A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was held April 27, 2017, 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
- George Gregory, Berry Creek Metropolitan District
- Sarah Smith Hymes, town of Avon
- Mick Woodworth, Edwards Metropolitan District

The following Director was absent and excused:

- Pam Elsner, Beaver Creek Metropolitan District

The following alternate Director was present and acting:

- Bill Simmons, Beaver Creek Metropolitan District

Also in attendance were:

- District Staff
- Linn Brooks
- Jason Cowles
- Carol Dickman
- Catherine Hayes
- Diane Johnson
- Elena Jones
- John McCaulley
- Glen Phelps
- Siri Roman
- Jeff Schneider
- Brian Tracy
- James Wilkins
- Consultants
- Jim Collins, Collins Cockrel & Cole
- Heather Houston, Western Ecological Resource
- Glenn Porzak, Porzak Browning & Bushong LLP
- Public
- Kim Bell Williams, EagleVail 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 March 23, 2017, were considered. Upon motion duly made and seconded, it was unanimously

RESOLVED that the minutes of the March 23, 2017, regular meeting be accepted and hereby are approved as presented. Secretary Smith Hymes abstained.

The minutes of the joint special meeting of March 23, 2017, were considered. Upon motion duly made

and seconded, it was unanimously
RESOLVED that the minutes of the March 23, 2017, joint special meeting with the Eagle River Water & Sanitation District be accepted and hereby are approved as presented. Secretary Smith Hymes abstained.

STRATEGY

Committee Assignments – Ms. Brooks explained the need for a board committee related to the Eagle River MOU, as relevant meetings are frequently held between board meetings and board member participation would be beneficial. Secretary Smith Hymes offered to serve on the committee. She also offered to serve on the Climate Action Plan ad hoc committee.

GENERAL MANAGER REPORT

Ms. Brooks presented her report, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference. Monthly reports were acknowledged, copies of which are attached hereto as Exhibit B and incorporated herein by this reference.

CIS Infinity 10-Year Look Back – Mr. McCaulley and Ms. Jones reviewed the investment in the Customer Service Information (CIS) Infinity software and its many benefits for customers and staff. The software’s ability to integrate with other systems has improved the customer experience, created efficiencies, and saved time and money. Such benefits included online bill payment and e-billing for customers ($18,000/year in savings); the ability to track historical data, customer communications, and other customer account-related information; and implementation of a successful uniformity program (~$500,000/year in positive financial impact). A copy of the presentation is attached hereto as Exhibit C and incorporated herein by this reference.

Mr. McCaulley and Ms. Jones left the meeting at 9:10 a.m.

Comments to Environmental Protection Agency (EPA) re Waters of the US Rule – In response to a question, Ms. Brooks said the Authority and District did not formally submit comments to the EPA on the WOTUS Rule, but numerous other agencies did so. Ms. Brooks is confident that the Authority and District’s concerns were adequately covered by the other entities with which they are aligned. A related letter from the EPA is attached hereto as Exhibit D and incorporated herein by this reference.

FINANCE REPORT

Mr. Wilkins presented the finance report, a copy of which is attached hereto as Exhibit E and incorporated herein by this reference. He noted Authority and District water sales were again below projections. In Vail, this can likely be attributed to the unavailability of rooms at two major hotels undergoing renovations. He said Authority base rate collections were above projections and expects increased collection of such fees as spring construction continues. Mr. Wilkins also noted inclusion of two new graphs that show a summary of revenues and expenditures.
OPERATIONS REPORT

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

ENGINEERING REPORT

Mr. Cowles discussed the engineering report, a copy of which is attached hereto as Exhibit G and incorporated herein by this reference.

Cordillera Surcharge Update – Mr. Cowles confirmed that the Cordillera Metropolitan District discontinued collection of its $18.50/month surcharge, effective with the next billing statement following its March meeting. Staff will continue to work with the CMD on projects to address system deficiencies, using funds previously collected from the surcharge.

Traer Creek Tank Project Update – Mr. Cowles reported that Filanc Construction was selected as contractor for the Traer Creek tank rebuilding project. The Authority has not previously worked with this contractor, but staff was impressed with the firm’s experience on similar projects.

Cordillera Valley Club (CVC) Tank Revegetation Project – Ms. Houston of Western Ecological Resource presented information regarding the successful and extensive vegetation restoration project at the CVC tank project site. The goal of the restoration was to leave the disturbed area with a more natural diversity of vegetation than is normally achieved after construction. The sloped site included numerous unique species, and part of the restoration occurred during the 2012 drought. Despite many additional challenges, the project is meeting all success criteria and is expected to do so until the official end of monitoring at the end of 2017. A copy of the presentation is attached hereto as Exhibit H and incorporated herein by this reference.

COMMUNICATION AND PUBLIC AFFAIRS REPORT

Ms. Johnson noted she did not include a written report in packets.

