA matters, pursuant to §24-6-402(4)(b) and (e) C.R.S. with no electronic record created as Mr. Porzak opined the contents of the discussion would contain privileged attorney-client communications.*

The regular meeting resumed at 10:29 a.m.
ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 10:30 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

______________________________
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.

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Glenn Porzak, Water Counsel