A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was held January 25, 2018, 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.

The following Directors were present, thereby constituting a quorum:

- Geoff Dreyer, Arrowhead Metropolitan District
- Pam Elsner, Beaver Creek Metropolitan District
- George Gregory, Berry Creek Metropolitan District
- Sarah Smith Hymes, town of Avon
- Kim Bell Williams, EagleVail Metropolitan District
- Mick Woodworth, Edwards Metropolitan District

Also in attendance were:

- District Staff
- Tug Birk
- Linn Brooks, via Skype
- Shane Cerny
- Jason Cowles
- Carol Dickman
- Catherine Hayes
- Diane Johnson
- John McCaulley
- Maureen Mulcahy
- Siri Roman
- Jeff Schneider
- Amy Schweig
- Jason Sica
- Consultants
- Jim Collins, Collins Cockrel & Cole
- Glenn Porzak, Porzak Browning & Bushong LLP
- Public
- Mike Reisinger, Berry Creek Metropolitan District
- Pete Wadden, town of Vail

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:

- Director Elsner disclosed her membership with the Vilar Performing Arts Center Guild, which operates within the Authority’s service area.
- Director Gregory and alternate Director Simmons disclosed that they serve on the Board of the Eagle River Water and Sanitation District. 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 Williams disclosed that she is the Eagle County Housing Director.
- 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.

INTRODUCTIONS

The Board welcomed Pete Wadden, watershed education coordinator with the town of Vail.

ACTION ITEMS

Consideration of Minutes – The minutes of the special meeting of December 14, 2017, were considered. Upon motion duly made and seconded, it was unanimously RESOLVED that the minutes of the December 14, 2017, special meeting be accepted and hereby are approved as presented. Director Elsner abstained.

2018 Resolutions – Ms. Hayes discussed a board action request form regarding various 2018 resolutions, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference.

Resolution Designating Meeting Place and Posting Location – The Board discussed the resolution to set the meeting place, posting location for meeting notices, and adopt a regular meeting schedule, a copy
Upper Eagle Regional Water Authority

of which is attached hereto as Exhibit B and incorporated herein by this reference. After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED that the 2018 resolution to set the meeting place, posting location, and adopt a regular meeting schedule be and hereby is approved as presented.

2018 Operations Agreement with Eagle River Water & Sanitation District – Mr. Collins discussed the operations agreement between the Authority and District, which automatically renews each year on Jan. 1; however, it is advantageous for the board to formally adopt the agreement each year, from an administrative standpoint. Exhibits are updated annually to reflect current costs for that year. A copy of the agreement is attached hereto as Exhibit C and incorporated herein by this reference. After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED that the 2018 Operations Agreement between the Authority and District be and hereby is approved as presented.

Rules and Regulations Updates – Mr. Birk discussed his board action request and the clean and redlined versions of the Rules and Regulations, copies of which are attached hereto as Exhibits D, E, and F, respectively, and incorporated herein by this reference. He reminded directors that the document underwent a major overhaul in 2017; at that time, staff committed to annually updating the document with minor revisions for board consideration. Mr. Birk also clarified that Appendix A included rates and fees and was approved with the Authority’s budget in Nov. 2017. After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED that the revised Rules and Regulations for 2018 be and hereby are approved as presented.

Stillwater Water Dedication Request – Mr. Cowles discussed the board action request and supporting documentation regarding a water rights dedication for the District’s Stillwater PUD, an employee housing project in Edwards. Copies of the documents are attached hereto as Exhibit G and incorporated herein by this reference. Mr. Cowles clarified that the Authority will be serving the District’s project, and the Authority’s water dedication policy stated its preference for the developer to dedicate water if sufficient supply is available. The District has Eagle Park Reservoir water to dedicate for these project’s water needs, which include augmentation of full diversions from December – February and August – September. Mr. Cowles reminded directors that the dedication amounts were calculated at 100% of the anticipated project demand of 200 gallons per unit per day, per a recent policy approved by the board. This calculation method is sufficient because it is also coupled with water use enforcement mechanisms, measurement capabilities, and a water service agreement, all of which are detailed in the PUD guide for the development; such measures are up to and including water shutoff. After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED that the dedication of 1.68789 acre-feet of Eagle Park Reservoir water by the District for its Stillwater project be and hereby is approved as presented.
Upper Eagle Regional Water Authority

6 West Water Dedication Request – Mr. Cowles discussed the board action request and supporting documentation regarding a water rights dedication for the 6 West PUD for which Eagle County will dedicate Eagle Park Reservoir Company shares, copies of which are attached hereto as Exhibit H and incorporated herein by this reference. He noted that similarly to the Stillwater development, the 6 West water needs were calculated at 200 gallons per day per unit; the water rights dedication requirement is 100% of the calculated demand, with use restrictions outlined in the PUD guide, as well as a water services agreement for the property. After discussion and upon motion duly made and seconded, it was unanimously RESOLVED that the dedication of 12.56024 acre-feet of Eagle Park Reservoir water by Eagle County for the 6 West project be and hereby is approved as presented.

