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

The following Director was absent and excused:

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

Also in attendance were:

- District Staff
- Linn Brooks
- Kyle Collins
- Jason Cowles
- Carol Dickman
- Catherine Hayes
- Diane Johnson
- Seth Perry
- Siri Roman
- Kailey Rosema
- Jeff Schneider
- James Wilkins
- Len Wright
- Consultants
- Steve Bushong, Porzak Browning & Bushong LLP
- Kathryn Winn, Collins Cockrel & Cole
- Glenn Porzak, Porzak Browning & Bushong LLP
- Public
- 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. He noted Mr. Heil was attending on behalf of the town of Avon in Ms. Smith Hymes’ absence. A copy of Mr. Heil’s oath of office was entered into the record and is attached hereto as Exhibit A and incorporated herein by this reference.

PUBLIC COMMENT

Public Comment was called for, and there was none.

ACTION ITEMS

Consideration of Minutes – The minutes of the regular meeting of May 23, 2019, were considered. Upon motion duly made and seconded, it was unanimously RESOLVED that the minutes of the May 23, 2019, regular meeting be accepted and hereby are approved as presented.
The minutes of the joint special meeting of May 23, 2019, with Eagle River Water & Sanitation District were considered. Upon motion duly made and seconded, it was unanimously

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

STRATEGY ITEMS

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

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

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

GENERAL MANAGER REPORT

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

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

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

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

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

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

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

ENGINEERING REPORT

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

COMMUNICATION AND PUBLIC AFFAIRS REPORT

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

Colorado Basin Roundtable Update – Ms. Johnson discussed the Colorado Basin Roundtable and meetings of the four West Slope basin roundtables regarding Phase III of the Risk Study, with funding provided by the Colorado River District and Southwest Water Conservancy District. The Risk Study focuses on the implications of a Compact Call, as well as how the Front Range and West Slope would be affected. Discussion ensued regarding the seniority of the Authority and District’s water rights, the state politics that would be involved in meeting a compact call, and various other considerations. Ms. Johnson noted former River District general manager, Eric Kuhn, was coauthoring a book titled “Science be Dammed: How Ignoring Inconvenient Science Drained the Colorado River.” The book is slated for release in November 2019.
Colorado's Water Plan Funding – Ms. Johnson noted an educational campaign called “For the Love of Colorado” that is being funded in part by philanthropists to raise awareness of the need to fund Colorado’s Water Plan, which was signed into law by then-governor Hickenlooper in 2015. It is not associated with a ballot initiative that would legalize sports betting to at least partially fund Plan projects. The sports betting initiative may appear on November ballots.

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

GENERAL COUNSEL REPORT

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

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

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

WATER COUNSEL REPORT

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

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

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

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

EXECUTIVE SESSION

Ms. Winn requested the Board enter into Executive Session to receive legal advice regarding Lift Station #4 and a backflow program update, pursuant to §24-6-402(4)(b) and (e) C.R.S. She 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

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

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

Mr. Porzak requested the Board continue Executive Session to receive legal advice regarding the Bolts Lake agreement/Minturn bulk water and delivery agreement, CRCA matters, and water 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

RESOLVED to continue Executive Session at 9:40 a.m. to discuss attorney-client privileged issues concerning the Bolts Lake agreement/Minturn bulk water and delivery agreement, CRCA matters, and water 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 10:14 a.m.

Update on Climax, Eagle Mines – Mr. Bushong of Porzak Browning and Bushong LLP updated the board on Climax Mine and Eagle Mine matters. He said the Eagle Park Reservoir water quality is excellent; however, issues of ongoing concern surrounding Climax Mine include increasing levels of molybdenum from their operations and the potential to adversely affect water quality in the surrounding watersheds. Mr. Bushong also discussed ongoing issues at Eagle Mine regarding maintenance, monitoring, and notifications as it relates to mine operations and how such issues can affect water quality in the Eagle River. He did acknowledge that progress is being made at Eagle Mine regarding better maintenance and communication of incidents.
ADJOURNMENT
There being no further business to come before the Board, the meeting adjourned at 11:17 a.m.

Respectfully submitted,

___________________________________
Secretary to the Meeting

MINUTES APPROVED, FORMAL CALL, AND
NOTICE OF MEETING WAIVED

___________________________________
Arrowhead Metropolitan District

___________________________________
Town of Avon

___________________________________
Beaver Creek Metropolitan District

___________________________________
Berry Creek Metropolitan District

___________________________________
EagleVail Metropolitan District

___________________________________
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.

Kathryn Winn, General Counsel
Glenn Porzak, Water Counsel