

# Upper Eagle Regional Water Authority

## Board of Directors Meeting

May 23, 2019

### MINUTES

1 A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was  
2 held May 23, 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 Pam Elsner, Beaver Creek Metropolitan District  
8 Melissa Nelson, Berry Creek Metropolitan District alternate  
9 Sarah Smith Hymes, Town of Avon  
10 Kim Bell Williams, EagleVail Metropolitan District  
11 Mick Woodworth, Edwards Metropolitan District

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

13 George Gregory, Berry Creek Metropolitan District

14 **Also in attendance were:**

15 <u>District Staff</u>	26	Amy Vogt
16 Linn Brooks	27	James Wilkins
17 Kyle Collins	28	Chris Wolff
18 Jason Cowles	29	Len Wright
19 Catherine Hayes	30	Courtney Zippel
20 Diane Johnson	31	<u>Consultants</u>
21 Kira Koppel	32	Jim Collins, Collins Cockrel & Cole
22 Maureen Mulcahy	33	Glenn Porzak, Porzak Browning & Bushong LLP
23 Jeff Schneider	34	<u>Public</u>
24 Micah Schuette	35	Dan Godec, Berry Creek Metropolitan District
25 Jason Sica		

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 Acting Chair Smith Hymes called the meeting to order at 8:30 a.m. She noted Ms. Nelson was attending  
48 on behalf of Berry Creek Metropolitan District in Chair Gregory's absence. A copy of Ms. Nelson's oath of  
49 office was entered into the record and is attached hereto as **Exhibit A** and incorporated herein by this  
50 reference.

51 **PUBLIC COMMENT**

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

53 **INTRODUCTIONS**

54 Ms. Hayes introduced Ms. Koppel, the District's new Sustainability Coordinator.

55 **ACTION ITEMS**

56 **Consideration of Minutes** – The minutes of the regular meeting of April 25, 2019, were considered.

57 Upon motion duly made and seconded, it was unanimously

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1           **RESOLVED** that the minutes of the April 25, 2019, regular meeting be accepted and hereby are  
2 approved as presented.

### 3 **STRATEGY ITEMS**

4           **WaterSmart Presentation** – Mr. Wolff discussed his memo regarding WaterSmart, the new  
5 customer service water efficiency portal. A copy of the memo is attached hereto as **Exhibit B** and  
6 incorporated herein by this reference. Mr. Wolff demonstrated the various features of the  
7 WaterSmart software, noting the opportunities for customer comparison to similar homes in their  
8 neighborhood, customer scores for water use efficiency, and suspected leak notification, among  
9 other available options. He said all customers will be notified of the new software and invited to  
10 enroll, via letter or email, depending on the available contact information for each customer. Mr.  
11 Wolff noted he was presenting a more in-depth look at the WaterSmart software at the May 29  
12 Lunch with the Locals in the Grandview Room in Vail. The Board thanked him for his  
13 presentation.

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

### 15 **GENERAL MANAGER REPORT**

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

### 19 **FINANCE REPORT**

20           **Quarterly Financial Report** – Mr. Wilkins presented the Q1 financials, a copy of which is  
21 attached hereto as **Exhibit E** and incorporated herein by this reference. He noted revenues were  
22 tracking closely to the budgeted amount for the first quarter. The continued cold, snowy weather  
23 has precluded the need for early outdoor irrigation water use, so May water sales are lower than  
24 normal. Few tap fees were collected in the first quarter, which is expected based on previous  
25 years and a slow start to construction season during the winter. In response to a question, Mr.  
26 Wilkins said the 6 West development paid a portion of its tap fees in 2018 and the remainder in  
27 2019. Discussion ensued regarding staff efforts to update the Authority's water system impact  
28 fees due as projects are added to the capital investment plan. To that end, the board directed Ms.  
29 Hayes to provide a 30-day notice for the June 27 board meeting, at which the water system  
30 impact fee increase would be considered.

### 31 **OPERATIONS REPORT**

32 The operations report was presented, a copy of which is attached hereto as **Exhibit F** and incorporated  
33 herein by this reference.

34           **Lake Powell Elevation** – The board discussed the current water year, which saw a high  
35 precipitation volume. This will increase the level of Lake Powell, but because of the "new normal"  
36 of a warming climate, it's unclear how this will contribute to a total percentage of increase.

