

Upper Eagle Regional Water Authority

Board of Directors Meeting

June 27, 2019

MINUTES

1 A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was
2 held June 27, 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 Eric Heil, Town of Avon alternate
9 Betsy Laughlin, EagleVail Metropolitan District alternate
10 Bill Simmons, Beaver Creek Metropolitan District alternate

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

12 Sarah Smith Hymes, Town of Avon
13 Kim Bell Williams, EagleVail Metropolitan District
14 Mick Woodworth, Edwards Metropolitan District
15 Pam Elsner, Beaver Creek Metropolitan District

16 **Also in attendance were:**

17 <u>District Staff</u>	27	Jeff Schneider
18 Linn Brooks	28	James Wilkins
19 Kyle Collins	29	Len Wright
20 Jason Cowles	30	<u>Consultants</u>
21 Carol Dickman	31	Steve Bushong, Porzak Browning & Bushong LLP
22 Catherine Hayes	32	Kathryn Winn, Collins Cockrel & Cole
23 Diane Johnson	33	Glenn Porzak, Porzak Browning & Bushong LLP
24 Seth Perry	34	<u>Public</u>
25 Siri Roman	35	Melissa Nelson, Berry Creek Metropolitan District
26 Kailey Rosema		

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 Chair Gregory called the meeting to order at 8:30 a.m. He noted Mr. Heil was attending on behalf of the
48 town of Avon in Ms. Smith Hymes' absence. A copy of Mr. Heil's oath of office was entered into the record
49 and is attached hereto as **Exhibit A** and incorporated herein by this reference.

50 **PUBLIC COMMENT**

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

52 **ACTION ITEMS**

53 **Consideration of Minutes** – The minutes of the regular meeting of May 23, 2019, were considered.

54 Upon motion duly made and seconded, it was unanimously

55 **RESOLVED** that the minutes of the May 23, 2019, regular meeting be accepted and hereby are
56 approved as presented.

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1 The minutes of the joint special meeting of May 23, 2019, with Eagle River Water & Sanitation District
2 were considered. Upon motion duly made and seconded, it was unanimously

3 **RESOLVED** that the minutes of the May 23, 2019, joint special meeting with the Eagle River
4 Water & Sanitation District be accepted and hereby are approved as presented.

5 **STRATEGY ITEMS**

6 **Board Member Input** – Board member input was called for and there was none. Ms. Brooks
7 reminded directors that this was an opportunity for them to bring up items that were not on the
8 agenda that may be of interest to the board or staff.

9 **Notice of Proposed Water System Impact Fee (WSIF) Increase** – Mr. Cowles referenced his
10 memo and related WSIF report, a copy of which is attached hereto as **Exhibit B** and incorporated
11 herein by this reference. This meeting was noticed to the public that the increase of the WSIF
12 was being considered. Such increase will be formally presented at the August 22 board meeting,
13 and Ms. Winn opined that a unanimous vote of the board is required to approve this increase. In
14 response to a question, Mr. Cowles said the WSIF was increased annually for cost of living, such
15 increases have not accounted for additional capital projects undertaken by the Authority since
16 2015. Mr. Cowles noted Mr. Perry, the District's rate analyst, was largely responsible for
17 compiling the report and noted his appreciation for Mr. Perry's work.

18 Mr. Perry left the meeting at 8:35 a.m.

19 **GENERAL MANAGER REPORT**

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

23 **Backflow Prevention and Cross-Connection Control Program (BPCCCP) Notice of**
24 **Violation** – Ms. Brooks discussed the receipt of a formal notice of violation from the Colorado
25 Department of Public Health and Environment (CDPHE) regarding the District and Authority's
26 BPCCCP on June 7. Required notification to customers must be issued within 30 days of the
27 formal notice. A letter containing required information was prepared by staff and will be mailed on
28 July 2 with customer water bills. A press release will also be issued to reach customers who do
29 not receive a water bill. Customer support is also needed to meet compliance with the BPCCCP,
30 which is another reason to communicate broadly with the larger community about this matter. A
31 copy of the letter is attached hereto as **Exhibit E** and incorporated herein by this reference.

