

# Upper Eagle Regional Water Authority

## Board of Directors Meeting

July 25, 2019

### MINUTES

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

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

#### 12 **Also in attendance were:**

13 <u>District Staff</u>	21 Amy Vogt
14 Linn Brooks	22 Justin Way
15 Carol Dickman	23 James Wilkins
16 Catherine Hayes	24 Len Wright
17 Diane Johnson	25 <u>Consultants</u>
18 Byron Nelson	26 Kristin Moseley, Porzak Browning & Bushong LLP
19 Siri Roman	27 Glenn Porzak, Porzak Browning & Bushong LLP
20 Jeff Schneider	28 Kathryn Winn, Collins Cockrel & Cole

#### 29 **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

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

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

#### 39 **CALL TO ORDER**

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

#### 41 **PUBLIC COMMENT**

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

#### 43 **ACTION ITEMS**

44 **Consideration of Minutes** – The minutes of the regular meeting of June 27, 2019, were considered.

45 Upon motion duly made and seconded, it was unanimously

46 **RESOLVED** that the minutes of the June 27, 2019, regular meeting be accepted and hereby are  
47 approved as presented. Secretary Williams and Director Elsner abstained.

48 **Online Posting of Meeting Notices** – Ms. Winn discussed a resolution to allow online posting of  
49 Authority meeting notices for board meetings and work sessions on the District's website beginning on  
50 Aug. 2, per new legislation. A copy of the resolution is attached hereto as **Exhibit A** and incorporated  
51 herein by this reference. Ms. Winn confirmed other local special districts would also commence online  
52 posting of such notices, and she suggested notices continue to be physically posted at the Vail  
53 Administration office for a period of time. After discussion and upon motion duly made and seconded, it  
54 was unanimously

# Upper Eagle Regional Water Authority

1           **RESOLVED** that the resolution allowing online posting of meeting notices be and hereby is  
2 approved as presented.

## 3 **STRATEGY ITEMS**

4           **Board Member Input** – Director Woodworth requested a progress update on the Eagle River  
5 Village Mobile Home Park water service on behalf of the Edwards Metropolitan District. Ms.  
6 Brooks said there was no progress to report from the Authority. Chair Gregory noted the District’s  
7 new WaterSmart customer software system alerted him of a leak in his irrigation system, which  
8 he appreciated.

## 9 **GENERAL MANAGER REPORT**

10 Ms. Brooks noted she did not include a public report in this month’s packets. Monthly reports were  
11 acknowledged, copies of which are attached hereto as **Exhibit B** and incorporated herein by this  
12 reference.

13           **Meeting with Harvey Economics re Purpose and Need Review** – Ms. Brooks reported on a  
14 meeting with a prospective firm to review the Authority and District’s purpose and need for new  
15 water supply from an economist’s point of view. Funds were budgeted for this purpose and are  
16 available, with an estimated \$25,000 cost for these services. The board directed Linn to engage  
17 the firm for this review.

## 18 **OPERATIONS REPORT**

19 Ms. Roman presented the operations report, a copy of which is attached hereto as **Exhibit C** and  
20 incorporated herein by this reference.

21           **2019 Peak Runoff and Peak Flows** – Ms. Roman noted peak runoff occurred late this year, in  
22 July compared to June in an average year. Runoff coincided with peak flows into the wastewater  
23 treatment facilities, which were very high compared to previous years. Edwards Wastewater  
24 Treatment Facility experienced increased inflow due to manholes and other equipment being  
25 submerged by high streamflows. Operators handled this event well, despite both large  
26 temperature swings and infiltration of river water into the plant. Staff will review work needed to  
27 protect equipment from future high streamflows.

28           **Denver Water’s Draft Lead Reduction Program Plan** – Ms. Roman discussed Denver Water’s  
29 proposed lead reduction program, for which a variance would be required from the Environmental  
30 Protection Agency (EPA). EPA wants Denver to add orthophosphate to its pipes by 2021 to  
31 reduce the corrosivity and reduce the possibility of lead getting into household water sources;  
32 however, Denver Water instead proposes to replace lead service lines within its system at its own  
33 expense – estimated at \$300 million. More information on the program is attached hereto as  
34 **Exhibit D** and incorporated herein by this reference.

35           **Holy Cross Energy (HCE) Peak Demand Pilot Program** – Ms. Hayes introduced Mr. Nelson,  
36 Edwards Wastewater operator. Mr. Nelson presented information regarding the Edwards

## Upper Eagle Regional Water Authority

1 Wastewater Treatment Facility's participation in the HCE peak demand pilot program. Program  
2 participants are alerted 24 hours in advance of a projected peak event and requested to reduce  
3 energy use during a specific time period; however, there is no risk of penalty if program  
4 participants are unable to reduce. If HCE can get its customers to reduce use during peak times,  
5 it saves money; high energy users that participate can share in the savings by reducing at the  
6 peak times and receiving rebates. During three requests for energy reduction within a one-week  
7 period, the EWW operators successfully complied and received rebates of \$3200, in addition to  
8 energy saved during the events, which average three hours total. The board thanked Mr. Nelson  
9 for the presentation and for the efforts to reduce energy use and save money.

### 10 **ENGINEERING REPORT**

11 The engineering report is attached hereto as **Exhibit E** and incorporated herein by this reference. In Mr.  
12 Cowles' absence, Mr. Schneider answered questions on the report.

