

Eagle River Water & Sanitation District

1 will be up for election. After discussion and upon motion duly made and seconded, it was
2 unanimously

3 **RESOLVED** that Bob Armour be and hereby is appointed to fill the Director District 2
4 vacancy. He will serve until 2018, at which time, he can run for the remaining two years
5 of the term. An oath of office and notice of appointment are attached hereto as **Exhibits**
6 **B** and **C**, respectively, and incorporated herein by this reference.

7 **March Joint Meeting** – The Board agreed to hold a joint meeting with the Authority Board on
8 March 23 at the recommendation of Chair Sackbauer and Authority Chair Gregory. John Carrier
9 of the Colorado River District will present information on the Homestake Project and Eagle River
10 MOU matters. Mr. Cowles and consultant Bob Weaver will also present related information.

11 **GENERAL MANAGER REPORT**

12 Ms. Brooks presented her report, a copy of which is attached hereto as **Exhibit D** and incorporated
13 herein by this reference. Monthly reports were acknowledged, copies of which are attached hereto as
14 **Exhibit E** and incorporated herein by this reference.

15 **Uniformity Program** – In response to a question, Ms. Brooks discussed the Uniformity Program,
16 which has been underway for several years in the Customer Service department. When
17 properties are bought, sold, or undergo major improvements, customer service specialists
18 conduct audits to ensure the proper tap fees and base rates are associated with the property.
19 Discussion ensued regarding the purpose of the program and affected customers. Mr. McCaulley
20 entered the meeting at 11:46 a.m. and offered to address the topic more fully at a subsequent
21 meeting.

22 **FINANCE REPORT**

23 Mr. Wilkins presented the finance report, a copy of which is attached hereto as **Exhibit F** and
24 incorporated herein by this reference. He noted changes to water sales projections, including use of a
25 five-year historical distribution model, and efforts to compare past water sales with weather patterns in
26 those years. He also discussed the unaudited year-end financials and ongoing efforts to improve budget
27 projections, especially for capital projects.

28 **OPERATIONS REPORT**

29 The operations report was presented, a copy of which is attached hereto as **Exhibit G** and incorporated
30 herein by this reference.

31 **Eagle Mine Update** – Ms. Roman reported that CDPHE notified water manager Brian Tracy via
32 email of a recent 3,000-gallon spill from the Mine in the Rex Flats area, which was the result of a
33 pipeline leak. Mr. Tracy was notified the following day, not immediately, because the spill did not
34 reach the river. According to Mr. Tracy, the District and Authority had recently commented on the
35 Mine's maintenance plan for its pipes and infrastructure. The recent spill demonstrates the need
36 for continued improvements there.

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1 Ms. Roman also reported Colorado Department of Public Health and Environment (CDHPE)
2 recently released the draft discharge permit for the Mine, which expired three years ago and was
3 administratively extended by CDHPE. She explained that the delay for the renewal may have
4 been due to a lack of available administrative resources at CDPHE. She also explained that
5 permits tend to be 'administratively extended' by CDPHE if they are not renewed prior to the
6 expiration date. A meeting of local stakeholders will be convened to review the permit and make
7 comments to CDPHE.

8 **ENGINEERING REPORT**

9 **Rules and Regulations Update** – Mr. Cowles noted staff was updating the Rules and
10 Regulations, particularly the appendices that relate to standard specifications for water and sewer
11 mains, as well as requirements for earthwork. The Rules and Regulations joint subcommittee,
12 Directors Allender and Simmons, will review the draft prior to presentation at the March 23 board
13 meeting.

14 **Fats, Oils, and Grease (FOG) Program** – Mr. Cowles reported that staff continued to gather
15 feedback from the letters and survey sent to local food service establishments and pumping
16 services to collect data regarding FOG practices within the District service area. Once all data is
17 collected, staff will analyze the results and move forward with implementation of a FOG program.
18 He noted that FOG issues can cause costly sewer backups into structures and sewer overflows
19 to the surrounding environment.

20 **Lodge at Vail Storm Drains** – Mr. Cowles updated on the situation at the Lodge at Vail by which
21 the roof drains are connected to the sewer system, which likely happened during original
22 construction in the 1960s. He recently met with Lodge representatives, and the group settled on a
23 low-cost fix for the summer, which involves plugging roof drains to prevent large rain events from
24 infiltrating the Vail wastewater treatment plant, as they have in the past. Discussion ensued
25 regarding possible issues with the temporary fix as well as the timeline for permanent removal of
26 the illicit connections.

27 **Heritage Parcel Update** – Mr. Cowles said the issue between the developer and Country Club of
28 the Rockies (CCR) was resolved to the satisfaction of both parties. Mr. Collins assisted as
29 needed on behalf of the District to ensure the developer was able to gain an easement through
30 the CCR to establish sewer service for his property.

31 **COMMUNICATION AND PUBLIC AFFAIRS REPORT**

32 Ms. Johnson noted she did not include a written packet report.

33 **Water Supply in Lower Basin States** – Ms. Johnson said the recent heavy rains in northern
34 California are improving the surface water supply situation in that area while also allowing for
35 delivery of more water to southern California. This allows California to rely less on water from the
36 Colorado River, so they can leave more water in Lake Mead, which likely means lower basin

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1 states will avoid curtailment in 2018. She noted that California's groundwater supply issues
2 continue. Mr. Porzak added that California has not integrated surface and groundwater supplies,
3 despite the clear interaction between the two sources.