32 **Director of Operations Promotion** – Ms. Brooks congratulated Ms. Roman on her recent
33 promotion to Director of Operations. This position hasn't been filled since 2015. Ms. Roman will
34 oversee the water, wastewater, and field operations departments. Her former position,
35 wastewater manager, will be recruited shortly, along with the open water manager position that
36 resulted from Brian Tracy's recent resignation.

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1 OPERATIONS REPORT

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

4 **Lift Station #4 State Notification** – Ms. Brooks summarized a recent sewage overflow at Lift
5 Station #4 in Dowd Junction. Per regulations, the state was notified. It is the oldest lift station in
6 the District’s system and was already slated for repair in 2020. Staff is looking for ways to
7 accelerate replacement.

8 **Lead and Copper Rule Sampling Update** – Ms. Rosema updated the board on the required
9 lead and copper sampling efforts. There was a good response to the original round of request
10 letters, and half of the Authority’s samples were collected within the first three weeks of the
11 sampling period. Ms. Rosema gave background on why homes with water softeners and whole-
12 home filtration systems were ineligible for the sample pool, which is smaller than in previous
13 years due to recent changes to the rule. She explained that these systems mitigate “hard water”
14 by removing the calcium and magnesium ions from water. Hard water buildup actually protects
15 pipes from corrosion and poses no human health threat. In-house softeners and treatment
16 systems are not encouraged because of the negative impacts they have to wastewater discharge
17 limits and in-house pipe corrosion. Discussion ensued regarding communication of this
18 information to the public.

19 **Eagle Park Reservoir Company Quarterly Update** – The confidential EPRC quarterly
20 operations report was acknowledged.

21 ENGINEERING REPORT

22 Mr. Cowles discussed his report, a copy of which is attached hereto as **Exhibit G** and incorporated herein
23 by this reference.

24 COMMUNICATION AND PUBLIC AFFAIRS REPORT

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

27 **Colorado Basin Roundtable Update** – Ms. Johnson discussed the Colorado Basin Roundtable
28 and meetings of the four West Slope basin roundtables regarding Phase III of the Risk Study,
29 with funding provided by the Colorado River District and Southwest Water Conservancy District.
30 The Risk Study focuses on the implications of a Compact Call, as well as how the Front Range
31 and West Slope would be affected. Discussion ensued regarding the seniority of the Authority
32 and District’s water rights, the state politics that would be involved in meeting a compact call, and
33 various other considerations. Ms. Johnson noted former River District general manager, Eric
34 Kuhn, was coauthoring a book titled “Science be Dammed: How Ignoring Inconvenient Science
35 Drained the Colorado River.” The book is slated for release in November 2019.

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1 **Colorado’s Water Plan Funding** – Ms. Johnson noted an educational campaign called “For the
2 Love of Colorado” that is being funded in part by philanthropists to raise awareness of the need to
3 fund Colorado’s Water Plan, which was signed into law by then-governor Hickenlooper in 2015. It
4 is not associated with a ballot initiative that would legalize sports betting to at least partially fund
5 Plan projects. The sports betting initiative may appear on November ballots.

6 **Legislative Updates** – Ms. Johnson reported that the Colorado Outdoor Recreation and
7 Economy (CORE) Act passed through the House Committee, clearing one major hurdle. The
8 CORE Act calls for preservation of large amounts of public land. Ms. Johnson and Ms. Winn also
9 discussed a push for a potential ballot question that would allow voters to decide whether to fully
10 repeal the Taxpayer’s Bill of Rights (TABOR). Ms. Winn noted the likelihood of a full repeal was
11 unlikely; her firm continues to stay abreast of any developments on the matter.