Local and Regional Snowpack Update – Ms. Johnson updated on area snowpack and specifically the Vail SNOTEL monitoring site, which peaked earlier than normal but achieved almost 90% of average snowpack for the site. The site conditions also changed in past years, with more sunlight and exposure than the site historically saw. In regional news, Ms. Johnson said Lake Powell will release 9 million acre feet of water to Lake Mead this year, staving off a shortage for the lower basin states for at least another year.

GENERAL COUNSEL REPORT

Traer Creek Legal Update – Mr. Collins updated on the Traer Creek litigation. The Court granted Ground Engineering’s request for dismissal, and Judge Gannett’s order seems to align with the Authority’s understanding of the case. Mr. Collins also noted Kyle Kreischer, the Authority’s special counsel for the matter, was moving out of state. Ms. Brooks, Mr. Collins, and Chair Gregory interviewed counselors from Nathan Dumm & Mayer were and subsequently engaged.

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two lawyers to replace Mr. Kreischer. After discussion and upon motion duly made and seconded, it was unanimously
RESOLVED that the action to engage special counselors Andy Nathan and Justin Curry of Nathan Dumm & Mayer for the Traer Creek Tank litigation be and hereby is ratified.

**Bachelor Gulch Water Service Agreement** – Mr. Collins and Mr. Porzak updated on the matter, by which the Bachelor Gulch Metropolitan District was using more outdoor irrigation water than allowed by the Authority’s original agreement with the Smith Creek Metropolitan District. That agreement committed the Authority to serve 37 acre feet of historic consumptive use credits for the summer season and 6 acre feet of during the winter. A revised agreement was presented, a copy of which is attached hereto as Exhibit I and incorporated herein by this reference. Per the terms of the revised agreement, Vail Resorts would convey an additional 31 acre feet of water to serve the Bachelor Gulch Metropolitan District at full build-out. After discussion and upon motion duly made and seconded, it was unanimously
RESOLVED that the revised Bachelor Gulch Water Service Agreement be and hereby is approved as presented.

**Lake Creek Wells Update** – Mr. Collins reported that letters were sent to the owners to withdraw the easement offers for the Lake Creek Wells, inform owners that test well equipment would be removed. Mr. Collins noted that the property owners of Southfork Meadows were very cooperative during the test well process.

**Vacation of Easement for VIA PUD** – Mr. Collins discussed a request by VIA representatives for the vacation of a water utility easement in the area of the PUD. After discussion and upon motion duly made and seconded, it was unanimously
RESOLVED that the vacation of water utility easement be and hereby is approved as presented, with the conditions that the Authority receive new water easements for the property and that County approval is gained for the development within two years.

**WATER COUNSEL REPORT**

**Support for Denver Water’s Gross Reservoir/Moffat Project** – Mr. Porzak discussed a letter from the Eagle Park Reservoir Company sent to the Federal Energy Regulatory Commission in support of Denver Water’s Gross Reservoir Expansion and Hydroelectric Project, and the Moffat Collection System Project. A copy of the letter is attached hereto as Exhibit J and incorporated herein by this reference. Mr. Porzak said Denver Water appreciated the support from EPRC.

**St. Jude’s Recreation Water Bill** – Mr. Porzak updated on the bill, which passed the House and Senate, though the Senate requested changes, which now means the bill will go back to the House for final approval. The current iteration of the bill still protects and preserves existing absolute and conditional water rights decreed before the St. Jude’s decision. Related information is attached hereto as Exhibit K and incorporated herein by this reference.
Eagle Park Reservoir Acquisition – Mr. Porzak reported that Eagle County no longer wishes to sell its Eagle Park Reservoir Company shares and wants to retain its water rights for future housing projects. He said further discussion would take place at the EPRC meeting later in the day.

Ms. Houston and Mr. Schneider left the meeting at 10:13 a.m.

EXECUTIVE SESSION

Mr. Collins requested the Board enter into Executive Session to receive legal advice regarding Traer Creek and the Authority’s tap fee philosophy, 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 10:14 a.m. to discuss attorney-client privileged issues concerning Traer Creek and the Authority’s tap fee philosophy, pursuant to §24-6-402(4)(b) and (e) C.R.S. with no electronic record created as Mr. Collins opined the contents of the discussion would contain privileged attorney-client communications.*

Mr. Porzak requested the Board continue Executive Session to receive legal advice regarding the Eagle River MOU matters and 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 continue Executive Session at 10:27 a.m. to discuss attorney-client privileged issues concerning Eagle River MOU matters and 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.*

At 11:11 a.m., before the discussion of CRCA matters, Mr. Collins and all remaining staff left the room, with the exception of Ms. Brooks and Ms. Johnson.

The regular meeting resumed at 11:14 a.m.
ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 11:15 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.

___________________________________
James P. Collins, General Counsel

___________________________________
Glenn Porzak, Water Counsel