

**Eagle River Water and Sanitation District
Upper Eagle Regional Water Authority
Joint Special Meeting
March 23, 2017
MINUTES**

1 A joint special meeting of the Boards of Directors of the Upper Eagle Regional Water Authority
2 (**Authority**) and Eagle River Water and Sanitation District (**District**) was held March 23, 2017, at 11:00
3 a.m., in the District's Walter Kirch Room, 846 Forest Road, Vail, Eagle County, Colorado, in accordance
4 with the applicable statutes of the State of Colorado.

5 **ATTENDANCE**

6 **The following Authority Directors were present, thereby constituting a quorum:**

7 Tom Allender, EagleVail Metropolitan District
8 Geoff Dreyer, Arrowhead Metropolitan District
9 Bill Simmons, Beaver Creek Metropolitan District alternate
10 George Gregory, Berry Creek Metropolitan District
11 Amy Phillips, town of Avon alternate
12 Mick Woodworth, Edwards Metropolitan District

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

14 Tom Allender
15 Bob Armour
16 Steve Coyer
17 George Gregory
18 Steve Friedman
19 Frederick P. Sackbauer IV
20 Bill Simmons

21 **Also in attendance were:**

22 **ERWSD Staff**

23 Linn Brooks
24 Jason Cowles
25 Leah Cribari
26 Carol Dickman
27 Catherine Hayes
28 Diane Johnson
29 Siri Roman
30 Micah Schuette
31 Amy Schweig
32 Brian Tracy
33 James Wilkins

36 **Consultants**

37 Jim Collins, Collins Cockrel & Cole
38 Mark Mitisek, Leonard Rice Engineers
39 Glenn Porzak, Porzak Browning & Bushong LLP
40 Bob Weaver, Leonard Rice Engineers
41 Kathryn Winn, Collins Cockrel & Cole

42 **Public**

43 John Currier, Colorado River Water Conservation District
44 Mike Jackson, Vail Resorts
45 Greg Johnson, Vail Resorts
46 Annie Kao, Vail Resorts
47 Mike Reisinger, Berry Creek Metropolitan District
48 Cliff Thompson, IKS Consulting
49 Kim Bell Williams, EagleVail Metropolitan District

50 **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

51 The Boards noted they had received more than 72 hours prior to the meeting certain disclosures of Potential Conflicts of Interest
52 Statements for the following Directors indicating the following conflicts:

53 **For the Authority:**

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

62 **For the District:**

63 Directors Allender and Gregory disclosed that they also serve on the Board of the Upper Eagle Regional Water Authority
64 (Authority). Director Allender also disclosed that he is a former employee of Vail Resorts, which tangentially deals with the
65 Authority and District, as well as being employed part time by SE Group, which does planning and environmental work for Vail
66 Resorts and other ski areas. Director Armour disclosed that he is employed by Vail Resorts and the Vail Recreation District.

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1 Director Friedman serves on the Boards of the Beaver Creek Metropolitan District and the Vail Valley Foundation. Director
2 Gregory also serves on the board of the Berry Creek Metropolitan District and occasionally undertakes development and
3 construction activities within the District and Authority service areas. Director Sackbauer is employed by Vail Resorts, Inc., which
4 has significant land ownership and business interests within the District. Director Simmons disclosed that he is the General
5 Manager of the Beaver Creek Metropolitan District, an alternate Authority Director, and serves on the board of the Edwards
6 Metropolitan District.

7 **CALL TO ORDER**

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

10 **PUBLIC COMMENT**

11 Public comment was called for and there was none.

12 **INTRODUCTIONS**

13 Introductions were made around the room.

14 **HOMESTAKE RESERVOIR AND EAGLE RIVER MOU HISTORY**

15 Mr. Currier presented information regarding the history of the Homestake area and related water projects
16 there, including the Homestake Reservoir. A 1041 permit for Homestake II was denied by Eagle County in
17 1998, after which local entities formed the Eagle River Assembly in 1994 and identified the need for local
18 development of in-basin storage. This ultimately led to development of the Eagle River Memorandum of
19 Understanding in 1998, by which involved entities agreed that a collaborative effort to plan for future
20 water needs was more advantageous than ongoing litigation. Parties to the Eagle River MOU included
21 the cities of Aurora and Colorado Springs, Climax, the Colorado River Water Conservation District, Vail
22 Associates, and the Authority and District. The parties have continued to work together and are currently
23 exploring joint water development projects to benefit all parties near the Homestake Wilderness area,
24 Eagle Park Reservoir, and Climax Mine. A copy of the presentation is attached hereto as **Exhibit A** and
25 incorporated herein by this reference.

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

27 **WATER AVAILABILITY**

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

33 **EAGLE PARK RESERVOIR DAM INVESTIGATIONS**

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

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1 **WETLANDS OVERVIEW**

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

9

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

11 **EXECUTIVE SESSION**

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

16 **RESOLVED** to enter executive session at 12:54 p.m. to discuss attorney-client privileged
17 issues concerning cash in lieu of water availability and Eagle River MOU matters, pursuant to
18 §24-6-402(4)(b) and (e) C.R.S.

19 The regular meeting resumed at 11:52 a.m.

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ADJOURNMENT

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

Respectfully submitted,

Secretary to the Meeting

EAGLE RIVER WATER & SANITATION DISTRICT

Tom Allender, Treasurer

Bob Armour, Director

Steve Coyer, Director

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

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UPPER EAGLE REGIONAL WATER AUTHORITY

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Arrowhead Metropolitan District

Town of Avon

Beaver Creek Metropolitan District

Berry Creek Metropolitan District

EagleVail Metropolitan District

Edwards Metropolitan District