A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was
held March 28, 2019, 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 and alternate were present, thereby constituting a quorum:
- Geoff Dreyer, Arrowhead Metropolitan District
- George Gregory, Berry Creek Metropolitan District
- Sarah Smith Hymes, Town of Avon
- Pam Elsner, Beaver Creek Metropolitan District
- Kim Bell Williams, EagleVail Metropolitan District, via phone
- Mick Woodworth, Edwards Metropolitan District

Also in attendance were:
- District Staff
  - Linn Brooks
  - Jason Cowles
  - Catherine Hayes
  - Diane Johnson
  - Siri Roman
  - Jeff Schneider
  - Brian Tracy
  - Len Wright
- Consultants
  - Jim Collins, Collins Cockrel & Cole
  - Kristin Moseley, Porzak Browning & Bushong LLP
  - Glenn Porzak, Porzak Browning & Bushong LLP
- Public
  - Dan Godec, Berry Creek Metropolitan District
  - Melissa Nelson, Berry Creek Metropolitan District

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.

PUBLIC COMMENT
Public Comment was called for, and there was none.

ACTION ITEMS
- Consideration of Minutes – The minutes of the regular meeting of February 28, 2019, were considered. Upon motion duly made and seconded, it was unanimously RESOLVED that the minutes of the February 28, 2019, regular meeting be accepted and hereby are approved as presented.
- Rules and Regulations Update – Mr. Cowles discussed a board action request and related documents, copies of which are attached hereto as Exhibit A and incorporated herein by this reference. He noted the strategic, annual method by which staff is updating the Rules & Regulations. Mr. Cowles and Ms. Brooks specifically discussed the prohibition of “Y” connections in the water and wastewater system joint service lines. This will protect current and future customers and the District from the liability associated with such connections, which have caused backups and property damage in the past. Use of Y connections is less
costly for developers, but future property owners, and the Authority and District, bear the burden of associated risk of service line failure. The board discussed the letter from Mike Dantas and considered the concerns therein stated. After additional discussion and upon motion duly made and seconded, it was unanimously
RESOLVED that the updates to the Rules and Regulations be and hereby are approved as presented.

STRATEGY ITEMS
Board Member Input – In response to a question, Mr. Schneider discussed planned, phased upgrades to the Arrowhead tank. Residents should not expect interruptions to water service during the interior tank recoating or exterior painting. Mr. Schneider said he and project staff would continue to communicate with residents via Arrowhead Metropolitan District contacts.

GENERAL MANAGER REPORT
The General Manager’s report was presented, a copy of which is attached hereto as Exhibit B and incorporated herein by this reference. Monthly reports were acknowledged, copies of which are attached hereto as Exhibit C and incorporated herein by this reference.

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

Village Hall Project at Beaver Creek – In response to a question, Mr. Schneider discussed options for the replacement of a water main in Village Hall at Beaver Creek. He said construction was planned to minimize impacts to the resort and guests, and a trenchless option for the new main was being considered. Beaver Creek Metropolitan District was in close contact with staff regarding the project. Staff is aware of the need for project completion prior to the 2019/2020 ski season.

Eagle Mine Superfund Site Consent Decree – Ms. Roman discussed the consent decree between the Environmental Protection Agency (EPA) and CBS, the owner of the Eagle Mine. Authority and District concerns were communicated in writing to ensure the consent decree includes timeliness of notifications and cleanup, regular inspections, and ongoing monitoring to protect our rivers and source water quality. The Eagle Board of County Commissioners also sent a letter to EPA that reinforced the Authority and District’s concerns and requests. Copies of this information are attached hereto as Exhibit E and incorporated herein by this reference. Ms. Roman expects the negotiations between EPA and CBS to occur soon.

West Vail Pass Auxiliary Lane Project – Ms. Roman continues to participate in the stakeholder meetings on the Authority and District’s behalf. At the last meeting, she suggested if the stakeholders and the Colorado Department of Transportation (CDOT) could agree on required metrics for the project, the Authority and District would not require such diligent oversight of water quality and technical project aspects. Agreed-upon metrics have been used for similar projects in
the past; staff is awaiting more information from CDOT on whether these metrics are an
acceptable alternative. Ms. Roman also emphasized the importance of making Authority and
District requirements clear and written in the Environmental Assessment (EA) document, in case
project personnel changes occur by the time the project receives funding.

