

# Upper Eagle Regional Water Authority

## Board of Directors Meeting

January 23, 2020

### MINUTES

1 A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was  
2 held January 23, 2020, 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 Pam Elsner, Beaver Creek Metropolitan District  
8 George Gregory, Berry Creek Metropolitan District  
9 Amy Phillips, Town of Avon alternate  
10 Kim Bell Williams, EagleVail Metropolitan District  
11 Mick Woodworth, Edwards Metropolitan District

12 **Also in attendance were:**

13 <u>District Staff</u>	24 Amy Vogt
14 Tug Birk	25 James Wilkins
15 Linn Brooks	26 Chris Wolff
16 Allen Cerny	27 Brad Zachman
17 Jason Cowles	28 <u>Consultants</u>
18 Catherine Hayes	29 Jim Collins, Collins Cockrel & Cole
19 Diane Johnson	30 Glenn Porzak, Porzak Browning & Bushong LLP
20 Kira Koppel	31 <u>Public</u>
21 Siri Roman	32 Melissa Nelson, Berry Creek Metropolitan District
22 Jeff Schneider	33 Bill Simmons, Beaver Creek Metropolitan District
23 Jason Sica	

34 **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

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

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

44 **CALL TO ORDER**

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

46 **PUBLIC COMMENT**

47 Public comment was called for and there was none.

48 **ACTION ITEMS**

49 **Consideration of Minutes** – The minutes of the regular meeting of December 19, 2019, were  
50 considered. Upon motion duly made and seconded, it was unanimously

51 **RESOLVED** that the minutes of the December 19, 2019, regular meeting be accepted and  
52 hereby are approved as presented.

53 **Resolution Regarding 2020 Meeting Place and Posting Location** – Ms. Hayes presented a board  
54 action request regarding the meeting place and posting location for board meetings and related materials,  
55 and a related resolution, copies of which are attached hereto as **Exhibits A** and **B**, respectively, and  
56 incorporated herein by this reference. Mr. Collins reminded directors that new legislation effective Aug. 1,

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1 2019, allows special districts to post notices, agendas, and other meeting materials on the district's  
2 website rather than posting hard copies as previously required. After discussion and upon motion duly  
3 made and seconded, it was unanimously

4 **RESOLVED** that the resolution regarding the Authority's 2020 meeting place and posting location  
5 be and hereby is approved as presented.

6 **2020 Rules and Regulations Update** – Mr. Birk presented a board action request and proposed  
7 revisions to the 2020 Rules and Regulations, a copy of which is attached hereto as **Exhibit C** and  
8 incorporated herein by this reference. After discussion and upon motion duly made and seconded, it was  
9 unanimously

10 **RESOLVED** that the 2020 Rules and Regulations updates be and hereby are approved as  
11 presented.

12 A copy of the 2020 Rules and Regulations is attached hereto as **Exhibit D** and incorporated herein by  
13 this reference.

### 14 **STRATEGY ITEMS**

15 **Board Member Input** – Alternate Director Phillips noted the Avon Town Council was considering  
16 an adjustment of the town of Avon impact fees. Smaller, more dense units have a lower impact  
17 and also use less water, and the council is considering adjusting the fees accordingly to  
18 incentivize smaller units. Ms. Brooks agreed with this direction, and noted such a change would  
19 be beneficial from a climate impact standpoint. The board also discussed the previous night's  
20 Climate Action Collaborative event, Getting to Zero, which hosted a speaker to discuss the  
21 impacts of global warming and ways in which communities and individuals can lower their impact.  
22 Discussion ensued regarding how the board can promote such changes within the community  
23 and specifically the Authority's service area.

24 **Water System Classification Update** – Mr. Zachman, water manager, discussed the  
25 interconnect between the Authority and District water systems. In recent communications with the  
26 state regarding corrosion control, questions have emerged regarding the Authority and District's  
27 separate water systems. The state may suggest administratively combining the two systems into  
28 one large water system and classified as such with one water system ID. Discussion ensued  
29 regarding the impacts of such a classification, which result in changes sampling requirements and  
30 frequency for various water quality parameters, among other items. Mr. Zachman also noted  
31 various management plans and other documents would need to be administratively combined,  
32 which would create future efficiencies. Mr. Porzak discussed such a merge as it related to water  
33 rights.

### 34 **GENERAL MANAGER REPORT**

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

### 4 **OPERATIONS REPORT**

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

7 **Avon Wastewater Treatment Facility Nutrient Upgrade Project** – Mr. Schneider updated the  
8 board on the AWWTF nutrient upgrade project, which is scheduled to break ground in March  
9 2020. He discussed outreach efforts with neighboring properties, meetings with key  
10 subcontractors ahead of mobilization, and a scheduled open house for area residents. The 1041  
11 permit application was submitted to the Town of Avon in December, and the topic will be  
12 discussed and voted on at a Feb. 4 Avon Town Council meeting. Mr. Schneider noted the effort to  
13 balance operational efficiency and aesthetics during the project, due to the close proximity of  
14 residential neighbors.

