A regular, virtual meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was held April 23, 2020, at 8:30 a.m., in accordance with the applicable statutes of the State of Colorado.

The following Directors and were present via Skype and acting, thereby constituting a quorum:

- Geoff Dreyer, Arrowhead Metropolitan District
- George Gregory, Berry Creek Metropolitan District
- Sarah Smith Hymes, Town of Avon alternate
- Pam Elsner, Beaver Creek Metropolitan District
- Kim Bell Williams, EagleVail Metropolitan District
- Mick Woodworth, Edwards Metropolitan District

Also in attendance were:

- District Staff
- Linn Brooks
- Allen Cerny
- Jason Cowles
- Carol Dickman
- Catherine Hayes
- Diane Johnson
- Kira Koppel
- Siri Roman
- Jeff Schneider
- Micah Schuette
- Shane Swartwout
- James Wilkins
- Brad Zachman
- Consultants
- Jim Collins, Collins Cockrel & Cole
- Kristin Moseley, Porzak Browning & Bushong LLP
- Glenn Porzak, Porzak Browning & Bushong LLP
- Public
- Dominic Mauriello, developer, Kudel parcel

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 boards of the Eagle River Fire Protection District and Edwards Metropolitan District 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 8:35 a.m.

PUBLIC COMMENT

Public comment was called for and there was none.

ACTION and OTHER ITEMS

Consideration of Minutes – The minutes of the regular meeting of March 26, 2020, were considered. Upon motion duly made and seconded, it was unanimously

RESOLVED that the minutes of the March 26, 2020, regular meeting be accepted and hereby are approved as presented.

Cash-in-Lieu of Water Rights Request – Mr. Schuette discussed his board action request for cash-in-lieu of water rights to serve the Kudel development in Edwards, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference. Mr. Mauriello, the owner’s representative, had no comment on the request. Discussion ensued regarding the Authority’s remaining unallocated water. After discussion and upon motion duly made and seconded, it was unanimously
Upper Eagle Regional Water Authority

RESOLVED that the request for cash-in-lieu of water rights in the amount of 1.61835 acre feet be and hereby is approved as presented; and FURTHER RESOLVED to direct staff to execute a water service agreement with the developer outlining the terms of water use for the development.

Mr. Mauriello left the meeting at 8:42 a.m.

Designation of Member and Alternate Representatives for Colorado Special Districts Property and Liability Pool Insurance – Mr. Wilkins discussed a board action request regarding the Authority’s appointees for administrative insurance pool matters, a copy of which is attached hereto as Exhibit B and incorporated herein by this reference. After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED that the form designating Connie Nunley and Mr. Wilkins as the primary and alternate representatives, respectively, for the Colorado Special Districts Property and Liability Pool be and hereby is approved as presented.

A copy of the completed form is attached hereto as Exhibit C and incorporated herein by this reference.

Public Water System ID Combination – Mr. Zachman discussed the Colorado Department of Public Health and Environment’s (CPDHE) desire to administratively combine the Authority and District’s public water system identification numbers, after which the CPDHE would regulate the systems as one. Mr. Zachman presented a related board action request for staff direction, a copy of which is attached hereto as Exhibit D and incorporated herein by this reference. Mr. Zachman confirmed that water rights and governance of the two entities would remain separate and unaffected by this administrative combining.

After discussion and upon motion duly made and seconded, the board unanimously

RESOLVED that the request to proceed with combining the Authority’s system with the District’s system for CDPHE regulation purposes be and hereby is approved as presented.

Extension of Late Fee Waiver – Mr. Swartwout discussed his board action request regarding extension of customer late fee waivers during the pandemic, a copy of which is attached hereto as Exhibit E and incorporated herein by this reference. He noted the volume of unpaid customer bills has remained low throughout the COVID-19 pandemic. Ms. Brooks reminded the board that per Gov. Polis’s order, no utilities may be shut off due to non-payment during the pandemic. Additionally, unpaid bills represent delayed revenue, not lost revenue. After discussion and upon motion duly made and seconded it was unanimously

RESOLVED that the extension of late fee waivers be and hereby is extended through the May billing period, which ends on June 2, 2020.

Information Reports – The information reports were acknowledged and are attached hereto as Exhibit F and incorporated herein by this reference.

GENERAL MANAGER REPORT

Ms. Brooks presented her general manager report, a copy of which is attached hereto as Exhibit G and incorporated herein by this reference.
COVID-19 Response Update – Ms. Brooks and Ms. Roman updated the board on the COVID-19 response. The District will stay in stage 3 of its operating plan until at least May 15, though Gov. Polis’s “stay at home” order will expire on April 26, giving way to a “safer at home” directive. In stage 3 of the District’s response, non-essential employees are required to work from home. Discussion ensued regarding how the District’s possible return to stage 2 would differ from stage 3. The next stage could allow up to 50% of employees onsite, based on the governor’s order; however, discussions are ongoing regarding how this will be implemented across the District’s various facilities to ensure protection of essential workers and the Authority and District’s ability to provide its core functions.