**Eagle Park Reservoir Company Update** – Mr. Tracy updated the board on Eagle Park
Reservoir conditions and operations. He noted the reservoir was expected to gravity fill due to the
high snowpack, but the East Fork Pump Station will run at least briefly to ensure the recent
upgrades there are successful.

**Inundation Mapping Update** – Dr. Wright presented updated inundation mapping information
related to a hypothetical catastrophic dam failure as required by the Emergency Action Plans for
Eagle Park Reservoir and Black Lakes Number 1. Previous such plans were outdated and
consisted of paper maps. The District received a Federal Emergency Management Agency
(FEMA) grant administered by the State Engineer’s Office to model the inundation surfaces and
digitize the information in GIS to better prepare for such an event. Dr. Wright noted the District’s
dams are regularly state-inspected and well maintained, so the probability of such a failure is low.
Discussion ensued regarding public communication of a catastrophic failure and the timing of
certain associated events.

**ENGINEERING REPORT**

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

**Lionshead Zoning Update** – Mr. Cowles discussed recent Vail Town Council efforts to stimulate
redevelopment in Lionshead, via a proposal to allow unlimited residential development within
current setbacks. The effort passed first reading. Mr. Cowles discussed concerns, as increased
loading to the wastewater treatment facility could trigger capacity upgrades sooner than planned;
this would compound customer rate increases that have been carefully planned to minimize
impacts to customers.

**Vail Resorts Employee Housing Proposal in East Vail** – Mr. Cowles discussed the
controversial employee housing proposal in East Vail on Vail Resorts-owned land. Opponents are
concerned about the effects on bighorn sheep in the area; proponents recognize the need for
more employee housing. Vail Resorts would have to dedicate Eagle Park Reservoir water for the
development.

**Water Conservation Considerations in Front Range Water Projects** – Mr. Cowles discussed
lawsuits brought by citizen group “Save the Colorado” against the federal agencies that permitted
the large Front Range Windy Gap Firming Project and the Moffat Collection System Project. The
suits allege that conservation was not considered a reasonable alternative to these projects in
either case. Mr. Cowles noted the Authority and District’s aggressive conservation efforts will
Upper Eagle Regional Water Authority

become more important in planning and permitting for any future projects. Mr. Porzak shared that some environmental groups are also questioning snowmaking water use as it relates to conservation.

**Proposed Development in Edwards** – Mr. Cowles noted a proposed project near the old B&B gravel pit in Edwards. The current proposal anticipates 594 units, including a hotel, several condos, and residential units, including single family houses and townhomes. The board discussed the project and the request for conditional capacity to serve. This project would utilize a large portion of the Authority’s remaining unallocated water; the board requested additional information, which Mr. Cowles will compile and bring back to a future meeting. Approval of such conditional capacity to serve could trigger review of the Authority’s unallocated supply, per the related portions of the 2015 Authority Agreement.

**COMMUNICATION AND PUBLIC AFFAIRS REPORT**

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

**Legislative Updates** – Ms. Johnson reported on the status of various bills of interest to the Authority and District. Of interest was that HB19-1108, the non-resident elector bill was killed in committee. The District opposed the bill, which would have allowed non-resident electors in Colorado special districts to vote in board member elections.

**Colorado River Basin Roundtable Funding** – Ms. Johnson explained how the roundtables are funded. She noted the CBRT voted March 25 to award funds for the EagleVail Metropolitan District’s Stone Creek restoration project, which will improve water quality there. She also noted that “Learning by Doing,” which resulted from the Colorado River Cooperative Agreement, is now a 501(c)3 based in Grand County.

**Colorado River Drought Contingency Planning** – Ms. Johnson said the Bureau of Reclamation accepted the final Drought Contingency Plans from the lower and upper basin states. The Imperial Irrigation District, the largest holder of river water rights, refused to sign on to the final agreement as it wanted funding to clean up the Salton Sea, which is a serious environmental and public health risk. Messrs. Mueller and Fleming of the River District would attend a joint meeting later in the day to discuss this topic further.

