

Upper Eagle Regional Water Authority

Board of Directors Meeting

April 25, 2019

MINUTES

1 A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was
2 held April 25, 2019, 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 and alternate were present, thereby constituting a quorum:**

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

12 **Also in attendance were:**

13 <u>District Staff</u>	26	Brian Tracy
14 Linn Brooks	27	Amy Vogt
15 Kyle Collins	28	Chris Wolff
16 Jason Cowles	29	James Wilkins
17 Catherine Hayes	30	Len Wright
18 Angie Horn	31	Courtney Zippel
19 Diane Johnson	32	<u>Consultants</u>
20 Ali Kelkenberg	33	Jim Collins, Collins Cockrel & Cole
21 John McCaulley	34	Glenn Porzak, Porzak Browning & Bushong LLP
22 Melissa Mills McLoota	35	<u>Public</u>
23 Kailey Rosema	36	Eric Heil, Town of Avon
24 Micah Schuette	37	Bill Simmons, Beaver Creek Metropolitan District
25 Jeff Schneider		

38 **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

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

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

48 **CALL TO ORDER**

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

50 **PUBLIC COMMENT**

51 Public Comment was called for, and there was none.

52 **INTRODUCTIONS**

53 Ms. Brooks introduced Chris Wolff, the District's new water demand management coordinator. He will
54 report to Customer Service Manager Maureen Mulcahy.

55 **ACTION ITEMS**

56 **Consideration of Minutes** – The minutes of the regular meeting of March 28, 2019, were considered.

57 Upon motion duly made and seconded, it was unanimously

58 **RESOLVED** that the minutes of the March 28, 2019, regular meeting be accepted and hereby are
59 approved as presented.

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1 The minutes of the joint special meeting of March 28, 2019, with the Eagle River Water & Sanitation
2 District were considered. Upon motion duly made and seconded, it was unanimously

3 **RESOLVED** that the minutes of the March 28, 2019, joint special meeting with the District be
4 accepted and hereby are approved as presented. Directors Williams and Woodworth abstained.

5 **Colorado World Resorts Cash-in-Lieu of Water Rights Request** – Mr. Schuette discussed a board
6 action request and related documents regarding a cash-in-lieu request from Colorado World Resorts. A
7 copy of these documents is attached hereto as **Exhibit A** and incorporated herein by this reference. Mr.
8 Schuette clarified this development is east of the Ascent in Avon and south of Highway 6. Discussion
9 ensued regarding the Authority's remaining pool of unallocated water, which. Ms. Brooks confirmed
10 accounts for all known projects, even those for which cash-in-lieu applications have not yet been
11 received. After additional discussion and upon motion duly made and seconded, it was unanimously

12 **RESOLVED** that the Colorado World Resorts cash-in-lieu of water rights request be and hereby
13 is approved as presented.

14 **Warner Building Cash-in-Lieu of Water Rights Request** – Mr. Schuette presented a board action
15 request and related documents regarding a cash-in-lieu of water rights request from the Warner Property
16 CO, LTD for a proposed development in EagleVail. A copy of these documents is attached hereto as
17 **Exhibit B** and incorporated herein by this reference. The property is currently used as office space but
18 would be converted to dorm-style employee housing. After discussion and upon motion duly made and
19 seconded, it was unanimously

20 **RESOLVED** that the Warner Property CO, LTD cash-in-lieu of water rights request be and hereby
21 is approved as presented.

22 **STRATEGY ITEMS**

23 Board input was requested and there was none.

24 **GENERAL MANAGER REPORT**

25 The General Manager's report was presented, a copy of which is attached hereto as **Exhibit C** and
26 incorporated herein by this reference. Monthly reports were acknowledged, copies of which are attached
27 hereto as **Exhibit D** and incorporated herein by this reference.

28 **Recruiting.com Video** – Ms. Kelkenberg, Senior HR generalist, and Ms. Vogt, Community
29 Relations Specialist, presented information on the District's recruiting website, including recently
30 completed videos. The videos feature District employees and promote the culture and benefits of
31 working at the District, especially in highly technical roles like water and wastewater operations,
32 which are typically hard to recruit. The board thanked them for the presentation.

33 **Climate Action Collaborative 2018 Annual Report** – Ms. Brooks called attention to the report
34 included in board packets, a copy of which is attached hereto as **Exhibit E** and incorporated
35 herein by this reference. She said staff participates in the Collaborative and will continue to

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1 participate in work groups and meetings to help meet the countywide goals for emissions
2 reductions.

3 **Stillwater Update** – Mr. Wilkins briefly updated on the District’s employee housing development,
4 Stillwater, located in west Edwards. The project is slated for completion in mid-July, with
5 employee move-in scheduled for mid-August. The project remains on time and on budget. Mr.
6 Wilkins will apprise the board when tours are available for board and community members.

7 **ENGINEERING REPORT**

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

10 **Eagle River Village (ERV) Mobile Home Park Drinking Water Update** – Mr. Cowles
11 summarized efforts to get the residents of the ERV mobile home park onto the Authority’s water
12 supply system. The park is currently served by a private system that meets state regulations, but
13 has odor and taste issues, so most residents purchase bottled water. District staff worked with
14 Our Community Foundation and Eagle County to come to agreement with the park owner,
15 Ascentia, with each party offering some contribution to the effort. Ascentia recently declined to
16 participate in the deal, saying it was not economically viable.

17 **Eagle Park Reservoir Comprehensive Dam Safety Evaluation** – Mr. Cowles and Dr. Wright
18 discussed a request from the Colorado Division of Water Resources Dam Safety Division to
19 include Eagle Park Reservoir as part of a pilot project regarding a comprehensive dam safety
20 evaluation. There would be no cost to the Reservoir Company, and staff believes it will strengthen
21 the relationship with the state in this area. The board agreed that it was prudent to participate in
22 the pilot project and directed staff to move forward with the pilot project.

