

Upper Eagle Regional Water Authority

Board of Directors Meeting

August 24, 2017

MINUTES

1 A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was
2 held August 24, at 8:30 a.m., in the Walter Kirch Room of the Eagle River Water & Sanitation District
3 (District), 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable statutes of the
4 State of Colorado.

5 **ATTENDANCE**

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

7 Tom Allender, EagleVail Metropolitan District
8 Geoff Dreyer, Arrowhead Metropolitan District
9 Pam Elsner, Beaver Creek Metropolitan District
10 George Gregory, Berry Creek Metropolitan District
11 Sarah Smith Hymes, town of Avon
12 Mick Woodworth, Edwards Metropolitan District

13 **Also in attendance were:**

14 <u>District Staff</u>	26	Brian Tracy
15 Linn Brooks	27	Pam Wegener
16 Jason Cowles	28	James Wilkins
17 Carol Dickman	29	<u>Consultants</u>
18 Catherine Hayes	30	Jim Collins, Collins Cockrel & Cole
19 Diane Johnson	31	Glenn Porzak, Porzak Browning & Bushong LLP
20 John McCaulley	32	<u>Public</u>
21 Melissa Mills McLoota	33	Holly Loff, Eagle River Watershed Council
22 Maureen Mulcahy	34	Mike Reisinger, Berry Creek Metropolitan District
23 Siri Roman	35	Kim Bell Williams, EagleVail Metropolitan District
24 Jeff Schneider		
25 Amy Schweig		

36 **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

37 The Board noted it had received more than 72 hours prior to the meeting certain disclosures of Potential Conflicts of Interest
38 Statements for the following Directors indicating the following conflicts:

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

47 **CALL TO ORDER**

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

49 **ACTION ITEMS**

50 **Consideration of Minutes** – The minutes of the regular meeting of July 27, 2017, were considered.

51 Upon motion duly made and seconded, it was unanimously

52 **RESOLVED** that the minutes of the July 27, 2017, regular meeting be accepted and hereby are
53 approved as presented.

54 **Resolution Designating Official Custodian of Records** – Mr. Collins discussed a memo and resolution
55 regarding recent changes to the Colorado Open Records Act (CORA), copies of which are attached
56 hereto as **Exhibits A** and **B**, respectively, and incorporated herein by this reference. Mr. Collins noted the
57 resolution designated Ms. Hayes as the Custodian of Records, included information on how to handle

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1 requests for information stored electronically, set a \$100 deposit fee for requests projected to require
2 extensive staff time, and also provided for a 14-day mediation period prior to any litigation related to
3 CORA requests. After discussion and upon motion duly made and seconded, it was unanimously

4 **RESOLVED** that the Resolution Designating the Official Custodian of Records be and hereby is
5 approved as presented.

6 **STRATEGY**

7 **2016 Macroinvertebrates Study Results** – Ms. Roman discussed her memo, a copy of which is
8 attached hereto as **Exhibit C** and incorporated herein by this reference. She presented the
9 results of the 2016 macroinvertebrate study, which is in its eighth year of data collection for Gore
10 Creek, the Eagle River, and various tributaries. The sampling provides information on the health
11 of local macroinvertebrate populations, which is one indicator of stream health. Ms. Roman noted
12 the town of Vail's Restore the Gore efforts appear to be working, with improved scores for the
13 stretch of Gore Creek on which the town has focused its work. In contrast, all scores for the Eagle
14 River have declined. Discussion ensued regarding recent studies that indicate the deicer
15 chemicals used on local stretches of I-70 may be more harmful to macroinvertebrates than
16 previously thought, though this is not the only contributing factor. Ms. Roman clarified that this
17 particular testing did not take metals in the river into account. She also said 2019 was the next
18 time the state would add other rivers and streams to its 303(d) list of impaired waterways. The
19 Board thanked her for the information.

