

# Upper Eagle Regional Water Authority

## Board of Directors Meeting

March 22, 2018

### MINUTES

1 A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was  
2 held March 22, 2018, 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 **The following Directors were present, thereby constituting a quorum:**

6 Geoff Dreyer, Arrowhead Metropolitan District  
7 Pam Elsner, Beaver Creek Metropolitan District  
8 George Gregory, Berry Creek Metropolitan District  
9 Sarah Smith Hymes, town of Avon (*via phone*)  
10 Kim Bell Williams, EagleVail Metropolitan District  
11 Mick Woodworth, Edwards Metropolitan District

#### 12 **Also in attendance were:**

13 <u>District Staff</u>	24	Brian Tracy
14 Linn Brooks	25	James Wilkins
15 Jason Cowles	26	<u>Consultants</u>
16 Carol Dickman	27	Ashley Hernandez-Schlagel, Nathan Dumm & Mayer PC
17 Catherine Hayes	28	Andy Nathan, Nathan Dumm & Mayer PC
18 Diane Johnson	29	Glenn Porzak, Porzak Browning & Bushong LLP
19 Ali Kelkenberg	30	Kathryn Winn, Collins Cockrel & Cole
20 Maureen Mulcahy	31	<u>Public</u>
21 Siri Roman	32	Mike Reisinger, Berry Creek Metropolitan District
22 Amy Schweig		

#### 23 **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

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

26 Director Elsner disclosed her membership with the Vilar Performing Arts Center Guild, which operates within the Authority's service  
27 area. Director Gregory and alternate Director Simmons disclosed that they serve on the Board of the Eagle River Water and Sanitation  
28 District. Director Gregory also disclosed that he occasionally undertakes small development and construction activities within the  
29 Authority and District service areas. Alternate Director Simmons noted he serves on the Edwards Metropolitan District board and is  
30 employed by Beaver Creek Metropolitan District, an Authority member. Director Williams disclosed that she is the Eagle County  
31 Housing Director. Director Woodworth disclosed that he is employed by the Eagle River Fire Protection District, which operates within  
32 the Authority's service area.

#### 33 **CALL TO ORDER**

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

#### 35 **ACTION ITEMS**

36 **Consideration of Minutes** – The minutes of the regular meeting of February 22, 2018, were  
37 considered. Upon motion duly made and seconded, it was unanimously

38 **RESOLVED** that the minutes of the February 22, 2018, regular meeting be accepted and hereby  
39 are approved as amended. Director Elsner abstained.

40 **Resolutions in Support of Board Member Continuity** – The Board discussed three resolutions  
41 encouraging the boards of the Arrowhead, Berry Creek, and EagleVail Metropolitan Districts to consider  
42 the continued appointment of the current appointees, Directors Dreyer, Gregory, and Williams,  
43 respectively. Discussion and public comment ensued, with the board and counsel noting the many  
44 ongoing and complex issues for which the three directors have invested time and effort; such directors

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1 also have expertise and knowledge that would be difficult to replicate without their previous years of  
2 experience. Upon motion duly made and seconded, with Chair Gregory abstaining, it was unanimously

3 **RESOLVED** that the resolutions encouraging continued appointment of Directors Dreyer,  
4 Gregory, and Williams to the Arrowhead, Berry Creek, and EagleVail Metropolitan Districts,  
5 respectively, be and hereby are approved as presented.

6 Copies of the resolutions are attached hereto as **Exhibits A, B, and C**, respectively, and incorporated  
7 herein by this reference.

### 8 **STRATEGY**

9 **Board Member Input** – Chair Gregory called for board member input and there was none.

10 **Water Efficiency Plan** – Ms. Mulcahy discussed her memo regarding the draft joint regional  
11 water efficiency plan for the Authority and District and presented related information, copies of  
12 which are attached hereto as **Exhibit D** and incorporated herein by this reference. The plan's  
13 creation was partially funded by a Colorado Water Conservation Board (CWCB) grant. A water  
14 efficiency plan is now a statutory requirement for entities that sell over 2,000 acre feet of water  
15 annually, so both the Authority and District must comply with this statute. A regional plan (rather  
16 than separate plans for each entity) is expected to create opportunities to optimize water use,  
17 provide ease of updating the plan in seven years, and will present both entities favorably for  
18 future CWCB grant considerations. Ms. Mulcahy stressed that the plan empowers customers to  
19 waste less water, rather than asking customers to use less water. Highlights from the draft plan  
20 included an observed decreased in water use per single family equivalent (SFE) during the study  
21 period (2008 – 2017), and an expected decrease in future demand per SFE based on plan  
22 suggestions. Discussion ensued regarding efforts to make the plan user-friendly; noted  
23 differences in water use by property based on location, lot-size, and other factors, which lend  
24 themselves to future water budgeting efforts; and current customizable resources based on  
25 customer needs. In response to a question, Ms. Mulcahy said that indoor and outdoor savings will  
26 be tracked as part of implementation of the plan; the plan only included a total past savings from  
27 prior conservation efforts, because it was difficult to distinguish between indoor and outdoor  
28 savings. Upon motion duly made and seconded, it was unanimously

29 **RESOLVED** that staff be and hereby is authorized to share the plan externally with  
30 stakeholders and customers to gather community input, per the plan presented.

