

# Upper Eagle Regional Water Authority

## Board of Directors Meeting

October 24, 2019

### MINUTES

1 A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was  
2 held October 24, 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 alternates were present and acting, thereby constituting a quorum:**

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

12 **The following Directors were absent and excused:**

13 Pam Elsner, Beaver Creek Metropolitan District

14 **Also in attendance were:**

15 <u>District Staff</u>	28	Jason Sica
16 Linn Brooks	29	Amy Vogt
17 Alan Cerny	30	James Wilkins
18 Jason Cowles	31	Len Wright
19 Carol Dickman	32	<u>Consultants</u>
20 Catherine Hayes	33	Jim Collins, Collins Cockrel & Cole
21 Diane Johnson	34	Kristin Moseley, Porzak Browning & Bushong LLP
22 Ali Kelkenberg	35	Glenn Porzak, Porzak Browning & Bushong LLP
23 Melissa Mills McLoota	36	<u>Public</u>
24 Siri Roman	37	Melissa Nelson, Berry Creek Metropolitan District
25 Kailey Rosema	38	
26 Jeff Schneider		
27 Micah Schuette		

39 **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

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

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

49 **CALL TO ORDER**

50 Acting Chair Williams called the meeting to order at 8:58 a.m., noting that inclement weather delayed the  
51 start of the meeting until a quorum of directors was able to safely arrive at the office.

52 **PUBLIC COMMENT**

53 Public comment was called for, and there was none.

54 **ACTION ITEMS**

55 **Consideration of Minutes** – The minutes of the regular meeting of September 26, 2019, were  
56 considered. Upon motion duly made and seconded, it was unanimously

57 **RESOLVED** that the minutes of the September 26, 2019, regular meeting be accepted and  
58 hereby are approved as presented.

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1       **Updated Authority Bylaws** – Mr. Collins discussed updates to the Authority’s bylaws and a related  
2 memo, copies of which are attached hereto as **Exhibits A** and **B**, respectively, and incorporated herein  
3 by this reference. The updates reflect current practices and include edits related to legislative changes,  
4 such as the increased fee for open records requests and the updated posting requirements for board  
5 meetings. After discussion and upon motion duly made and seconded, it was unanimously

6               **RESOLVED** that the updated Authority bylaws be and hereby are approved as presented.

7       **Club at CVC Residences Cash in Lieu Request** – Mr. Cowles discussed his memo related to the cash-  
8 in-lieu of water rights request, a copy of which is attached hereto as **Exhibit C** and incorporated herein by  
9 this reference. He summarized the current water use of the CVC development, which is more than double  
10 the use to which it is entitled. Discussion ensued regarding the situation and how the entire development  
11 should come into compliance. Upon motion duly made and seconded, it was

12               **RESOLVED** that the payment of cash-in-lieu of water rights be and hereby is approved as  
13 presented, to serve the CVC Residences redevelopment as outlined, preserving all rights with  
14 respect to the overuse of water in the development. Director Smith Hymes opposed; and

15               **FURTHER RESOLVED** to approve a motion to direct staff to deliver a letter and presentation to  
16 the board of the CVC homeowners’ association, stating that the entire development must come  
17 into compliance with the terms of the PUD’s original augmentation plan.

### STRATEGY ITEMS

19       **Presentation of Draft FY2020 Budget** – Mr. Wilkins and Ms. Brooks discussed the draft FY2020  
20 budget and related documents, copies of which are attached hereto as **Exhibit D** and  
21 incorporated herein by this reference. They gave an overview of the main sections of the budget,  
22 including debt service, capital projects, the capital replacement program, personnel salary and  
23 benefits, and operational expenditures. Operational expenditures are not projected to increase in  
24 2020; however, personnel salary and benefits are increasing due to health costs rising, and the  
25 request for the addition of four full-time employees. There is the need for increases in capital  
26 spending in order to meet new regulations and replace aging infrastructure, for which more  
27 employees are needed to manage the capital replacement projects and maintain the new facilities  
28 and equipment that such projects produce. This combination of factors will result in the projected  
29 rate increases for 2020. Staff expects rates will increase at a greater rate than historically  
30 observed, for the next five years due to these capital investment needs.

31               Ms. Brooks and Mr. Wilkins showed a comparison of service providers across the state,  
32 including other mountain communities. Authority and District rates for combined water and sewer  
33 services were in the middle of the group. Mr. Wilkins pointed out that many of the organizations  
34 with higher rates were subject to regulation 85, which is driving many of the needed multi-year  
35 capital improvements planned for 2020 and beyond. Mr. Wilkins also noted that despite serving  
36 an increasing number of customers in the past 20 years, the Authority’s overall water use has

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1 declined, indicating that the tiered rates are incentivizing efficient water use. Staff proposed  
2 basing the average bill on 6 kgal rather than 7kgal because of this overall decline in average  
3 water use. Similarly, the budget assumes 9 kgal tiers instead of the 10 kgal ones used in the past.

4 Ms. Brooks said community outreach was planned to communicate the higher-than-  
5 normal rate increases for the coming years. The board requested an ongoing discussion at future  
6 meetings to determine how to communicate the proposed increases to the public.

