

Upper Eagle Regional Water Authority

Board of Directors Meeting

June 28, 2018

MINUTES

1 A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was
2 held June 28, 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
10 Kim Bell Williams, EagleVail Metropolitan District
11 Mick Woodworth, Edwards Metropolitan District

12 **Also in attendance were:**

13 <u>District Staff</u>	25	Hannah Whitton
14 Linn Brooks	26	James Wilkins
15 Jason Cowles	27	Len Wright
16 Carol Dickman	28	<u>Consultants</u>
17 Catherine Hayes	29	Jim Collins, Collins Cockrel & Cole
18 Diane Johnson	30	Ashley Hernandez-Schlagel, Nathan Dumm & Mayer PC,
19 John McCaulley	31	<i>via phone</i>
20 Maureen Mulcahy	32	Andy Nathan, Nathan Dumm & Mayer PC, <i>via phone</i>
21 Jeff Schneider	33	Glenn Porzak, Porzak Browning & Bushong LLP
22 Amy Schweig	34	<u>Public</u>
23 Micah Schuette	35	Melissa Nelson
24 Brian Tracy		

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

46 **CALL TO ORDER**

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

48 **INTRODUCTIONS**

49 Mr. Cowles introduced Dr. Len Wright, the District's new water resource engineer. Ms. Mulcahy
50 introduced Ms. Whitton, the District's first-ever sustainability intern. Chair Gregory introduced Ms. Nelson.
51 She was the former executive director of the Eagle River Watershed Council and is now an alternate
52 director for the Authority on behalf of the Berry Creek Metropolitan District.

53 **ACTION ITEMS**

54 **Consideration of Minutes** – The minutes of the regular meeting of May 24, were considered. Upon
55 motion duly made and seconded, it was unanimously

56 **RESOLVED** that the minutes of the May 24, 2018, regular meeting be accepted and hereby are
57 approved as presented.

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1 **Resolution to Establish a Public Comment Period for the Water Efficiency Plan** – Ms. Mulcahy
2 discussed her board action request and resolution, copies of which are attached hereto as **Exhibits A**
3 and **B**, respectively, and incorporated herein by this reference. She noted the Colorado Water
4 Conservation Board required a public comment period prior to plan adoption by the boards of directors
5 and submittal to the CWCB for its approval. There is past precedent for a 30-day comment period, in
6 addition to the extensive public outreach that staff has undertaken to present the plan to a variety of local
7 organizations and stakeholders. Therefore, Ms. Mulcahy asked the board to adopt the 30-day comment
8 period rather than a 60-day comment period. After discussion and upon motion duly made and seconded,
9 it was unanimously

10 **RESOLVED** that the resolution establishing a 30-day public comment period for the joint regional
11 water efficiency plan be and hereby is approved as presented.

STRATEGY

13 **Board Member Input** – Chair Gregory called for board member input. Director Elsner noted
14 some landscapers that operate in Beaver Creek would like more training on water use efficiency.
15 Secretary Williams noted Steve Barber was the interim community manager in EagleVail
16 following Jeff Layman's resignation. Vice Chair Hymes noted Donna Lynne, a Democratic
17 candidate for Colorado governor, owns a second home in East Vail and inquired about local
18 water rates.

19 **I-70 West Vail Pass Auxiliary Lanes Project** – In Ms. Roman's absence, Ms. Brooks and Ms.
20 Johnson discussed the CDOT project to add auxiliary lanes both east and westbound, west of
21 Vail Pass. A copy of the presentation is attached hereto as **Exhibit C** and incorporated herein by
22 this reference. Ms. Roman is participating on the District's behalf on the project's technical team,
23 and District director Dick Cleveland is on the project's leadership team. The additional lanes
24 address safety concerns due to the physical characteristics of the road, not due to capacity
25 reasons. Ms. Brooks and Ms. Johnson pointed out the various areas on I-70 where accidents are
26 most common. Discussion ensued regarding timeline, logistics, and the possibility of phasing the
27 project, which would offer CDOT multiple chances to evaluate the programmatic improvements
28 and potentially eliminate or reduce the need for certain later phases of the project. Ms. Brooks
29 emphasized Ms. Roman's role in ensuring water resources and water quality concerns were
30 addressed by CDOT in the project, including the addition of language to specify impacts to
31 terrestrial and aquatic wildlife. The Board agreed to write a letter to CDOT to voice concerns and
32 request project phasing and systematic re-evaluation rather than one large project.

GENERAL MANAGER REPORT

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

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1 OPERATIONS REPORT

2 Mr. Tracy presented the operations report, a copy of which is attached hereto as **Exhibit F** and
3 incorporated herein by this reference.

4 **2017 Authority Consumer Confidence Report (CCR)** – Mr. Tracy discussed his memo and the
5 2017 CCR, a required annual communication to all customers regarding the quality of the
6 Authority’s water. Copies are attached hereto as **Exhibits G** and **H**, respectively, and
7 incorporated herein by this reference. Mr. Tracy reported there were no violations in the 2017
8 calendar year. He also noted the water department voluntarily participates in the American Water
9 Works Association’s partnership for safe water and received Phase III recognition. Upon
10 achieving Phase IV status, the water system will be considered “fully optimized.” Mr. Tracy
11 thanked. Mses. Johnson and Schweig for their assistance in designing the CCRs. Ms. Brooks
12 complimented the water department and noted the report is the compilation of tens of thousands
13 of data points, so receiving zero violations is quite an accomplishment.

14 **Eagle Park Reservoir Company Update** – Mr. Tracy reported that power was restored at the
15 East Fork Pump Station on June 5 after an arc flash interrupted operations there on May 29.
16 District staff worked diligently to repair the station, and with the assistance of the Vail Resorts
17 snowmaking department, received and installed a spare breaker that would have otherwise taken
18 three weeks to order. The reservoir is 55 acre feet short of filling, rather than the original estimate
19 of at least 300 acre feet short, which was a great accomplishment, especially given the current
20 dry conditions.