15 **Berry Creek Booster Pump Station (BPS) Project Update** – Mr. Schneider noted the Berry  
16 Creek BPS project hit some delays due to the discovery of contaminated soils in the project area  
17 and weather; resequencing of certain project items may occur due to weather conditions. Staff is  
18 working with the Berry Creek Metropolitan District to coordinate a needed shutdown and  
19 communicate this to residents during the project.

### 20 **ENGINEERING REPORT**

21 Mr. Cowles presented the Engineering Report, a copy of which is attached hereto as **Exhibit H** and  
22 incorporated herein by this reference.

23 **Traer Creek Tank Update** – Mr. Cowles reported that the tank was fully demolished. Geological  
24 testing results suggest the former site can house the new tank, and design is moving forward,  
25 with a focus on sufficiently deep piers to ensure the tank is stable.

### 26 **COMMUNICATION AND PUBLIC AFFAIRS REPORT**

27 Ms. Johnson presented the Communications and Public Affairs report, a copy of which is attached hereto  
28 as **Exhibit I** and incorporated herein by this reference.

29 **Communications Update** – Ms. Johnson said some EC Alerts were erroneously sent by Vail  
30 Dispatch regarding some recent water outages. Vail Dispatch serves numerous public agencies  
31 in Eagle County and acts as the District's after-hours answering service. The issues have been  
32 addressed and correct procedures reinforced.

33 **Legislative Discussion** – Ms. Johnson noted staff and consultants were monitoring various  
34 proposed bills; it is very early in the session so many changes will be made before there may be  
35 a need for action on any specific bill.

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## GENERAL COUNSEL REPORT

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

**Redistricting** – Ms. Hayes briefly discussed the redistricting effort undertaken ahead of the May 5, 2020, District election. She presented the director district map and noted the areas where electors changed districts to evenly distribute the eligible electors among the seven director districts. The District board will review and consider approval of the map and the election resolution at its meeting later in the day.

## WATER COUNSEL REPORT

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

**Updated Authority Water Rights Appraisal**– Mr. Porzak presented the Authority’s updated water rights appraisal, a copy of which is attached hereto as **Exhibit J** and incorporated herein by this reference. The value of the Authority’s water rights continues to increase, and the report will be attached to the Authority’s annual audit as an appendix.

**Contract and Reservoir Matters** – Mr. Porzak reported that on behalf of another client, the Bureau of Reclamation agreed that under reclamation law, once reservoir capital costs were paid off for Ruedi Reservoir, such rights became vested and permanent, and contractees should only be charged operation, management, and replacement (OM&R) costs. The District and Authority have a contract with the Bureau of Reclamation for Green Mountain Reservoir, for which Mr. Porzak is pursuing a similar agreement to make that contract permanent and restrict the future charges to only OM&R costs. A meeting on this topic is scheduled with the Bureau of Reclamation in February 2020.

At 9:30 a.m., Ms. Koppel and Messrs. Cerny and Schneider left the meeting.

## **EXECUTIVE SESSION**

Mr. Porzak requested the Board enter Executive Session to receive legal advice of counsel regarding water rights hydrology modeling, the Eagle Park Reservoir Agreement with Eagle County, Bolts Lake, and CRCA matters, pursuant to §24-6-402(4)(a)(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 enter Executive Session at 9:31 a.m. to receive advice of counsel regarding water rights hydrology modeling, the Eagle Park Reservoir Agreement with Eagle County, Bolts Lake, and CRCA matters, 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.\*

Mr. Collins requested the Board continue Executive Session to receive legal advice of counsel regarding development issues in Wolcott, pursuant to §24-6-402(4)(a)(b) and (e) C.R.S. He asked that no electronic

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

3 **RESOLVED** to enter Executive Session at 10:02 a.m. to receive advice of counsel regarding  
4 development issues in Wolcott, pursuant to §24-6-402(4)(b) and (e) C.R.S. with no electronic  
5 record created as Mr. Collins opined the contents of the discussion would contain privileged  
6 attorney-client communications.\*

7 The regular meeting resumed at 10:57 a.m.

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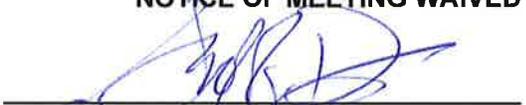
**ADJOURNMENT**

There being no further business to come before the Board, the meeting adjourned at 10:29 a.m.

Respectfully submitted,

  
Secretary to the Meeting

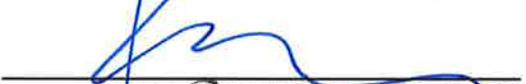
**MINUTES APPROVED, FORMAL CALL, AND  
NOTICE OF MEETING WAIVED**

  
Arrowhead Metropolitan District

\_\_\_\_\_  
Town of Avon

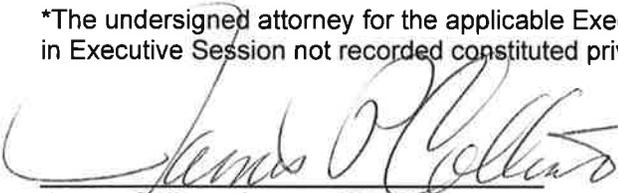
  
Beaver Creek Metropolitan District

  
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.

  
James Collins, General Counsel

  
Glenn Porzak, Water Counsel