

Upper Eagle Regional Water Authority

Board of Directors Meeting

February 27, 2020

MINUTES

1 A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was
2 held February 27, 2020, at 8:30 a.m., in the Walter Kirch Room of the Eagle River Water & Sanitation
3 District (District), 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable statutes
4 of the State of Colorado.

5 **The following Directors and alternate were present and acting, thereby constituting a quorum:**

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

12 **Also in attendance were:**

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

31 **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

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

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

41 **CALL TO ORDER**

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

43 **PUBLIC COMMENT**

44 Public comment was called for and there was none.

45 **ACTION ITEMS**

46 **Consideration of Minutes** – The minutes of the regular meeting of January 23, 2020, were considered.

47 Upon motion duly made and seconded, it was unanimously

48 **RESOLVED** that the minutes of the January 23, 2020, regular meeting be accepted and hereby
49 are approved as presented.

50 **STRATEGY ITEMS**

51 **Board Member Input** – Director Hymes reported that the Avon Town Council did not support her
52 request that increments less than 1.0 SFE (3,000 square feet) be used as the basis for
53 calculating Avon's tap fees. The council approved the District's 1041 permit on Feb. 25 with
54 conditions. She reported interested parties can now give remote testimony on any state bills from

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1 Colorado Mountain College. She updated on Avon's styrofoam ban. Secretary Williams reported
2 the sale of 6 West to a non-local owner.

3 **Sustainability Update** – Ms. Koppel gave a sustainability update, which she will continue to do
4 at subsequent board meetings. She reported on local efforts to engage stakeholders in climate
5 change action through behavior change campaigns. Locally, the most impactful initiatives
6 identified were offsetting electric use through purchase of renewable energy credits through Holy
7 Cross Energy's PuRE program; carpooling; and rooftop solar installations. Ms. Koppel also gave
8 an overview of composting and reminded directors that they are welcome and encouraged to
9 compost at home and drop off their compost at any District facilities.

10 **GENERAL MANAGER REPORT**

11 Ms. Brooks presented her report, a copy of which is attached hereto as **Exhibit A** and incorporated
12 herein by this reference. Monthly reports were acknowledged, copies of which are attached hereto as
13 **Exhibit B** and incorporated herein by this reference.

14 **FINANCE REPORT**

15 Mr. Wilkins presented the quarterly finance report, a copy of which is attached hereto as **Exhibit C** and
16 incorporated herein by this reference. The report included year-end information for fiscal year 2019.
17 Water sales were below projections and below the five-year average, likely due to wet, cold spring
18 conditions. Tap fees were well above projections, as developments moved more quickly than anticipated
19 by Authority modeling efforts. Water service revenues were closely aligned with projections, and
20 expenditures were below projections. Mr. Wilkins also discussed an anticipated bond refunding for the
21 Authority in August 2020. Mr. Wilkins and Ms. Brooks continue to present to local entities regarding rate
22 increases projected in the next five years.

23 **OPERATIONS REPORT**

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

26 **Wastewater Updates** – Ms. Roman discussed various wastewater updates. Field Operations
27 staff responded to a recent sanitary sewer overflow at Beaver Creek Landing. The spill was small,
28 contained, and did not require reporting to the state. By comparison, a June overflow at the Dowd
29 Junction lift station did require reporting to the state, based on its size and because it reached the
30 river. This overflow and many other items were discussed during the District's recent compliance
31 evaluation inspection. State inspectors toured the District's wastewater facilities and heard from
32 various staff members regarding operations. The inspectors were complimentary of District
33 operations and facilities.

34 Mr. Simmons left the meeting at 9:00 a.m.

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1 **Capital Improvement Program Updates** – Ms. Roman and Mr. Schneider discussed upcoming
2 capital improvement projects. The upcoming nutrient upgrade project at Avon Wastewater was
3 recently discussed at open house held for Liftview residents, whose apartments neighbor the
4 facility to the west. The event was well-attended and went smoothly. Mr. Schneider discussed the
5 Fenno Wellhouse replacement, for which needed approvals are expected soon from the county.

6 **PFAS Monitoring** – Mr. Zachman discussed monitoring for per- and polyfluoroalkyl substances
7 (PFAS), which have gained media coverage in recent years as they were found in municipal
8 water supplies. PFAS are commonly found in everyday items but have been linked most strongly
9 to groundwater contamination near military bases where firefighting training occurs. Mr. Zachman
10 noted staff received a grant to do additional PFAS sampling for Authority and District supplies,
11 even though they are not high-risk. He will update the board when sampling has occurred.

12 **ENGINEERING REPORT**

13 Mr. Cowles presented the Engineering Report, a copy of which is attached hereto as **Exhibit E** and
14 incorporated herein by this reference. He also notified the board that the Rules and Regulations
15 Coordinator, Tug Birk, was involved a serious auto accident. He is stable but will be out of the office until
16 he is fully recovered.