23 **OPERATIONS REPORT**

24 The operations report was presented, a copy of which is attached hereto as **Exhibit G** and incorporated
25 herein by this reference.

26 **Lead and Copper Sampling Presentation** – Mr. Tracy introduced Ms. Rosema, the District’s
27 water quality coordinator. Ms. Rosema presented information regarding the lead and copper
28 sampling requirements set forth by the Environmental Protection Agency (EPA), which the
29 Authority and District must meet. A related memo is attached hereto as **Exhibit H** and
30 incorporated herein by this reference. Samples include a target of 30 residences in each the
31 Authority and District taken between June 1 and Sept. 30 annually. Lead pipes are not known to
32 exist in the Authority and District service area, but sampling will focus on homes built between
33 1983–1987 that are likely to have lead solder in copper pipes, which could be a source of lead for
34 tap water in individual homes. Outreach efforts will begin shortly to find properties to participate,
35 with letters and follow-up phone calls to communicate to property owners whose homes meet the

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1 criteria for sampling. Participants are also offered a small credit on their water bills as a thank you
2 for their participation. Historically, lead concentrations in customer tap water have tested below
3 EPA action levels. The board thanked Ms. Rosema for her presentation.

4 **COMMUNICATION AND PUBLIC AFFAIRS REPORT**

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

7 **Snowpack Update** – Ms. Johnson discussed local snowpack and noted the Vail Mountain
8 SNOTEL site peaked a month early, on March 25, at 92% of normal snow water equivalent.
9 Copper Mountain also may have peaked two weeks early, but is above normal peak SWE. The
10 Fremont Pass site has yet to peak and is also above normal peak SWE. Discussion ensued
11 regarding conditions at the various SNOTEL sites and how climate change is affecting snowpack
12 and runoff.

13 **Colorado River Drought Contingency Planning** – Ms. Johnson discussed the Colorado River
14 Drought Contingency Plan that was agreed upon by the upper and lower basin states and signed
15 into law by President Trump. The Imperial Irrigation District (IID) did not sign the DCP, and the
16 same day that Trump signed the plan, the IID filed suit in California to block it.

17 **GENERAL COUNSEL REPORT**

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

19 **Traer Creek Settlement** – Mr. Collins noted the Authority's settlement with Traer Creek was
20 complete. Staff will begin focusing efforts on new tank construction plans; the new tank would
21 likely be online in 2021. Discussion ensued, and Mr. Collins confirmed that the Authority member
22 districts were aware of the settlement, with no further communication expected on the matter.

23 **6 West Update** – Messrs. Collins and Cowles discussed the additional infrastructure issues at
24 the development, which are being corrected by the general contractor. He reminded directors that
25 the Authority and District have required an extended warranty and warranty bonds to ensure any
26 future water and sewer main installation issues are remedied at the developer's cost.

27 **Restructuring Efforts** – Mr. Collins reported that meetings were ongoing about the possibility of
28 restructuring the Authority and District boards. A late-May meeting is scheduled with the board
29 subcommittee and involved staff. Discussion ensued regarding the feasibility of establishing
30 "wards" instead of director districts, by which residents of each ward would elect only that ward's
31 director, rather than the at-large method by which special district board members are currently
32 elected.

33 **WATER COUNSEL REPORT**

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

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1 **Black Lakes Augmentation Plan** – Mr. Porzak discussed the plan, which specifically includes
2 Minturn/Battle Mountain as a place where those water rights could be used. Settlement was
3 reached on the matter with the City of Aurora, which opposed the plan. Mr. Porzak filed a motion
4 for entry of decree regarding the plan, a copy of which is attached hereto as **Exhibit J** and
5 incorporated herein by this reference. Mr. Porzak expects the referee to sign the decree shortly.

6 **Wolford Mountain Diligence Application** – Mr. Porzak reminded the board that the Authority's
7 Wolford Mountain water rights have decreed exchanges by which the Authority can divert it, and
8 in certain years, it can be augmented by exchange. He noted a portion of those exchanges was
9 conditional and as such, a diligence application was filed. There were no opponents and the
10 referee entered a ruling.

11 Msses. Horn, Rosema, Vogt and Zippel, and Messrs. K. Collins, and Wolff left the meeting at 9:48 a.m.

12 **EXECUTIVE SESSION**

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

17 **RESOLVED** to enter Executive Session at 9:49 a.m. to discuss attorney-client privileged
18 issues concerning the Hahnewald Barn and an emergency tank hatch repair, pursuant to
19 §24-6-402(4)(b) and (e) C.R.S. with no electronic record created as Mr. Collins opined the
20 contents of the discussion would contain privileged attorney-client communications.*

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

26 **RESOLVED** to continue Executive Session at 10:12 a.m. to discuss attorney-client privileged
27 issues concerning the Bolts Lake/Minturn water service agreement and bulk water and
28 delivery agreement, CRCA matters, and unallocated water rights, pursuant to §24-6-
29 402(4)(b) and (e) C.R.S. with no electronic record created as Mr. Porzak opined the contents
30 of the discussion would contain privileged attorney-client communications.*

31 The regular meeting resumed at 11:16 a.m.
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1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 11:17 a.m.

3 Respectfully submitted,

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6 Secretary to the Meeting

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

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12 **Arrowhead Metropolitan District**

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15 **Town of Avon**

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18 **Beaver Creek Metropolitan District**

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21 **Berry Creek Metropolitan District**

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24 **EagleVail Metropolitan District**

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27 **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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42 **Glenn Porzak, Water Counsel**