STRATEGY

Board Member Input – Chair Gregory called for board member input and there was none. Ms. Johnson reminded directors to get updated parking permits from Ms. Hayes, as weekend parking enforcement will be stricter than years past. Directors are still welcome to park in the District lot on weekends to access Vail Mountain; however, weekday skier parking can no longer be accommodated, due to the number of employees who need to park at the office during the week.

Restore the Gore Presentation – Ms. Roman introduced Mr. Wadden, the town of Vail’s Watershed Education Coordinator. He noted that in 2010, failing bug scores in Gore Creek above the Vail Wastewater Treatment Facility indicated the creek would be listed on the state’s 303(d) list of impaired waterways. A water quality improvement plan was subsequently funded, out of which Mr. Wadden’s position was created. He presented information on the town’s Restore the Gore campaign, which is part of the effort to improve the health of Gore Creek; the creek has been adversely impacted by landscaping/pesticide use near the creek, untreated stormwater runoff, and an increase in impervious surfaces in Vail. Mr. Wadden has reached out to landscapers, homeowners, and the community at large to increase awareness of the need to protect and improve the health of the creek. The board thanked Mr. Wadden for his informative presentation.

Water Demand Management Update – Ms. Mulcahy, the District’s water demand management coordinator, discussed her memo, a copy of which is attached hereto as Exhibit I and incorporated herein by this reference. She presented an update on recent water demand management efforts of the Authority and District. She also summarized recent efforts to improve water use efficiency, including reduction of water use of customers that have a disproportionate impact on the system, and pilot projects in high-demand and high-use areas. Pilot project goals included establishing water budgets for each property, improved customer access to water use information, and aligning Authority and District processes with local land use authorities. She also noted completion of a draft of the regional water efficiency plan for the Authority and District.
Such a plan was required because of 2004 legislation, and a grant was received from the Colorado Water Conservation Board to assist with plan costs. Ms. Mulcahy outlined a schedule for plan adoption and hopes to bring the final plan to the board in July for consideration and approval.

**GENERAL MANAGER REPORT**

In Ms. Brooks’ absence, Ms. Johnson presented the General Manager report, a copy of which is attached hereto as Exhibit J and incorporated herein by this reference. Monthly reports were acknowledged, copies of which are attached hereto as Exhibit K and incorporated herein by this reference.

**Colorado River District General Manager** – Ms. Johnson reported that Eric Kuhn officially retired as GM of the Colorado River Water Conservation District, though he is still performing contract work on behalf of the River District to provide continuity during the transition. Ms. Johnson, Ms. Brooks, and Mr. Porzak recently met with the new GM, Andy Mueller, to provide background on the Authority and District and their relationship with the River District. Ms. Johnson said meetings with Mr. Mueller ensure a continued strong relationship with the River District as items of mutual concern are addressed.

**COMMUNICATION AND PUBLIC AFFAIRS REPORT**

Ms. Johnson discussed her report, a copy of which is attached hereto as Exhibit L and incorporated herein by this reference.

**Colorado Basin Roundtable Update** – Ms. Johnson discussed the history of the basin roundtables, which were established by state legislation in part due to the 2002 drought. House Bill 1177 created the nine roundtables in 2005, and the roundtables began meeting in 2006. The Authority and District have had a roundtable presence at the Colorado Basin monthly meetings since inception, with board members or staff attending on their behalf. Ms. Johnson also discussed funding that the roundtables can provide for various water-related projects. The roundtables can also recommend such projects for statewide funding, though statewide funding has decreased in recent years due to declining severance taxes as well as a settlement with BP, by which the state must repay BP a large sum of money.

**Waters of the US (WOTUS) Update** – Ms. Johnson updated the board on recent developments regarding the WOTUS rule. She gave a brief history of the rule, noting that the Obama administration issued the WOTUS rule in 2015 to clarify items related to a 2006 U.S. Supreme Court decision. The 2015 rule resulted in lawsuits filed against the Environmental Protection Agency (EPA) by 23 states, including Colorado, as it appeared such legislation would expand the EPA’s jurisdiction and include waters that were not covered bodies of water under the previous rule. Though the 2015 update was meant to provide clarity, it raised many questions for water
providers and others. The Supreme Court recently ruled that any challenge should be heard by federal district, rather than appellate, courts.