17 **Cordillera Valley Club Proposed Development** – Mr. Cowles reminded directors of a
18 developer's application to build 12 homes at the Cordillera Valley Club. Staff previously alerted
19 the board of CVC's overuse of water. Mr. Cowles noted the county does not believe the
20 developer has the correct entitlements to proceed with the development; until this is determined,
21 the Authority does not need to commit to an ability to serve.

22 **Traer Creek Tank Update** – Mr. Cowles discussed Traer Creek Tank planning. Geotechnical site
23 analysis confirmed the old tank site was the best place for the new tank. Staff is proceeding with
24 30% tank design, and construction is anticipated from 2021 – 2022. Mr. Cowles said design and
25 bidding requirements will not allow for 2020 construction. Mr. Collins recommended
26 communication with entities that should be informed of the delay and continued limitation with
27 ability to serve – including Traer Creek and EagleVail, which will be served by the new tank.

28 **COMMUNICATION AND PUBLIC AFFAIRS REPORT**

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

31 **Rate Presentations Update** – Ms. Johnson discussed presentations to local entities regarding
32 the projected rate increases in the coming years. Ms. Brooks and Mr. Wilkins have already
33 completed the majority of the planned presentations, with just a few remaining.

34 **Legislative Update** – Ms. Johnson discussed various bills that staff and consultants are
35 monitoring, including funding for Colorado's Water Plan, a bill that would have required the
36 District to index all its real property; and a housing authority bill to exempt developers of

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1 workforce housing from paying tap fees. Staff continues to monitor a bill regarding augmentation
2 of instream flows.

3 **GENERAL COUNSEL REPORT**

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

5 **WATER COUNSEL REPORT**

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

7 **Eagle Park Reservoir Stock Agreement** – Mr. Porzak discussed the Eagle Park Reservoir
8 Stock Agreement between the Authority and Eagle County, a copy of which is attached hereto as
9 **Exhibit G** and incorporated herein by this reference. The agreement provides for the Authority to
10 purchase Eagle County's 87+ acre feet of Eagle Park Reservoir water. The agreement specifies
11 the water must be used within the Authority's service area for affordable employee or workforce
12 housing developments that conserve water, or projects that promote healthy streams and rivers in
13 the Eagle River Basin. After discussion and upon motion duly made and seconded, it was
14 unanimously

15 **RESOLVED** that the Eagle Park Reservoir Stock Agreement with Eagle County be and
16 hereby is approved as presented.

17 At 10:00 a.m., Mr. Simmons rejoined the meeting.

18 **Pando Feeder Canal Diligence Protest** – Mr. Porzak discussed the protest letter he filed on
19 behalf of the Authority and District regarding the recent diligence application for the Pando
20 Feeder Canal water right, a copy of which is attached hereto as **Exhibit H** and incorporated
21 herein by this reference. The water referee agreed with a finding of diligence; however, Mr.
22 Porzak is protesting an inclusion in the diligence finding that would unduly restrict the ability to
23 obtain an absolute decree for a future enlargement of Eagle Park Reservoir.

24 At 10:06 a.m., Ms. Koppel Ms. Vogt left the meeting.

25 **EXECUTIVE SESSION**

26 Mr. Porzak requested the Board enter Executive Session to receive legal advice of counsel regarding
27 unallocated water, Bolts Lake, CRCA matters, and the Green Mountain Reservoir contract, pursuant to
28 §24-6-402(4)(a)(b) and (e) C.R.S. He asked that no electronic record be made, as the discussion would
29 be entirely privileged attorney-client communications. Upon motion duly made and seconded, it was
30 unanimously

31 **RESOLVED** to enter Executive Session at 10:07 a.m. to receive advice of counsel regarding
32 unallocated water, Bolts Lake, CRCA matters, and the Green Mountain Reservoir contract,
33 pursuant to §24-6-402(4)(b) and (e) C.R.S. with no electronic record created as Mr. Porzak
34 opined the contents of the discussion would contain privileged attorney-client
35 communications.*

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

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3 **ADJOURNMENT**

4 There being no further business to come before the Board, the meeting adjourned at 10:58 a.m.

5 Respectfully submitted,

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Secretary to the Meeting

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

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Arrowhead Metropolitan District

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Town of Avon

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Beaver Creek Metropolitan District

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Berry Creek Metropolitan District

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EagleVail Metropolitan District

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Edwards Metropolitan District

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38 *The undersigned attorney for the applicable Executive Session affirms that the portion of the discussion
39 in Executive Session not recorded constituted privileged attorney-client communications.

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Glenn Porzak, Water Counsel

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