21 **Shoshone Call** – Mr. Porzak reported the Shoshone Call is now on the river.

22 ENGINEERING REPORT

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

24 **Eagle River Valley (ERV) Mobile Home Park** – Mr. Cowles updated on a meeting with Ascentia
25 Group, the entity that owns the ERV, regarding possible connection of the ERV to the Authority’s
26 water system. The owner was concerned about the projected cost but does have a senior Brett
27 Ditch water right that could be dedicated for 62 acre feet. A \$1.7 million cash-in-lieu payment
28 would also be required, in addition to tap fees of \$1.4 million and roughly \$20,000 –
29 \$25,000/month for the water bill, based on water usage history. Mr. Cowles noted more
30 discussion was needed with the owner, staff, and other stakeholders, including Our Community
31 Foundation; he will keep the board apprised.

32 **Eagle River Integrated Water Plan** – Mr. Cowles reported on a recent meeting of Eagle River
33 stakeholders, including Colorado Springs, Aurora, Colorado Parks and Wildlife, American Rivers,
34 town of Avon, Eagle County and others. The group is working on a management plan for the
35 Eagle River and wanted to establish ground rules for decision making as the plan moves forward.
36 The group will use scenario planning to look at possible future pressures on the Eagle River with

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1 climate change and additional water development, among others. Mr. Cowles estimated plan
2 development would take three years.

3 **Water System Master Plan** – Mr. Cowles reported the District selected AE2S (Advanced
4 Engineering and Environmental Services) to complete a water system master plan for the
5 Authority and District. The company will start with creating a new hydraulic model of the
6 distribution system that is GIS-based.

7 **COMMUNICATION AND PUBLIC AFFAIRS REPORT**

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

10 **Water Supply and Weather Outlook** – Ms. Johnson discussed local and regional water supply
11 and weather outlooks. Lake Powell is projected to deliver 9 million acre feet to Lake Mead this
12 year, and it is believed that Mead will hit its threshold low level this year as well. She noted a
13 recent meeting of the Upper Colorado River Commission, comprised of the four upper basin
14 states, during which the commission voted to halt the system conservation pilot project at the end
15 of the year, citing no determination on how to use the water that is saved to benefit the upper
16 basin. Discussion ensued regarding the Central Arizona Project and the backlash over its alleged
17 “gaming” of the system by keeping Lake Mead at a level by which Lake Powell must continue to
18 send water there.

19 **GENERAL COUNSEL REPORT**

20 Mr. Collins referred to the confidential legal report included in the confidential packet.

21 **Continued Legal Service from Collins Cockrel and Cole** – Mr. Collins presented a proposed
22 letter of engagement by which his firm would continue to provide legal services to the Authority, a
23 copy of which is attached hereto as **Exhibit J** and incorporated herein by this reference. He noted
24 it was best practices to reconsider such documentation from time to time. Upon motion duly made
25 and seconded, it was unanimously

26 **RESOLVED** that the letter of continuing engagement with Collins Cockrel & Cole be and
27 hereby is approved as presented.

28 **WATER COUNSEL REPORT**

29 Mr. Porzak referred to his confidential legal reports in the confidential packet.

30 **Black Lakes Water** – Mr. Porzak discussed the water supply for the Avon WWTF when the plant
31 is shut down for construction and maintenance. The board directed Mr. Porzak and consultant
32 Tom Williamsen to prepare an augmentation plan application for the Black Lakes water to
33 augment out of priority diversions from Authority water rights. These diversions would be backed
34 by up to 300 acre feet of water that is upstream of all Authority diversions. Further, if the District

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1 chooses to lease the 125 acre feet of Black Lakes water it will no longer lease to Vail Resorts, the
2 augmentation application could be for 425 acre feet.

4 EXECUTIVE SESSION

5 Mr. Collins requested the Board enter Executive Session to receive legal advice regarding Traer Creek
6 tank, pursuant to §24-6-402(4)(b) and (e) C.R.S. He asked that no electronic record be made, as the
7 discussion would be entirely privileged attorney-client communications. Upon motion duly made and
8 seconded, it was unanimously

9 **RESOLVED** to enter Executive Session at 10:00 a.m. to discuss attorney-client privileged
10 issues concerning the Traer Creek tank, pursuant to §24-6-402(4)(b) and (e) C.R.S. with no
11 electronic record created as Mr. Collins opined the contents of the discussion would contain
12 privileged attorney-client communications.*

13 Ms. Hernandez-Schlagel and Mr. Nathan joined the call at 10:01 a.m. They left the call at 10:20 a.m.

14
15 Mr. Porzak requested the Board continue Executive Session to receive legal advice regarding Eagle
16 River MOU, Bolts Lake and Minturn water matters, and CRCA matters, pursuant to §24-6-402(4)(b) and
17 (e) C.R.S. He asked that no electronic record be made, as the discussion would be entirely privileged
18 attorney-client communications. Upon motion duly made and seconded, it was unanimously

19 **RESOLVED** to continue Executive Session at 10:21 a.m. to discuss attorney-client privileged
20 issues concerning Eagle River MOU, Bolts Lake and Minturn water matters, and CRCA
21 matters, pursuant to §24-6-402(4)(b) and (e) C.R.S. with no electronic record created as Mr.
22 Porzak opined the contents of the discussion would contain privileged attorney-client
23 communications.*

24 The regular meeting resumed at 10:59 a.m.

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1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 11:00 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 **Jim Collins, General Counsel**

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Glenn Porzak, Water Counsel