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## 1 **ENGINEERING REPORT**

2 Mr. Cowles noted he did not include a written report this month.

3 **6 West Update** – Mr. Cowles and Mr. Collins updated on the 6 West development and its various  
4 issues, including the poorly installed water and sewer infrastructure. The Authority and District  
5 have agreed to accept the infrastructure on the condition that 6 West Apartments, LLC provides a  
6 three-year warranty backed by security. The Developer will provide approximately \$340,000 in  
7 cash as security, which be held in escrow during the three-year warranty period. The warranty  
8 may be extended if any repairs are required during the warranty period.

## 9 **COMMUNICATION AND PUBLIC AFFAIRS REPORT**

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

12 **Water Use Regulations** – Ms. Johnson said an informational pamphlet was distributed with the  
13 May billing statements to remind customers of the water use regulations, via mail or email. A copy  
14 of the pamphlets is attached hereto as **Exhibit H** and incorporated herein by this reference.

15 **Colorado River Drought Contingency Planning** – Ms. Johnson discussed the Colorado River  
16 Drought Contingency Plan that was agreed upon by the upper and lower basin states and signed  
17 into law by President Trump. All seven basin states signed the agreement the past Monday. Ms.  
18 Johnson explained the significance of this plan and discussed continuing efforts in Colorado to  
19 come to agreement on how to avert or handle a “compact call.”

## 20 **GENERAL COUNSEL REPORT**

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

22 **Restructuring Efforts** – Mr. Collins and Acting Chair Smith Hymes discussed Monday's  
23 restructuring committee meeting. Topics of ongoing discussion include a better quantification of  
24 potential cost savings; how to ensure current tenets of the Authority Agreement would be  
25 preserved and translate to the new governing board; and future legislation to allow the electors of  
26 each director district to elect that district's board representative, rather than the current at-large  
27 system. Once staff gathers the needed data, another meeting will be scheduled. Discussion  
28 ensued regarding management and ownership possibilities of the water rights of the member  
29 entities of any new governing body.

## 30 **WATER COUNSEL REPORT**

31 Mr. Porzak referred to his confidential legal report included in the confidential packet and noted all of his  
32 topics would be discussed in Executive Session.

33  
34 Mses. Koppel and Zippel, and Messrs. K. Collins, Schneider, and Wolff left the meeting at 9:35 a.m.

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1    **EXECUTIVE SESSION**

2    Mr. Collins requested the Board enter into Executive Session to receive legal advice regarding the Eagle  
3    River Village Mobile Home Park, Traer Creek, and a backflow program update, pursuant to §24-6-  
4    402(4)(b) and (e) C.R.S. He asked that no electronic record be made, as the discussion would be entirely  
5    privileged attorney-client communications. Upon motion duly made and seconded, it was unanimously

6                   **RESOLVED** to enter Executive Session at 9:36 a.m. to discuss attorney-client privileged  
7                   issues concerning the Eagle River Village Mobile Home Park, Traer Creek, and a backflow  
8                   program update, pursuant to §24-6-402(4)(b) and (e) C.R.S. with no electronic record created  
9                   as Mr. Collins opined the contents of the discussion would contain privileged attorney-client  
10                  communications.\*

11   Mr. Porzak requested the Board continue Executive Session to receive legal advice regarding the Bolts  
12   Lake agreement/Minturn bulk water and delivery agreement, CRCA matters, water hydrology model  
13   sharing, and Eagle Park Reservoir water quality, pursuant to §24-6-402(4)(b) and (e) C.R.S. He asked  
14   that no electronic record be made, as the discussion would be entirely privileged attorney-client  
15   communications. Upon motion duly made and seconded, it was unanimously

16                   **RESOLVED** to continue Executive Session at 9:46 a.m. to discuss attorney-client privileged  
17                   issues concerning the Bolts Lake agreement/Minturn bulk water and delivery agreement,  
18                   CRCA matters, water hydrology model sharing, and Eagle Park Reservoir water quality,  
19                   pursuant to §24-6-402(4)(b) and (e) C.R.S. with no electronic record created as Mr. Porzak  
20                   opined the contents of the discussion would contain privileged attorney-client  
21                   communications.\*

22   The regular meeting resumed at 10:42 a.m.  
23  
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1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 10:43 a.m.

3 Respectfully submitted,

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5 \_\_\_\_\_  
6 Secretary to the Meeting

7  
8 **MINUTES APPROVED, FORMAL CALL, AND**  
9 **NOTICE OF MEETING WAIVED**

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11 \_\_\_\_\_  
12 **Arrowhead Metropolitan District**

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14 \_\_\_\_\_  
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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41 \_\_\_\_\_  
42 **Jim Collins, General Counsel**

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