20 **Eagle River Watershed Council Update** – Ms. Loff, executive director of the ERWC was
21 introduced. She updated on ERWC's efforts in the previous year. She highlighted the
22 organization's education and outreach, its online water quality monitoring database, in addition to
23 community events that promote the ERWC's mission to focus on the health of Eagle County's
24 streams and watersheds. She requested continued funding from the Authority, and a related letter
25 is attached hereto as **Exhibit D** and incorporated herein by this reference. The board said it
26 would consider such funding within its normal budget preparations for FY 2018.

27 **Homestead Water Pressure** – Director Woodworth discussed a recent Edwards Metropolitan
28 District meeting, at which residents of Homestead expressed concern regarding pressure surges
29 in the water system there and resulting damages. Staff undertook a comprehensive effort to
30 check the proper functioning of its equipment, appurtenances, and SCADA system, determining
31 that all of the Authority's systems were functioning normally. Staff will attend the September
32 Homestead HOA meeting to present information to homeowners and answer questions.

33 **Eagle Park Reservoir Expansion** – Chair Gregory noted a recent meeting with stakeholders,
34 legal counsel, and consultants regarding a proposed expansion of Eagle Park Reservoir. He
35 emphasized his desire to shorten the permitting time, which is estimated to take years. Ms.

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1 Brooks said the Colorado Water Plan addresses making such processes more efficient. She,
2 staff, and consultants agree that the permitting time should be condensed as possible.

3 **Committee Appointments** – The Board recognized Vice Chair Allender’s upcoming departure
4 from the board following the sale of his EagleVail home. The board made various appointments to
5 its subcommittees to fill the vacancies from Vice Chair Allender’s upcoming resignation, including:
6 Traer Creek Tank (Chair Gregory); Unallocated Water (Treasurer Dreyer); Water Demand
7 Management (Director Woodworth); Rules and Regulations (Alt. Director Williams); and Water
8 Quality (Secretary Hymes).

9 **Unallocated Water Policy** – The Board discussed its unallocated water policy and fees for cash-
10 in-lieu of water rights, noting that the topic would require more extensive discussion at a future
11 meeting. Possible considerations include whether the cash-in-lieu fees are appropriate
12 considering the limited amount of water available; whether additional unallocated water could be
13 realized through efficiency and water budgeting; and whether a first come, first served policy for
14 allocation is equitable or desirable.

15 **GENERAL MANAGER REPORT**

16 Ms. Brooks discussed her report. Monthly reports were acknowledged, copies of which are attached
17 hereto as **Exhibit E** and incorporated herein by this reference.

18 **Arrowhead Irrigation Efficiency Pilot Study** – Mr. Schuette and Ms. Wegener presented
19 information regarding an irrigation pilot study in Arrowhead. The study discovered inequities in the
20 current tiered rate system as it relates to outdoor water use. Indoor and outdoor rates are based
21 on home size and not tied to the amount of irrigable area; thus, some properties watering
22 efficiently are still being charged rates in high tiers, while others using water inefficiently are not
23 being charged adequately. The study highlights the need for implementation of water budgeting
24 to incentivize customers to use water efficiently and to ensure rates are commensurate with the
25 way in which customers are using irrigation water. A summary of the study is attached hereto as
26 **Exhibit F** and incorporated herein by this reference.

27 Director Woodworth left the meeting at 10:00 a.m.

28 **Customer Service Portal Demo** – Ms. Mulcahy discussed her memo, a copy of which is
29 attached hereto as **Exhibit G** and incorporated herein by this reference. She presented
30 information on the new customer service portal, which is in its beta testing phase. Eventually, all
31 customers will have AMI “smart meters” to see water use data in real time and receive voluntary
32 water use alerts via text or email. Such technology will save money for customers, generate
33 customer goodwill, and reduce water waste, among other benefits of such technology.

