

# Upper Eagle Regional Water Authority

## Board of Directors Meeting

July 26, 2018

### MINUTES

1 A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was  
2 held July 26, 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 **The following Director was absent and excused:**

12 Mick Woodworth, Edwards Metropolitan District

13 **The following Alternate Director was present and acting:**

14 Kara Heide, Edwards Metropolitan District

15 **Also in attendance were:**

16 <u>District Staff</u>	28	Len Wright
17 Linn Brooks	29	<u>Consultants</u>
18 Jason Cowles	30	Jim Collins, Collins Cockrel & Cole
19 Carol Dickman	31	Scott Fifer, Resources Engineering, Inc.
20 Catherine Hayes	32	Ashley Hernandez-Schlagel, Nathan Dumm & Mayer PC,
21 Diane Johnson	33	<i>via phone</i>
22 John McCaulley	34	Andy Nathan, Nathan Dumm & Mayer PC, <i>via phone</i>
23 Siri Roman	35	Glenn Porzak, Porzak Browning & Bushong LLP
24 Jeff Schneider	36	<u>Public</u>
25 Amy Schweig	37	Melissa Nelson, Berry Creek Metropolitan District
26 Brian Tracy	38	Brian Sipes, Minturn resident
27 James Wilkins		

39 **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

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

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

49 **CALL TO ORDER**

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

51 **INTRODUCTIONS**

52 Introduction of any guests was requested and there were none.

53 **ACTION ITEMS**

54 **Consideration of Minutes** – The minutes of the regular meeting of June 28, were considered. Upon  
55 motion duly made and seconded, it was unanimously

56 **RESOLVED** that the minutes of the June 28, 2018, regular meeting be accepted and hereby are  
57 approved as amended.

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1       **2017 Audit Consideration** – Mr. Wilkins discussed his board action request and the 2017 audit, copies  
2 of which are attached hereto as **Exhibits A** and **B**, respectively, and incorporated herein by this  
3 reference. Mr. Wilkins discussed a meeting he had with the auditors, McMahan and Associates, and the  
4 Audit/Budget committee (Chair Gregory and Treasurer Dreyer) regarding the draft audit. Discussion  
5 ensued regarding the schedule by which capital assets are depreciated, and whether the assumed  
6 lifetime of 40 years should be adjusted for some assets. Staff and consultants will look into the  
7 depreciation schedule and adjust if necessary to include a more realistic timeline, as many of the  
8 Authority's capital assets likely have a longer lifetime. After discussion and upon motion duly made and  
9 seconded, it was unanimously

10               **RESOLVED** that the 2017 audit be and hereby is approved as amended and final copies  
11 distributed, and

12               **FURTHER RESOLVED** that Ms. Brooks and Mr. Wilkins are hereby authorized to sign the letter  
13 of representation addressed to McMahan and Associates.

### 14 **STRATEGY**

15       **Update on Benchmarking and Metrics Reporting** – Ms. Brooks discussed her memo regarding  
16 the benchmarking and metrics report being compiled by staff, a copy of which is attached hereto  
17 as **Exhibit C** and incorporated herein by this reference. She noted reliance on the American  
18 Water Works Association benchmarking manual for data allowing comparison of the Authority  
19 and District to other similar entities. Staff has also gathered trending data, allowing the Authority  
20 and District to look at its own metrics year over year. The Board agreed with the chosen  
21 benchmarks and metrics and directed staff to continue working on the report, which is scheduled  
22 for presentation to the boards in October.

23       **Dry-Year Management Plan and Policies** – Ms. Brooks presented information on the dry-year  
24 management plan, a copy of which is attached hereto as **Exhibit D**. Ms. Brooks discussed the  
25 spring and summer weather, which has been abnormally dry and hot, causing the base flows in  
26 local streams to decline. Information from prior drought years in 2002 and 2012 was also  
27 presented and compared to current conditions. Ms. Brooks discussed proposed policies for  
28 enforcement, to ensure streamflows remain viable for aquatic life if and when low water levels are  
29 approached. Large irrigators and customers alike would be asked to reduce outdoor water use in  
30 amounts commensurate with keeping enough water in streams. Some exceptions would be  
31 made, allowing continued water use for economic drivers like ball fields and public gardens.  
32 There was no expectation that indoor use, which has very little consumptive impact, would be  
33 limited. Staff will bring documentation will follow at the August meeting for incorporation into the  
34 Rules and Regulations. Discussion ensued, and upon motion duly made and seconded, it was  
35 unanimously

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1           **RESOLVED** that the proposed policies and implementation be and hereby is approved  
2           as presented for immediate implementation.

3           A copy of the enforcement action is attached hereto as **Exhibit E** and incorporated herein by this  
4           reference.

5           **Board Member Input** – Board member input was requested and there was none.

### 6           **GENERAL MANAGER REPORT**

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

10           **Red Canyon II Fire in Wolcott** – The Board discussed the water supply emergency that was  
11           enacted amidst a Wolcott wildfire on July 8 that threatened electric power supply to the entire  
12           valley. Firefighting efforts successfully protected the power infrastructure, so the water supply  
13           emergency lasted only eight hours. Staff discussed use of the incident command system during  
14           this and other emergencies; use of ICS is now standard protocol in such events. While not every  
15           specific emergency can be planned for, the ICS provides a structured system to respond to any  
16           incident. Ms. Johnson explained the many channels by which the District can communicate  
17           supply emergencies and other information; this is dependent on the details of each event and  
18           other information dissemination that is going on at the time. She confirmed that the water supply  
19           emergency was not communicated via an Eagle County Alert (EC Alert) because that channel  
20           was being heavily used to distribute fire and power-related information.