**Continental Divide Recreation, Wilderness, and Camp Hale Legacy Act** – Ms. Johnson said Rep. Polis unveiled an updated wilderness bill on Tuesday that includes Sen. Bennet’s previous draft legislation. The release coincided with the Outdoor Retailer + Snow Show in Denver, which moved there from its previous location in Utah, in part because of elected officials in Utah advocating for the reduction of protected land for national monuments. Ms. Johnson and Ms. Brooks received assurance from Sen. Bennet’s aide, Noah Koerper, that the bill included the agreed-upon language requested by the Authority and District in the bill’s previous iteration; such language gives the Authority and District broad authority to exercise needed remediation in the event of a natural disaster within the watershed, even in the proposed wilderness areas. Mr. Porzak said one addition to the current legislation included recognition of the non-wilderness status of Bolts Ditch in Minturn, which was mistakenly included in the Holy Cross wilderness boundary when the maps were drawn in 1980. Mr. Porzak would also like to include language in the bill that Bolts Ditch could be used to fill Bolts Lake. Staff will continue to monitor the bill throughout the legislative process.

**FINANCE REPORT**

In Mr. Wilkins’ absence, Ms. Johnson presented the monthly finance report, a copy of which is attached hereto as **Exhibit M** and incorporated herein by this reference. She noted there are still many invoices coming in for 2017 expenses, so the fund balance will be lower than what is shown on the report. She also called attention to the development impact fees, which for the Authority, Vail water subdistrict, and Vail sewer district, exceeded projections by about $777,000. Ms. Johnson noted this was a variety of smaller projects paying tap fees at year-end, not one or two large projects. She also reminded directors that in 2018, water sales would be presented quarterly instead of monthly.

**OPERATIONS REPORT**

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

**ENGINEERING REPORT**

Mr. Cowles discussed his report, a copy of which is attached hereto as **Exhibit O** and incorporated herein by this reference.

**Proposed Avon Developments** – Mr. Cowles said the town of Avon recently received notice of a proposed development in Traer Creek, east of Chapel Square in Avon. It is unlikely that the Kansas City-based developer will meet the intended groundbreaking in summer 2018. Mr. Cowles also received a referral from the town of Avon for a development on the Folsom parcel, east of the Ascent in Avon. If approved, such development would reduce the Authority’s
unallocated water pool; however, lacking any specifics, Mr. Cowles was unable to estimate the
impact further. Avon does not have any water to allocate to either project. Staff and legal will
begin to prepare notices to developers for both projects regarding the system limitations on
providing water in the area due to the failed Traer Creek tank.

GENERAL COUNSEL REPORT
Mr. Collins gave status updates on various legal matters, including the timeline for the Traer
Creek mediation and delay in receipt of the repair plan, which was expected two weeks ago. He
said all of his other topics would be discussed in Executive Session.

WATER COUNSEL REPORT
Mr. Porzak noted all of his items would be discussed in Executive Session.
Messrs. Cerny, McCaulley, Schuette, and Sica, Ms. Mulcahy and Ms. Schweig left the meeting at 9:59
a.m. Ms. Brooks joined the meeting via Skype at 10:00 a.m.

EXECUTIVE SESSION
Mr. Collins requested the Board enter Executive Session to receive legal advice regarding Traer Creek
tank, 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 10:00 a.m. to discuss attorney-client privileged
issues concerning the Traer Creek tank, 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 Eagle
River MOU matters, water quality, CRCA matters, and the Cordillera Territories’ water service, 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 10:19 a.m. to discuss attorney-client privileged
issues concerning Eagle River MOU matters, water quality, CRCA matters, and Cordillera
Territories’ water service, 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.*

Mr. Porzak left the meeting at 10:53 a.m.

Mr. Collins requested the Board continue Executive Session to receive legal advice regarding Eagle Park
Reservoir Company and cost-sharing, 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
Upper Eagle Regional Water Authority

and requested that the record reflect that Mr. Porzak was abstaining from any participation in the subject
and reaffirmed that he had left the meeting. Upon motion duly made and seconded, it was unanimously
RESOLVED to continue Executive Session at 10:00 a.m. to discuss attorney-client privileged
issues concerning Eagle Park Reservoir Company and cost-sharing, 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.*

The regular meeting resumed at 11:05 a.m.

ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 11:06 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.

__________________________________  __________________________________
Jim Collins, General Counsel           Glenn Porzak, Water Counsel