4 **Waters of the US (WOTUS)** – Ms. Johnson said the Trump administration ordered the
5 Environmental Protection Agency and the Army Corps of Engineers to review the Obama
6 administration's "Clean Water Rule: Definition of 'Waters of the United States'" that defined which
7 water bodies are regulated by the Clean Water Act. The rule was put on hold in October 2015
8 due to legal challenges from 26 states, including Colorado (which the district and authority
9 supported), and farm lobbies. The order charges EPA and ACE with developing a new rule to
10 replace the Obama rule, which will also need to address the 2006 U.S. Supreme Court *Rapanos*
11 ruling concerning the scope of the CWA.

12 **Town of Vail Community Meeting** – Ms. Johnson reminded directors of the town's annual
13 community meeting scheduled for 5 – 7 p.m. March 14 at Donovan Pavilion. The District is once
14 again a partner in the event and staff will provide general information as well as specific
15 information about the District's FOG efforts.

16 **Colorado Senate Joint Resolution re New Nutrient Regulations** – Ms. Johnson reported that
17 state Sen. Coram is sponsoring a Joint Resolution concerning public input and general assembly
18 review before new nutrient regulations could be issued. The resolution calls attention to the cost,
19 effects on providers and ratepayers, technical feasibility, and burdens to smaller treatment
20 providers, among other difficulties, with the nutrient regulations (Regulation 85) – which are
21 driving the District's wastewater projects and master planning efforts. The Colorado Water
22 Congress is considering support of the resolution; Ms. Johnson will check with staff and
23 consultants who represent the District in a related work group as to whether the District has a
24 position on the resolution.

25 **Rep. Polis Wilderness Legislation** – In response to a question, Ms. Johnson said the
26 introduced wilderness legislation by Rep. Polis in the 2016 legislative session did not move
27 forward and she has heard nothing further on the matter this year.

28 The board took a recess for lunch at 12:12 p.m. The meeting resumed at 12:37 p.m.

29 WATER COUNSEL REPORT

30 **Republican River Compact Rules Update** – Mr. Porzak discussed letters sent to the State
31 Engineer regarding the draft rules for compliance with the Republican River Compact, as well as
32 a revised version of the rules, copies of which are attached hereto as **Exhibit H** and incorporated
33 herein by this reference. The State Engineer revised the relevant parts of the Republican River
34 Compact Rules in response to concerns raised by the Authority, District, and other entities. The
35 revised rules distinguished between pre and post compact water rights; included the seniority
36 system; and added language to state the rules were not to be used as a precedent for future

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1 compact calls. In response to a question, Mr. Porzak clarified that the Republican River Compact
2 language was not as explicit as the Colorado River Compact in addressing pre and post Compact
3 water rights.

4 **St. Jude's Recreation Water Bill** – Mr. Porzak discussed a revised version of the bill, which is
5 meant to overturn a 2015 Colorado Supreme Court decision in which the judge ruled that
6 recreational and aesthetic water rights did not constitute beneficial use. A copy is attached hereto
7 as **Exhibit I** and incorporated herein by this reference. Mr. Porzak said there are 1,000s of such
8 water rights already decreed in Colorado. Mr. Porzak said Rep. KC Becker sponsored the bill with
9 Rep. Diane Mitsch Bush cosponsoring.

10 **Amicus Brief in Consolidated Ditches Case** – Mr. Porzak discussed the 2016 case, in which
11 the Water Court found in Denver Water's favor. The Court ruled that Denver Water could reuse
12 any of its water besides that from the Moffat system, which was specifically prohibited by a 1940s
13 agreement between Denver Water and Consolidated Ditches. Consolidated Ditches appealed the
14 decision to the Colorado Supreme Court. The Board unanimously approved joining in an amicus
15 brief on Denver Water's behalf with a number of other West Slope entities. A related email is
16 attached hereto as **Exhibit J** and incorporated herein by this reference. After discussion and
17 upon motion duly made and seconded, it was unanimously

18 **RESOLVED** that the District join in an amicus brief with other interested parties to
19 support Denver Water's position in the case. Mr. Porzak was authorized to draft the brief.

20 GENERAL COUNSEL REPORT

21 **Hahnewald Barn Update** – Mr. Collins reported that the rancher who previously expressed
22 interest in moving the barn to his property was not ready to commit. The town of Avon is now
23 considering space for the barn in its master plan, with representatives touring of the barn later in
24 the day. Mr. Collins will continue to monitor the issue.

25 Ms. Schweig and Mr. Schuette left the meeting at 12:54 p.m.

26 **EXECUTIVE SESSION**

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

31 **RESOLVED** to enter executive session at 12:55 p.m. to discuss attorney-client privileged
32 issues concerning the Eagle Park Reservoir acquisition, Eagle River MOU projects, pursuant
33 to §24-6-402(4)(b) and (e) C.R.S. with no electronic record created as Mr. Porzak opined the
34 contents of the discussion would contain privileged attorney-client communications.*

35 Mr. Collins requested the Board continue Executive Session to receive legal advice regarding a land
36 acquisition, pursuant to §24-6-402(4)(a) 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 executive session at 1:18 p.m. to discuss attorney-client privileged
4 issues concerning term limits and director districts, pursuant to §24-6-402(4)(a) C.R.S. with
5 no electronic record created as Mr. Collins opined the contents of the discussion would
6 contain privileged attorney-client communications.*

7 The regular meeting resumed at 2:15 p.m.

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ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 2:16 p.m.

Respectfully submitted,

Secretary to the Meeting

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

Tom Allender, Treasurer

Steve Coyer, Director

Stephen Friedman, Vice Chair

George Gregory, Secretary

Frederick P. Sackbauer IV, President/Chair

Bill Simmons, Director

*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.

James P. Collins, General Counsel

Glenn Porzak, Water Counsel