13 **Traer Creek Tank Demolition** – Mr. Schneider reported on a well-attended pre-bid meeting for  
14 the Traer Creek demolition. Ms. Winn added that the license agreement is still being negotiated to  
15 allow Authority use of the land to stage the tank demolition and new construction; execution of  
16 such agreement is required by the mediated settlement. The project is expected to go to bid on  
17 Aug. 2 for fall demolition.

### 18 **COMMUNICATION AND PUBLIC AFFAIRS REPORT**

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

21 **Colorado River Update** – Ms. Johnson discussed a general update on Colorado River  
22 conditions. She noted water levels Lakes Powell and Mead were both expected to rise, but  
23 additional work to reduce usage and continue drought contingency planning is needed.  
24 Regarding drought contingency planning in Colorado, Ms. Johnson said the participants are no  
25 longer required to sign non-disclosure agreements, so the Authority and District can receive  
26 progress reports from the Colorado River District on these efforts.

27 **Stillwater Employee Housing Ribbon-Cutting** – Ms. Johnson said the ribbon-cutting ceremony  
28 and open house for the Stillwater Employee Housing Development was scheduled for Aug. 9  
29 from 11:00 a.m. – 1:00 p.m. All directors are invited to attend and walk through the development  
30 to tour units, review landscaping and common areas, and hear about the many sustainable  
31 elements that were incorporated into the design.

### 32 **GENERAL COUNSEL REPORT**

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

## Upper Eagle Regional Water Authority

1           **Water System Impact Fee Increase** – Ms. Winn reminded directors that a public hearing was  
2 noticed for the Aug. 22 board meeting to consider an increase to the Authority’s Water System  
3 Impact Fee (WSIF). The WSIF is annually updated for cost of living increases but has not been  
4 revised to account for new capital projects the Authority has undertaken since 2015. A unanimous  
5 vote of the board is required to increase the WSIF.

6           **Unification Update** – Ms. Winn said there is nothing new to report regarding unification; the  
7 subcommittee has not met since May.

### 8    **WATER COUNSEL REPORT**

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

10           **Consolidated Ditches Supreme Court Decision** – Mr. Porzak reported on a recent Supreme  
11 Court decision. It ruled that Denver Water could reuse any of its water besides that from the  
12 Moffat system, which was specifically prohibited by a 1940s agreement between Denver Water  
13 and Consolidated Ditches. He noted the Authority, District, and others had filed amicus briefs in  
14 support of Denver Water’s position; allowing Denver Water to reuse return flows decreases the  
15 amount of water Denver takes from the West Slope. A copy of the decision is attached hereto as  
16 **Exhibit G** and incorporated herein by this reference.

17           **Black Lakes Augmentation Plan** – Mr. Porzak reported the water referee ruled in the Authority’s  
18 favor for the plan, which allows the Authority to use Black Lakes water after it flows through the  
19 District service area to augment any Authority water uses. A copy of the plan is attached hereto  
20 as **Exhibit H** and incorporated herein by this reference.

21           **Edwards Drinking Water Facility Diligence** – Mr. Porzak discussed the absolute/diligence  
22 application for the Edwards Drinking Water Facility diversion and exchange. Mr. Porzak said the  
23 Authority can make absolute 0.35 cfs of the remaining 0.4 cfs that remains conditional at this  
24 point. The Board unanimously resolved that Glenn is granted the authority to file the diligence  
25 application on the Authority’s behalf.

26           **Minturn Water Interconnect** – Mr. Porzak discussed various articles in the Vail Daily regarding  
27 the proposed interconnection between the District and Authority water system and Minturn.  
28 Copies of the articles are attached hereto as **Exhibit I** and incorporated herein by this reference.  
29 He noted the Minturn Council meeting of July 17, at which no decision was reached by the  
30 council regarding the proposed interconnect. He reserved additional discussion for Executive  
31 Session.

32    Mr. Nelson and Ms. Vogt left the meeting at 9:25 a.m.

### 33    **EXECUTIVE SESSION**

34           Ms. Moseley joined the meeting at 9:40 a.m.

## Upper Eagle Regional Water Authority

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

6 **RESOLVED** to enter Executive Session at 9:26 a.m. to discuss attorney-client privileged  
7 issues concerning Bolts Lake agreement/Minturn bulk water and delivery agreement, CRCA  
8 matters, Eagle River MOU matters, and water hydrology model sharing, pursuant to §24-6-  
9 402(4)(b) and (e) C.R.S. with no electronic record created as Mr. Porzak opined the contents  
10 of the discussion would contain privileged attorney-client communications.\*

11 Ms. Moseley entered the meeting at 9:39 a.m.

12 The regular meeting resumed at 10:36 a.m.

13

# Upper Eagle Regional Water Authority

1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 10:37 a.m.

3 Respectfully submitted,

4  
5 \_\_\_\_\_  
6 Secretary to the Meeting

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

10  
11 \_\_\_\_\_  
12 **Arrowhead Metropolitan District**

13  
14 \_\_\_\_\_  
15 **Town of Avon**

16  
17 \_\_\_\_\_  
18 **Beaver Creek Metropolitan District**

19  
20 \_\_\_\_\_  
21 **Berry Creek Metropolitan District**

22  
23 \_\_\_\_\_  
24 **EagleVail Metropolitan District**

25  
26 \_\_\_\_\_  
27 **Edwards Metropolitan District**

28  
29  
30  
31  
32  
33  
34  
35  
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.

38  
39  
40  
41 \_\_\_\_\_  
42 **Glenn Porzak, Water Counsel**  
43  
44