Ms. Brooks and Ms. Roman also discussed the District’s weekly all-employee Town Hall meetings, which the District has been hosting virtually for employees since April 8. These sessions highlight 2 – 3 departments and changes to how that department’s employees are completing work due to the pandemic. Attendance for these sessions has been excellent, with 80+ employees logging in each week. Operationally, water demand has been lower than in years past. Financial modeling is ongoing. Decreased impact fees are expected as development slows due to the economic conditions. Some Authority and District capital projects will be delayed, which will save funds. Others, like the Nutrient Upgrade Project at Avon WWTF, will continue as planned due to their regulatory necessity and the amount of design and planning that have already gone into such projects.

Financial Modeling – Ms. Brooks, Mr. Wilkins, and Mr. Swartwout discussed financial modeling. Impacts are expected in three areas: monthly billing revenue, loss of impact fees, and costs for responding to the COVID-19 pandemic. A related presentation is attached hereto as Exhibit H and incorporated herein by this reference. Ms. Brooks explained that most revenues are generated through base rates, which has narrowed staff’s focus to unpaid bills; reduced water usage will not affect revenues nearly as much. Ms. Brooks also confirmed that most treatment costs are fixed and would not be significantly reduced with decreased water usage.

OPERATIONS REPORT
Ms. Roman presented the operations report, a copy of which is attached hereto as Exhibit I and incorporated herein by this reference.

General Operations Update – Ms. Roman and Mr. Zachman discussed operations. Water production and wastewater inflows are lower than expected for this time of year. Ms. Roman noted operators seem more settled in stage 3 now than last month, when anxiety was higher. She is pleased with the flexibility of staff in adapting to the new expectations of this working environment.
Avon Wastewater Treatment Facility Nutrient Upgrade Project (NUP) Update – Ms. Marts and Mr. Schneider updated the board on the NUP; a related memo is attached hereto as Exhibit J and incorporated herein by this reference. Ms. Marts noted the project is using a CMAR (construction manager at risk) delivery method, which has helped with navigating the unknowns of the current economic situation. Contract documents are being modified, per the CMAR method, as contract prices can decrease with lower commodities pricing during the pandemic. Additionally, the project is 5 – 6 weeks behind schedule, which pushes a critical shutdown period in the spring to a less busy time of year, which is beneficial. All state, local, and district policies for COVID-19 prevention must be followed by any on-site contract workers. Official notice to proceed was issued on April 23, and site mobilization will occur on May 4.

GENERAL COUNSEL REPORT

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

WATER COUNSEL REPORT

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

Pando Feeder Diligence Protest – Mr. Porzak discussed the absolute/diligence application for the Pando Feeder Canal. The referee granted diligence but included a requirement in the diligence finding that would unduly restrict the ability to obtain an absolute decree for a future enlargement of Eagle Park Reservoir; a copy of the referee’s ruling and decree is attached hereto as Exhibit K and incorporated herein by this reference. A protest letter was filed on behalf Eagle Park Reservoir Company and its shareholders, as was an opposition to the state and division engineers’ motion to intervene, though the motion was ultimately granted. Copies of both are attached hereto as Exhibits L and M, respectively, and incorporated herein by this reference. During a phone conference with the judge, the Company shareholders were granted 45 days to prepare an opening brief to support the protest, which is due on May 29.

Eagle Park Reservoir Diligence Application – Mr. Porzak discussed the diligence application for the two remaining conditional junior storage rights for Eagle Park Reservoir. The referee agreed with the finding of diligence but wants to include a footnote regarding the East Fork Pump Station as an alternate point of diversion, referencing a previous change case. Discussion ensued regarding the footnote, which the directors agreed was unrelated to the diligence case and should be removed. The ruling of the referee and the Company shareholders’ response are attached hereto as Exhibits N and O, respectively, and incorporated herein by this reference.

At 10:04 a.m., Mses. Koppel and Marts and Messrs. Cerny, Schneider, and Schuette left the meeting.

EXECUTIVE SESSION

Mr. Porzak requested the Board enter Executive Session to receive legal advice of counsel regarding Green Mountain Reservoir, the Authority water rights report, EagleVail Metropolitan District water rights,
the 6 West development, and Bolts Lake, 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 10:05 a.m. to receive advice of counsel regarding

Green Mountain Reservoir, the Authority water rights report, EagleVail Metropolitan District

water rights, the 6 West development, and Bolts Lake, 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.*

At 10:24 a.m., prior to discussion of Bolts Lake, all remaining staff left the call, with the exception of

Mses. Brooks, Hayes, Johnson, and Roman, and Mr. Cowles.

The regular meeting resumed at 11:33 a.m.
ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 11:33 a.m.

Respectfully submitted,

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Secretary to the Meeting

MINUTES APPROVED, FORMAL CALL, AND
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

________________________
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.

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James P. Collins, General Counsel  Glenn Porzak, Water Counsel