31 A copy of the draft plan is attached hereto as **Exhibit E** and incorporated herein by this reference.

32 Ms. Hernandez-Schlagel and Mr. Nathan arrived and Ms. Kelkenberg left at 9:27 a.m.

### 33 **GENERAL MANAGER REPORT**

34 Ms. Brooks presented the General Manager report, a copy of which is attached hereto as **Exhibit F** and  
35 incorporated herein by this reference. Monthly reports were acknowledged, copies of which are attached  
36 hereto as **Exhibit G** and incorporated herein by this reference.

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1           **IT Security Practices** – Chair Gregory asked about staff’s preparedness for ransomware attacks.  
2           Ms. Brooks said the IT department and safety coordinator are currently undergoing a Department  
3           of Homeland Security (DHS) audit on District IT systems as an industry best practice. Staff will  
4           implement any suggestions that result from the audit. Additionally, IT staff has attended DHS  
5           trainings on this topic in the past and has a robust program to protect against such attacks.

### 6           **OPERATIONS REPORT**

7           The operations report was presented, a copy of which is attached hereto as **Exhibit H** and incorporated  
8           herein by this reference. There were no questions on the report.

### 9           **ENGINEERING REPORT**

10          Mr. Cowles presented his report, a copy of which is attached hereto as **Exhibit I** and incorporated herein  
11          by this reference.

12                 **Eagle River Valley (ERV) Mobile Home Park** – Mr. Cowles briefly updated on the ongoing water  
13                 service issues in the ERV mobile home park’s private water system. He discussed the possibility  
14                 of the Authority providing water service to the park’s residents via a master connection. Staff and  
15                 consultants will continue to investigate the matter and keep the board apprised of any  
16                 developments. There are several issues that staff will investigate prior to making a  
17                 recommendation on a potential connection. Staff will keep the board apprised of any  
18                 developments.

### 19          **COMMUNICATION AND PUBLIC AFFAIRS REPORT**

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

22                 **Town of Vail’s “Lunch with the Locals”** – Ms. Johnson discussed the town of Vail’s “Lunch  
23                 with the Locals” program, which the District now co-sponsors, funding the filming of the monthly  
24                 presentations to air locally on Channel 5; the videos are also available online on-demand.  
25                 Presentation topics relate to the town’s Gore Creek action plan to improve water quality in the  
26                 creek. District staff will present the draft regional water efficiency plan at an upcoming event.

27                 **Snowpack Conditions** – Ms. Johnson discussed local snowpack conditions and distributed  
28                 related information, copies of which are attached hereto as **Exhibit K** and incorporated herein by  
29                 this reference. She said normal operations continue, though staff has reviewed the drought  
30                 management plan that was compiled after the 2012 drought. Ms. Johnson discussed  
31                 improvements to technology and increased staffing levels since 2012, which would help with any  
32                 needed drought-related efforts for this year. Ms. Brooks discussed the long-term forecast and  
33                 said a lot could still happen to improve the water supply outlook for the spring and summer.

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## GENERAL COUNSEL REPORT

**Letters to State Engineer re Well Locations** – Ms. Winn discussed a letter from Jim Collins to the state engineer regarding the state's publication of well locations, which presents security issues for the state's many drinking water suppliers. The Special District Association of Colorado and many other entities want to keep such information confidential, and legislation to that end may be introduced. A copy of the letter is attached hereto as **Exhibit L** and incorporated herein by this reference.

**Traer Creek Update** – Ms. Winn introduced special counselors, Ms. Hernandez-Schlagel and Mr. Nathan, who represent the Authority regarding the Traer Creek tank matter. They noted their discussion would take place in Executive Session.

## WATER COUNSEL REPORT

**Water Rights Diligence** – Mr. Porzak said he received favorable rulings of the referee for the diligence cases for the Cordillera conditional water rights and the Lake Creek diversion conditional water rights. He does not expect opposition, at which time the Water Judge can sign the rulings, whereupon they will become final decrees. The rulings are attached hereto as **Exhibits M** and **N**, respectively, and incorporated herein by this reference.

Ms. Mulcahy left the meeting at 9:56 a.m.

## **EXECUTIVE SESSION**

Ms. Winn 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. She 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 9:56 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 Ms. Winn 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 Bolts Lake 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 11:01 a.m. to discuss attorney-client privileged issues concerning Bolts Lake 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.\*

The regular meeting resumed at 11:25 a.m.

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1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 11:26 a.m.

3 Respectfully submitted,

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7 Secretary to the Meeting

8 **MINUTES APPROVED, FORMAL CALL, AND**  
9 **NOTICE OF MEETING WAIVED**

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13 **Arrowhead Metropolitan District**

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17 **Town of Avon**

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21 **Beaver Creek Metropolitan District**

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25 **Berry Creek Metropolitan District**

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29 **EagleVail Metropolitan District**

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33 **Edwards Metropolitan District**

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36 \*The undersigned attorney for the applicable Executive Session affirms that the portion of the discussion  
37 in Executive Session not recorded constituted privileged attorney-client communications.

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42 **Kathryn Winn, General Counsel**

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42 **Glenn Porzak, Water Counsel**

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