

**Eagle River Water and Sanitation District  
Upper Eagle Regional Water Authority  
Joint Special Meeting  
March 28, 2019  
MINUTES**

A Special Meeting of the Boards of Directors of the Eagle River Water & Sanitation District (District) and Upper Eagle Regional Water Authority (Authority) was held October 25, 2018, at 11:00 a.m., in the District's Walter Kirch Room, 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable statutes of the State of Colorado.

**ATTENDANCE**

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

2           Dick Cleveland  
3           Steve Coyer  
4           Steve Friedman  
5           George Gregory  
6           Timm Paxson  
7           Bill Simmons  
8           Brian Sipes

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

10          Geoff Dreyer, Arrowhead Metropolitan District  
11          Pam Elsner, Beaver Creek Metropolitan District  
12          George Gregory, Berry Creek Metropolitan District  
13          Sarah Smith Hymes, Town of Avon  
14          Mick Woodworth, Edwards Metropolitan District

15          **The following Director was absent and excused:**

16          Kim Bell Williams, EagleVail Metropolitan District

17          **Also in attendance were:**

<u>District Staff</u>		<u>Consultants</u>
18          Linn Brooks	29	Jim Collins, Collins Cockrel & Cole
19          Jason Cowles	30	Kristin Moseley, Porzak Browning & Bushong LLP
20          Catherine Hayes	31	Glenn Porzak, Porzak Browning & Bushong LLP
21          Diane Johnson	32	<u>Public</u>
22          Siri Roman	33	Peter Fleming, Colorado River Water Conservation District
23          Jeff Schneider	34	Mike Jackson, Eagle Park Reservoir Company
24          Brian Tracy	35	Greg Johnson, Eagle Park Reservoir Company
25          Len Wright	36	Doug Lovell, Eagle Park Reservoir Company
26	37	Andy Mueller, Colorado River Water Conservation District
27	38	Gary Shimanowitz, Eagle Park Reservoir Company
28	39	
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41          **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

42          The Authority 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:

43          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.

44          The District 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:

45          Director Cleveland disclosed that he serves on the board of Vail Health. Director Friedman serves on the Boards of the Beaver Creek Metropolitan District and the Vail Valley Foundation. Director Gregory disclosed that he serves on the Boards of the Upper Eagle Regional Water Authority (Authority) and the Berry Creek Metropolitan District and occasionally undertakes development and construction activities within the District and Authority service areas. Director Simmons disclosed that he is the General Manager of the Beaver Creek Metropolitan District, an alternate Authority Director, and serves on the board of the Edwards Metropolitan District.

58          **CALL TO ORDER**

59          District Chair Friedman called the meeting to order at 11:07 a.m., and Authority Chair Gregory concurred.

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# Eagle River Water & Sanitation District Upper Eagle Regional Water Authority

## INTRODUCTIONS

Staff, consultants, and guests were introduced, including Mr. Mueller, River District general manager, and Mr. Fleming, River District general counsel.

## PUBLIC COMMENT

Public comment was called for and there was none.

## DISCUSSION TOPICS

**Drought Contingency Planning (DCP)** – Mr. Mueller discussed drought contingency planning on the Colorado River. Both the upper and lower basin states approved drought contingency plans, except for the Imperial Irrigation District (IID) in California. The IID refused to sign any planning documents that did not include provisions for cleanup of the Salton Sea area, a toxic lakebed that is growing as water levels decline. Other topics of discussion were as follows:

**Legislation to Authorize Storage in Lake Powell and other Colorado River Storage Project (CRSP) Reservoirs** – Mr. Mueller noted federal legislation would be needed to authorize a storage account in Lake Powell and other CRSP reservoirs, which would be controlled by the Upper Basin River Commission. He said the lower basin historically overused its allotment of water by about 1.2 million acre feet (MAF), and the lower basin does not account for evaporative losses in the transport of the water. The DCP will save roughly that amount annually, but only when Lake Mead is at its lowest, crisis-point elevation.

**Climate Change** – Mr. Mueller pointed out that climate change is evident in the lack of precipitation, temperate increases, and river flow declines. For every degree temperature rise, Colorado River water volume declines 3 – 4%. Though this year’s snowfall was a welcome relief, 13 such consecutive years of above-average precipitation would be needed to fill Lake Powell. Cloud seeding efforts have been increasing in recent years, but there is no scientific evidence linking such efforts with increased water volumes in nearby rivers.