**Eagle River Valley State of the River Community Meeting** – Ms. Johnson noted this free public meeting was upcoming, with possible dates of May 20 or 29. Mr. Mueller of the Colorado River Water Conservation District will discuss drought contingency planning, with other speakers addressing local water issues.

**CIP Projects and Customer Communications** – Ms. Johnson said a variety of construction projects are ramping up so communication to affected customers is also increasing. She noted
the CDOT Edwards Spur Road Project would require some water shutdowns in the area that
would affect many customers; she and project engineer Mark Mantua are working on customer
notifications.

Additional Legislative Update – Ms. Moseley offered additional information on late bills
introduced in the current legislative session. Such bills deal with leasing water rights to the CWCB
in successive ten-year periods (HB19-1218); oil and gas regulations (SB19-181) that would affect
severance taxes; water rights easement legislation (HB19-1082) that would allow piping open
ditches; and authority to regulate agricultural chemicals in surface water, not just groundwater
(SB19-186). Ms. Moseley will continue to monitor such legislation on the Authority and District’s
behalf.

GENERAL COUNSEL REPORT

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

Traer Creek Settlement – Mr. Collins discussed the status of settlement with the various parties
involved in the Traer Creek legislation, which continues to wrap up. He noted the settlement
terms are confidential to the extent permitted by Colorado law but shared that the global
settlement with all entities gives money to the Authority to begin replacement of the tank.
Demolition of the failed tank is slated for this year, in addition to planned geotechnical and
gophysical investigations prior to any construction. Construction is planned for 2020, with tank
completion tentatively expected in 2021. Mr. Cowles confirmed various aspects that will be
required during construction to ensure engineers will have sufficient geotechnical information to
design the tank foundation. In response to a question, Mr. Collins confirmed that Traer Creek will
continue to be treated equally with other members to which the Authority provides service.

Restructuring Efforts – Formerly referred to as “unification,” Mr. Collins and the board
subcommittee members reported on continued exploratory efforts regarding a possible political
restructuring of the District and Authority. Staff and consultants continue to explore the benefits,
political concerns, and issues regarding representation through election. Mr. Porzak is working
through potential impacts and benefits to the unallocated water of each entity. In response to a
question, Mr. Collins said each affected Authority member district and town would need to
consent to such a restructuring.

6 West Update – Messrs. Collins and Cowles discussed the continued issues of poor
construction at the development. The Authority and District have required an extended warranty
and warranty bonds to ensure any future water and sewer main installation issues are remedied
at the developer’s cost.
\textbf{WATER COUNSEL REPORT}

Mr. Porzak referred to his legal reports in the board packet.

\textbf{Wolford Mountain Reservoir Conditional Exchange/Absolute Diligence Application} – It was reported that there were no opposers to the application. Copies of the response to the division engineer’s summary of consultation and motion for entry of ruling and decree are attached hereto as Exhibit H and incorporated herein by this reference.

\textbf{EXECUTIVE SESSION}

Mr. Porzak requested the Board enter into Executive Session to receive legal advice regarding the Bolts Lake/Minturn water service agreement, CRCA matters, river access matters, the Colorado Outdoor Recreation and Economy Act, and water rights hydrology model 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. Upon motion duly made and seconded, it was unanimously

\textbf{RESOLVED} to enter Executive Session at 10:12 a.m. to discuss attorney-client privileged issues concerning the Bolts Lake/Minturn water service agreement, CRCA matters, river access matters, the Colorado Outdoor Recreation and Economy Act, and water rights hydrology model sharing, 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 11:00 a.m.

\textbf{Minturn Water Service Agreement} – After discussion and upon motion duly made and seconded, it was unanimously

\textbf{RESOLVED} that the board hereby authorizes Mr. Porzak to communicate the following to the town of Minturn: it must abandon its Cross Creek water rights or subordinate such rights to Authority and District water rights to ensure consistent filling of a proposed Bolts Lake Reservoir.
ADJOURNMENT
There being no further business to come before the Board, the meeting adjourned at 11:01 a.m.

Respectfully submitted,

___________________________________
Secretary to the Meeting

MINUTES APPROVED, FORMAL CALL, AND
NOTICE OF MEETING WAIVED

___________________________________
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

*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.

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Glenn Porzak, Water Counsel