12 **GENERAL COUNSEL REPORT**

13 In Mr. Collins absence, Ms. Winn was attending the meeting and referred to her confidential legal report
14 included in the confidential packet.

15 **Changes to Meeting Posting and Agenda Requirements** – Ms. Winn reported that on Aug.1
16 special districts can post meeting and agenda notices on their websites rather than physical
17 posting in three locations plus at the district’s main office. Such changes will also require updates
18 to the Authority and District bylaws, which will be presented to the boards in July. Ms. Winn
19 suggested continuing the current physical posting methods for some months to communicate the
20 change to the public.

21 **Proposed Purchase of the Biosolids Containment Facility (BCF) Land** – Ms. Winn updated
22 on the District’s desire to purchase outright the BCF land, for which the District currently has a
23 patent with the Bureau of Land Management (BLM) which restricts the use of the land. Ms. Winn
24 reported that the BLM is willing to work with the District but does not have a real estate specialist
25 in place right now. Such a person will need to be hired before progress can be made to that end.
26 In the interim, staff is working with a local solar company to ensure site feasibility, as well as
27 discussing the proposal with Holy Cross Energy, the electric provider for the Authority and
28 District, which needs to determine the appropriate agreements, policies, and physical equipment
29 by which any solar power produced at the array would ultimately offset Authority and District
30 electric use.

31 **WATER COUNSEL REPORT**

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

33 **Homestake Exchange** – Mr. Porzak discussed the diligence case for the Homestake Exchange,
34 noting that a private citizen was the lone opponent in the case. Additionally, the new division
35 engineer, who has little experience with the Authority and District’s service area and operations,

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1 requested receipts for the \$108 million in expenditures that are the basis for the diligence in the
2 application. The water referee determined this was an unreasonable request, but it is creating a
3 delay in the approval of the application.

4 Mr. K. Collins and Ms. Rosema left the meeting at 9:37 a.m.

5 EXECUTIVE SESSION

6 Ms. Winn requested the Board enter into Executive Session to receive legal advice regarding Lift Station
7 #4 and a backflow program update, pursuant to §24-6-402(4)(b) and (e) C.R.S. She asked that no
8 electronic record be made, as the discussion would be entirely privileged attorney-client communications.
9 Upon motion duly made and seconded, it was unanimously

10 **RESOLVED** to enter Executive Session at 9:38 a.m. to discuss attorney-client privileged
11 issues concerning Lift Station #4 and a backflow program update, pursuant to §24-6-
12 402(4)(b) and (e) C.R.S. with no electronic record created as Ms. Winn opined the contents
13 of the discussion would contain privileged attorney-client communications.*

14 Mr. Bushong joined the meeting at 9:40 a.m.

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

20 **RESOLVED** to continue Executive Session at 9:40 a.m. to discuss attorney-client privileged
21 issues concerning the Bolts Lake agreement/Minturn bulk water and delivery agreement,
22 CRCA matters, and water hydrology model sharing, pursuant to §24-6-402(4)(b) and (e)
23 C.R.S. with no electronic record created as Mr. Porzak opined the contents of the discussion
24 would contain privileged attorney-client communications.*

25 The regular meeting resumed at 10:14 a.m.

26 **Update on Climax, Eagle Mines** – Mr. Bushong of Porzak Browning and Bushong LLP updated the
27 board on Climax Mine and Eagle Mine matters. He said the Eagle Park Reservoir water quality is
28 excellent; however, issues of ongoing concern surrounding Climax Mine include increasing levels of
29 molybdenum from their operations and the potential to adversely affect water quality in the surrounding
30 watersheds. Mr. Bushong also discussed ongoing issues at Eagle Mine regarding maintenance,
31 monitoring, and notifications as it relates to mine operations and how such issues can affect water quality
32 in the Eagle River. He did acknowledge that progress is being made at Eagle Mine regarding better
33 maintenance and communication of incidents.

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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 **Kathryn Winn, General Counsel**

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44 **Glenn Porzak, Water Counsel**