**Demand Management Programs** – Mr. Mueller discussed demand management programs, by which upper basin states could store consumptive use credits in a demand management pool. However, there is concern regarding a buy-and-dry system by which the Front Range could participate in “reduction” efforts through monetary means only, or the potential encouragement of rules that would allow the state engineer to anticipate curtailment before it’s mandatory and force junior water rights to contribute to the pool. Mr. Mueller noted the 2007 interim guidelines will be renegotiated by 2026, when the interim guidelines expire. Current efforts may be serving as a pilot program to inform these pending negotiations.

**Authority and District Water Rights** – Mr. Mueller noted the foresight involved in the Authority and District’s water rights acquisition, acknowledging that the majority of their water rights are pre-compact. However, when viewing water rights throughout the entire state, he noted most other senior water rights belong to Front Range providers; modeling efforts show that 80% of the

## Eagle River Water & Sanitation District Upper Eagle Regional Water Authority

1 water produced by a cutback to 1959 priority would come from the West Slope. Modeling also  
2 shows that the upper basin states, as a whole, need between 1 –2 MAF annually to prevent  
3 compact curtailment. Mr. Mueller discussed the potential effects of a compact violation, surmising  
4 that in the event of such a violation, the Bureau of Reclamation would issue a mandatory call, and  
5 the biggest users may be subject to payback via a 1948 agreement. He believes a constitutional  
6 preference for domestic water use would be enforced at some point, which would likely result in  
7 Front Range buy and dry practices; while this could devastate the West Slope, Front Range  
8 economic factors would come into play as well. Mr. Mueller emphasized the desire not to reach  
9 the point where federal directives would dictate Colorado water use practices.

10 **Prior Appropriation System** – Mr. Mueller acknowledged a letter written by the Authority and  
11 District to the Colorado Water Conservation Board, stating that the prior appropriation system  
12 should be the basis of any cutbacks. Mr. Mueller agreed, but also noted the dire situation in which  
13 all Colorado water users would find themselves if mandatory cutbacks were needed. He said *all*  
14 Colorado water users would have to contribute to such an effort, regardless of water rights  
15 priority. Mr. Mueller stressed the desire for all water users to come up with possible actions to  
16 deal with a compact call and promote buy in across the state.

17 **Discussions with Front Range Water Providers regarding Demand Management** – Mr.  
18 Fleming noted initial Front Range discussions regarding drought contingency planning were kept  
19 confidential; the River District continues to push for transparency and involvement by all parties.  
20 Mr. Fleming has observed progress in the form of some Front Range providers telling  
21 constituents that reductions in use will be necessary to contribute to a demand management pool.  
22 Mr. Mueller agreed that Front Range providers are beginning to understand that wet water, not  
23 just money, will be required in this effort. The demand management planning process also seems  
24 more transparent.

### 25 **QUESTIONS AND COMMENTS**

26 Board members asked various questions of Messrs. Mueller and Fleming, including that the  
27 Authority and District must balance the desire to conserve water with the need to ensure water  
28 sales are sufficient to cover necessary costs. Also, additional discussion of the Authority and  
29 District's portfolio of pre-compact water rights was emphasized. Regarding overuse, Mr. Mueller  
30 confirmed that there was no plan for the lower basin to pay back its overuse. In closing, Mr.  
31 Mueller emphasized that water rights holders across the state must work toward the common  
32 goal of avoiding a compact shortage, which would no doubt result in crippling litigation and water  
33 supply uncertainty.

34 The boards thanked Messrs. Mueller and Fleming for attending.

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Upper Eagle Regional Water Authority**

1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 12:12 p.m.

3 Respectfully submitted,

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7 Secretary to the Meeting

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

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14 **Dick Cleveland, Director**

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18 **Steve Coyer, Treasurer**

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22 **Stephen Friedman, Chair**

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26 **George Gregory, Secretary**

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30 **Timm Paxson, Director**

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34 **Bill Simmons, Director**

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38 **Brian Sipes, Director**

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**Eagle River Water & Sanitation District  
Upper Eagle Regional Water Authority**

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**UPPER EAGLE REGIONAL WATER AUTHORITY**

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Arrowhead Metropolitan District

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Town of Avon

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Beaver Creek Metropolitan District

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Berry Creek Metropolitan District

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EagleVail Metropolitan District

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Edwards Metropolitan District