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 March 23, 2017, 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
- Bill Simmons, Beaver Creek Metropolitan District alternate
- George Gregory, Berry Creek Metropolitan District
- Amy Phillips, town of Avon alternate
- Mick Woodworth, Edwards Metropolitan District

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

- Tom Allender
- Bob Armour
- Steve Coyer
- George Gregory
- Steve Friedman
- Frederick P. Sackbauer IV
- Bill Simmons

Also in attendance were:

ERWSD Staff
- Linn Brooks
- Jason Cowles
- Leah Cribari
- Carol Dickman
- Catherine Hayes
- Diane Johnson
- Siri Roman
- Micah Schweig
- Brian Tracy
- James Wilkins

Consultants
- Jim Collins, Collins Cockrel & Cole
- Mark Mitisek, Leonard Rice Engineers
- Glenn Porzak, Porzak Browning & Bushong LLP
- Bob Weaver, Leonard Rice Engineers
- Kathryn Winn, Collins Cockrel & Cole

Public
- John Currier, Colorado River Water Conservation District
- Mike Jackson, Vail Resorts
- Greg Johnson, Vail Resorts
- Annie Kao, Vail Resorts
- Mike Reisinger, Berry Creek Metropolitan District
- Cliff Thompson, IKS Consulting
- Kim Bell Williams, EagleVail Metropolitan District

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:

For the Authority:

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 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.

For the District:

Directors Allender and Gregory disclosed that they also serve on the Board of the Upper Eagle Regional Water Authority (Authority). 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 Armour disclosed that he is employed by Vail Resorts and the Vail Recreation District.
Director Friedman serves on the Boards of the Beaver Creek Metropolitan District and the Vail Valley Foundation. Director Gregory also serves on the board of the Berry Creek Metropolitan District and occasionally undertakes development and construction activities within the District and Authority service areas. Director 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 Authority Director, and serves on the board of the Edwards Metropolitan District.

CALL TO ORDER
Chair Sackbauer of the Eagle River Water and Sanitation District called the meeting to order at 11:00 a.m., and Chair Gregory of the Upper Eagle Regional Water Authority concurred.

PUBLIC COMMENT
Public comment was called for and there was none.

INTRODUCTIONS
Introductions were made around the room.

HOMESTAKE RESERVOIR AND EAGLE RIVER MOU HISTORY
Mr. Currier presented information regarding the history of the Homestake area and related water projects there, including the Homestake Reservoir. A 1041 permit for Homestake II was denied by Eagle County in 1998, after which local entities formed the Eagle River Assembly in 1994 and identified the need for local development of in-basin storage. This ultimately led to development of the Eagle River Memorandum of Understanding in 1998, by which involved entities agreed that a collaborative effort to plan for future water needs was more advantageous than ongoing litigation. Parties to the Eagle River MOU included the cities of Aurora and Colorado Springs, Climax, the Colorado River Water Conservation District, Vail Associates, and the Authority and District. The parties have continued to work together and are currently exploring joint water development projects to benefit all parties near the Homestake Wilderness area, Eagle Park Reservoir, and Climax Mine. A copy of the presentation is attached hereto as Exhibit A and incorporated herein by this reference.

The Boards took a short recess for lunch at 12:01 p.m., and the meeting resumed at 12:11 p.m.

WATER AVAILABILITY
Mr. Weaver discussed the physical water availability in the proposed ERMOU project areas, specifically at the Minturn USGS water gage in representative wet, average, and dry years. Discussion ensued regarding the various constraints to developing additional physical water supply, environmental considerations for aquatic life, and seasonal issues that affect water availability. A copy of his presentation is attached hereto as Exhibit B and incorporated herein by this reference.

EAGLE PARK RESERVOIR DAM INVESTIGATIONS
Mr. Cowles presented information regarding progress on the investigation of an Eagle Park Reservoir enlargement, including site geology and results of various dam performance tests conducted as part of the investigation. Mr. Cowles said a saddle dam concept was feasible, and that the existing dam could be raised, which would lower costs and be more technically advantageous. Additional investigations are still needed to move forward with this concept. A copy of the presentation is attached hereto as Exhibit C and incorporated herein by this reference.
WETLANDS OVERVIEW

Mr. Cowles also discussed the results of a wetland investigation at the proposed Whitney Creek reservoir site, which took place in 2016 and 2017. He reported the finding of high quality fens and wetlands, in addition to potential areas of fens. Investigators did not gain access to all areas in question because of lack of permission from some property owners. In summary, Mr. Cowles reported that each of the four project alternatives contained some level of fens and wetlands, which would require an associated degree of mitigation of impacts to meet permit requirements. A copy of the presentation is attached hereto as Exhibit D and incorporated herein by this reference.

At 12:53 p.m., Ms. Cribari, Mr. Schuette, and Ms. Schweig left the meeting.

EXECUTIVE SESSION

Mr. Porzak requested the Board enter Executive Session to receive legal advice regarding water availability and Eagle River MOU matters, pursuant to §24-6-402(4)(b) and (e) C.R.S. A recording for the benefit of absent directors was made at the request of Mr. Collins. Upon motion duly made and seconded, it was unanimously

RESOLVED to enter executive session at 12:54 p.m. to discuss attorney-client privileged issues concerning cash in lieu of water availability and Eagle River MOU matters, pursuant to §24-6-402(4)(b) and (e) C.R.S.

The regular meeting resumed at 11:52 a.m.
ADJOURNMENT
There being no further business to come before the Boards, the meeting adjourned at 11:53 a.m.

Respectfully submitted,

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Secretary to the Meeting

EAGLE RIVER WATER & SANITATION DISTRICT

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Tom Allender, Treasurer

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Bob Armour, Director

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Steve Coyer, Director

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George Gregory, Secretary

___________________________________
Stephen Friedman, Vice Chair

___________________________________
Frederick P. Sackbauer IV, Chair/President

___________________________________
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.

___________________________________
Glenn Porzak, Water Counsel

___________________________________
James P Collins, General Counsel
Eagle River Water and Sanitation District
Upper Eagle Regional Water Authority

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