7 **Board Member Input** – Acting Chair Williams congratulated Chair Gregory on being awarded the  
8 Special District Association's Board Member of the Year award at its recent annual conference.

9 George thanked her and reminded the board members that they are a team and share equally in  
10 the honor. Director Smith Hymes noted a Jan. 8 county-wide meeting to discuss carbon  
11 sequestration, in response to a comment by Director Dreyer on the topic.

### 12 **GENERAL MANAGER REPORT**

13 Ms. Brooks presented her report, a copy of which is attached hereto as **Exhibit E** and incorporated herein  
14 by this reference. Monthly reports were acknowledged, copies of which are attached hereto as **Exhibit F**  
15 and incorporated herein by this reference.

### 16 **OPERATIONS REPORT**

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

19 **Lead and Copper Sampling Update** – Ms. Rosema presented a wrap-up of the annual lead and  
20 copper sampling results. Thirty homes were sampled in each the Authority and District services  
21 areas, for total of 60 homes. The homes sampled are considered high-risk due to their  
22 construction between 1983 and 1987, a time when copper pipes with lead solder were commonly  
23 used, although there are no lead pipes in homes or other structures in the District or Authority  
24 service area. The lead and copper values from the homes sampled were well within the allowable  
25 limits set forth by the Environmental Protection Agency (EPA). The board thanked Ms. Rosema  
26 for the update.

### 27 **ENGINEERING REPORT**

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

29 **Traer Creek Tank Demolition** – Mr. Cowles reported the Traer Creek tank demolition was in  
30 progress and is expected to take six weeks; the tank is being deconstructed by an excavator with  
31 a pneumatic hammer to de-tension the cables. The previous plan for implosion was deemed  
32 infeasible.

### 33 **COMMUNICATION AND PUBLIC AFFAIRS REPORT**

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

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1           **National Drug Takeback Initiative** – Ms. Johnson reminded directors of the U.S. Drug  
2           Enforcement Administration’s 18th National Take Back Initiative event, scheduled for Saturday,  
3           Oct. 26. Local law enforcement personnel will host collection sites throughout the valley to  
4           facilitate safe disposal of unused pharmaceuticals. These events help keep such substances out  
5           of wastewater and the landfill, which benefits local waterways. Ms. Johnson said that new this  
6           year, the Avon Police Department was hosting a takeback site at Walmart.

### 7           **GENERAL COUNSEL REPORT**

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

### 9           **WATER COUNSEL REPORT**

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

11           **Black Lakes Water Lease** – Mr. Porzak discussed the lease, by which the unconsumed portion  
12           of the District’s Black Lakes water would be leased to the Authority, ensuring the water stayed in  
13           the stream through the District’s Vail service area after release from Black Lakes. After discussion  
14           and upon motion duly made and seconded, it was unanimously

15                       **RESOLVED** that the Black Lakes Water lease with the District be and hereby is approved  
16                       as presented.

17          A copy of the lease is attached hereto as **Exhibit I** and incorporated herein by this reference.

18           **Minturn Water Matters** – Mr. Porzak briefly discussed recent discussions of future water needs  
19           and facilities by the Minturn Town Council. Copies of related documents are attached hereto as  
20           **Exhibit J** and incorporated herein by this reference.

21           **Homestake Exchange Diligence Application** – Mr. Porzak discussed the application to make  
22           an additional portion of the Homestake exchange water absolute. Mr. Porzak said settlement was  
23           made with the one objector to this application. The proposed ruling was filed with the court on  
24           Oct. 18.

25           **Climax Molybdenum Update** – Mr. Porzak noted the Authority and District applied for and  
26           received party status for Climax’s upcoming rulemaking hearing before the Water Quality Control  
27           Commission. Climax wishes to increase the stream standard for molybdenum from 210  
28           micrograms per liter to 9,000. Mr. Porzak’s office will continue to monitor this matter.

29          Messrs. Cerny, Schneider, and Sica and Meses. Kelkenberg and Rosema, left the meeting at 10:56 a.m.

### 30          **EXECUTIVE SESSION**

31          Mr. Porzak requested the Board enter Executive Session to receive legal advice of counsel regarding  
32          Bolts Lake, Eagle River MOU matters, water rights, and Colorado River Cooperative Agreement matters,  
33          pursuant to §24-6-402(4)(a)(b) and (e) C.R.S. He asked that no electronic record be made, as the

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1 discussion would be entirely privileged attorney-client communications. Upon motion duly made and  
2 seconded, it was unanimously

3 **RESOLVED** to enter Executive Session at 10:57 a.m. to receive advice of counsel regarding  
4 Bolts Lake, Eagle River MOU matters, water rights, and Colorado River Cooperative  
5 Agreement matters, pursuant to §24-6-402(4)(b) and (e) C.R.S. with no electronic record  
6 created as Mr. Porzak opined the contents of the discussion would contain privileged  
7 attorney-client communications.\*

8 The regular meeting resumed at 11:26 a.m.

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## ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 11:26 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.

\_\_\_\_\_  
Glenn Porzak, Water Counsel