### 21           **OPERATIONS REPORT**

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

24           **Nutrient Management Memorandum of Understanding** – Ms. Roman presented her memo  
25           and the related MOU with the Water Quality Control Division (WQCD) of the Colorado  
26           Department of Public Health and Environment (CDPHE), copies of which are attached hereto as  
27           **Exhibits I and J**, respectively, and incorporated herein by this reference. The MOU was recently  
28           signed by the District and WQCD and is the culmination of years of work by District staff to  
29           achieve phased implementation of the state's nutrient regulations across the District's three  
30           wastewater treatment facilities. This will ultimately bring larger benefits to stream health, allow for  
31           operational efficiencies, and be more cost effective. Ms. Brooks thanked Ms. Roman and noted  
32           this was a huge achievement for staff, also signaling the WQCD's willingness to be flexible and  
33           work with providers on innovative solutions.

### 34           **ENGINEERING REPORT**

35           Mr. Cowles presented his report, a copy of which is attached hereto as **Exhibit K** and incorporated herein  
36           by this reference.

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1           **Current Construction Costs** – Mr. Cowles discussed a memo by Mr. Schneider regarding  
2 construction costs, a copy of which is attached hereto as **Exhibit L** and incorporated herein by  
3 this reference. Colorado Department of Transportation produces a quarterly construction cost  
4 index, which was used in the memo. Construction costs had rapidly increased in the past few  
5 years and seem to have leveled off currently. Mr. Cowles pointed out that the current  
6 administration’s tariffs may affect materials and pricing of some planned projects, however.

7           **Eagle River Village (ERV) Mobile Home Park Update** – Mr. Cowles discussed the water rights  
8 associated with the ERV, progress on which has not been as fast as anticipated due to other  
9 competing demands. In response to a question, Mr. Porzak discussed the water rights needs of  
10 the ERV should its owner decide to connect to the Authority’s system. Full diversions would have  
11 to be augmented in August and September, which is driving much of the high estimated cost of  
12 the project.

### 13 **COMMUNICATION AND PUBLIC AFFAIRS REPORT**

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

16           **Colorado River Basin Roundtable Update** – Ms. Johnson discussed a recent meeting she  
17 attended of the basin roundtable. Topics included the water released downstream to protect four  
18 endangered species of fish on the Colorado (formerly called the 10825 water); this effort aims to  
19 have 850 cfs at the USGS gage at Palisade, which is far below the target currently. She noted  
20 consensus among the meeting attendees that water providers can only do so much to mitigate  
21 naturally-occurring low streamflows. Ms. Johnson also referenced discussion of the Lake  
22 Christine Fire in Basalt and questions regarding where the firefighting water comes from and how  
23 the water accounting works. The fire started on July 3 and has burned nearly 12,000 acres. Ms.  
24 Johnson noted firefighters will take water from anywhere possible during efforts to extinguish  
25 wildfires. The accounting will take place later, based on the water rights of entities in the area.

26           **Large Irrigator Voluntary Water Use Reductions** – Ms. Johnson further elaborated on Ms.  
27 Brooks’ discussion of efforts by large irrigators to reduce water use. Ms. Johnson cited the  
28 specific example of the Vail Golf Course, which has been using less water for the entire golf  
29 season and is prepared to further reduce. The town of Vail has also implemented voluntary  
30 reductions at nearly all of its irrigated areas, based on a prioritized list that considers the  
31 economic drivers of the town. The board expressed appreciation for these networks and  
32 relationships that are allowing for meaningful water use reductions.

### 33 **WATER COUNSEL REPORT**

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

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1           **Black Lakes Water** – Mr. Porzak discussed the Black Lakes Augmentation water application, a  
2           copy of which is attached hereto as **Exhibit N** and incorporated herein by this reference. Mr.  
3           Porzak noted the water could be used by the Authority as purely augmentation water since it is  
4           located above all Authority diversions. After discussion and upon motion duly made and  
5           seconded, it was unanimously

6                       **RESOLVED** that the application for Black Lakes Augmentation water be and hereby is  
7                       approved as presented for filing.

### 8           **GENERAL COUNSEL REPORT**

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

### 10          **EXECUTIVE SESSION**

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

15                       **RESOLVED** to enter Executive Session at 10:07 a.m. to discuss attorney-client privileged  
16                       issues concerning the Traer Creek tank, pursuant to §24-6-402(4)(b) and (e) C.R.S. with no  
17                       electronic record created as Mr. Collins opined the contents of the discussion would contain  
18                       privileged attorney-client communications.\*

19          Special counselors Ms. Hernandez-Schlagel and Mr. Nathan joined the call at 10:11 a.m. They left the call at  
20          10:26 a.m.

21  
22          Mr. Porzak requested the Board continue Executive Session to receive legal advice regarding water  
23          rights reports, Eagle River MOU, and Bolts Lake and Minturn water matters, pursuant to §24-6-402(4)(b)  
24          and (e) C.R.S. He asked that no electronic record be made, as the discussion would be entirely privileged  
25          attorney-client communications. Upon motion duly made and seconded, it was unanimously

26                       **RESOLVED** to continue Executive Session at 10:26 a.m. to discuss attorney-client privileged  
27                       issues concerning water rights reports, Eagle River MOU, and Bolts Lake and Minturn water  
28                       matters, pursuant to §24-6-402(4)(b) and (e) C.R.S. with no electronic record created as Mr.  
29                       Porzak opined the contents of the discussion would contain privileged attorney-client  
30                       communications.\*

31          The regular meeting resumed at 11:23 a.m.

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1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 11: 24 a.m.

3 Respectfully submitted,

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6 \_\_\_\_\_  
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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44 \_\_\_\_\_  
**Glenn Porzak, Water Counsel**