34 Ms. Mulcahy left the meeting at 10:15 a.m.

35 **FINANCE REPORT**

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1 Mr. Wilkins presented the monthly finance report and the quarterly financial report, copies of which are
2 attached hereto as **Exhibits H** and **I**, respectively, and incorporated herein by this reference. The Board
3 acknowledged receipt of the quarterly financial report. Mr. Wilkins noted July water sales for the Authority
4 and District increased over past months, likely a result of drier weather in July. Capital spending
5 continues to lag behind budgeted amounts, though this is expected to even out in the third quarter. In
6 response to a question, Mr. Wilkins clarified that tap fee deferrals for affordable housing are not waived,
7 but are financed for up to a ten-year period.

8 **OPERATIONS REPORT**

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

11 **Wastewater Master Plan Update** – Ms. Roman discussed her memo and related attachments
12 regarding the Wastewater Master Plan, copies of which are attached hereto as **Exhibits K** and **L**,
13 respectively, and incorporated herein by this reference. She gave an overview of the recently
14 completed Wastewater Master Plan, the main purpose of which is to meet the state nutrient
15 regulations for nitrogen and phosphorus. The plan considers the District's three wastewater
16 treatment facilities as a system rather than individually, and this should allow the District to more
17 efficiently meet the standards, saving the District and its ratepayers considerable money. Ms.
18 Roman noted an upcoming meeting with state officials regarding the District's request for an
19 administrative extension of the Vail WWTF permit to allow the phasing of projects. A copy of her
20 presentation is attached hereto as **Exhibit M** and incorporated herein by this reference.

21 **Safe Drinking Water Program Update** – Mr. Tracy discussed his memo, a copy of which is
22 attached hereto as **Exhibit N** and incorporated herein by this reference. He reported an imminent
23 budget shortfall for the state's Safe Drinking Water Program, which has already resulted in the
24 elimination of seven vacant positions. The most noticeable effects for the Authority and District
25 will be delays in the design review process for infrastructure and project reviews. Capital project
26 timing could be delayed, though Mr. Tracy assured the board that staff has the resources and
27 management experience to mitigate other potential impacts from the funding cuts. However,
28 surrounding communities without such expertise may experience more pronounced impacts.

29 **ENGINEERING REPORT**

30 Mr. Cowles noted he did not include a written report in packets.

31 **Traer Creek Tank Update** – Mr. Collins said the confidential Plan B mediation agreement with
32 Traer Creek was executed on August 23. Two mediation dates were scheduled.

33 **COMMUNICATION AND PUBLIC AFFAIRS REPORT**

34 Ms. Schweig presented her report, a copy of which is attached hereto as **Exhibit O** and incorporated
35 herein by this reference.

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1 **Colorado Water Plan** – In response to a question, Ms. Johnson said the idea of draining Lake
2 Powell to fill Lake Mead, while unlikely, is discussed in water groups and in media publications.
3 This topic and others will be discussed at the Sept. 15 Colorado River Water Conservation
4 District annual seminar in Grand Junction.

5 **WATER COUNSEL REPORT**

6 Mr. Porzak noted all of his items would be discussed in Executive Session.

7 Ms. Loff, Messrs. Schneider and Schuette, and Ms. Wegener left the meeting at 11:01 a.m.

8 **EXECUTIVE SESSION**

9 Mr. Porzak requested the Board enter Executive Session to receive legal advice regarding Eagle
10 Park Reservoir, Bolts Lake, and CRCA matters, pursuant to §24-6-402(4)(b) and (e) C.R.S. He
11 asked that no electronic record be made, as the discussion would be entirely privileged attorney-
12 client communications. Upon motion duly made and seconded, it was unanimously

13 **RESOLVED** to enter Executive Session at 11:02 a.m. to discuss attorney-client privileged
14 issues concerning Eagle Park Reservoir, Bolts Lake, and CRCA matters, pursuant to §24-6-
15 402(4)(b) and (e) C.R.S. with no electronic record created as Mr. Porzak opined the contents
16 of the discussion would contain privileged attorney-client communications.*

17 The regular meeting resumed at 11:32 a.m.

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ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 11:33 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.

Glenn Porzak, Water Counsel