

# Upper Eagle Regional Water Authority

## Board of Directors Meeting

### June 25, 2020

### MINUTES

1 A regular, virtual meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority)  
2 was held June 25, 2020, at 8:30 a.m., in accordance with the applicable statutes of the State of Colorado.

3 **The following Directors and alternate were present and acting via Skype, thereby constituting a**  
4 **quorum:**

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

11 **Also in attendance were:**

12 <u>District Staff</u>	23	Len Wright
13 Linn Brooks	24	Brad Zachman
14 Allen Cerny	25	<u>Consultants</u>
15 Jason Cowles	26	Jim Collins, Collins Cockrel & Cole
16 Catherine Hayes	27	Kristin Moseley, Porzak Browning & Bushong LLP
17 Diane Johnson	28	Glenn Porzak, Porzak Browning & Bushong LLP
18 Kira Koppel	29	Kathryn Winn, Collins Cockrel & Cole
19 Siri Roman	30	<u>Public</u>
20 Jeff Schneider	31	Melissa Nelson, Berry Creek Metropolitan District
21 Shane Swartwout	32	Jeff Townsend, Colorado Resort Concepts
22 James Wilkins		

#### 33 **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

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

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

#### 43 **CALL TO ORDER**

44 Chair Gregory called the meeting to order at 8:36 a.m.

#### 45 **PUBLIC COMMENT**

46 Mr. Townsend offered public comment regarding the Cordillera Valley Club residences and his role as  
47 developer. He summarized the permitting process and water rights needs of the development. Chair  
48 Gregory thanked him for his input and noted the board would discuss the matter in Executive Session.  
49 Thereafter, Mr. Townsend left the meeting.

#### 50 **ACTION and OTHER ITEMS**

51 **Consideration of Minutes** – The minutes of the regular meeting of May 28, 2020, were considered.

52 Upon motion duly made and seconded, it was unanimously

53 **RESOLVED** that the minutes of the May 28, 2020, regular meeting be accepted and hereby are  
54 approved as presented. Director Elsner abstained.

## Upper Eagle Regional Water Authority

1       **Appointment of Eagle Park Reservoir Company Representative** – The board discussed the  
2 Authority’s appointee to the Eagle Park Reservoir Company board of directors in advance of the  
3 Company’s afternoon meeting. Upon motion duly made and seconded it was unanimously

4               **RESOLVED** that Chair Gregory continue to serve as the Authority’s representative on the Eagle  
5 Park Reservoir Company Board of Directors.

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

### 8 **GENERAL MANAGER REPORT**

9 Ms. Brooks noted other employees would report on the matters on which she is currently working and did  
10 not include a written packet report. She said staff was again minimizing verbal updates during the virtual  
11 meetings and noted written reports on communications and sustainability, which are attached hereto as  
12 **Exhibits B and C**, respectively, and incorporated herein by this reference.

13       **COVID-19 Response Update** – Ms. Brooks updated on the COVID-19 response. One on-site  
14 employee tested positive for COVID-19 recently. Four employees who were in close contact with  
15 this individual tested negative for the virus, which indicates the District’s hygiene and cleaning  
16 protocols are effectively preventing virus spread at District facilities. Ms. Brooks confirmed that  
17 the infected employee and close contacts followed all Eagle County Public Health protocols.

18       **Drought Conditions** – Ms. Brooks noted the current conditions and weather forecasting indicate  
19 likely drought conditions as we move into summer. Ms. Brooks recommended using similar  
20 tactics that served the Authority and District well in the past, including maintaining defensible  
21 space around facilities, reaching out to large irrigators and customers using excessive amounts of  
22 water, and optimizing operations to leave as much water as possible in streams. Ms. Brooks did  
23 not believe an incident command system response was warranted, especially given the two  
24 incidents to which staff continues to respond: the pandemic and the backflow prevention and  
25 cross connection control compliance.

26       **Water Legislation** – In response to an inquiry, Ms. Moseley said the water bills Gov. Polis  
27 recently signed were non-controversial, with no concerns related to the Authority and District.

28       **Authority Bond Update** – Mr. Wilkins discussed the bond contemplated in the Authority’s 2020  
29 budget; there may be flexibility in the bond issue timing. He outlined factors to consider, including  
30 the potential to spend down the proceeds within three years to avoid arbitrage issues; current  
31 market conditions and expected changes; and the bond’s impact to monthly rates. A related  
32 memo is attached hereto as **Exhibit D** and incorporated herein by this reference.

### 33 **OPERATIONS REPORT**

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

## Upper Eagle Regional Water Authority

1           **Daybreak Ridge Water Main Break and Repair** – Ms. Roman, Mr. Zachman, and Mr. Schneider  
2 discussed a recent water main break on Daybreak Ridge above the Ritz Carlton in Bachelor  
3 Gulch, caused by a rock underneath the ductile iron pipe. The District’s response was swift and  
4 appropriate, and it was clear the break was on the District’s side of the system due to declining  
5 tank levels and associated alarms. Notifications were quickly issued, and customers in the  
6 affected area were asked to use water only for essential purposes. The road will also need to be  
7 repaved by mid-August to ensure conditions are ready for the Colorado Classic Bike Race.

8           **Backflow Program Update** – Mr. Swartwout referenced his monthly update memo regarding the  
9 Backflow Prevention and Cross Connection Control Program, a copy of which is attached hereto  
10 as **Exhibit G** and incorporated herein by this reference.

11           **Eagle Park Reservoir Company Operations Report** – The confidential EPRC quarterly  
12 operations report was referenced.

### GENERAL COUNSEL REPORT

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

### WATER COUNSEL REPORT

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

17           **Pando Feeder Canal Motion for Summary Judgment and Entry of Decree** – Mr. Porzak  
18 presented the Pando Feeder Canal motion for summary judgment and entry of decree regarding  
19 the protest to the referee’s ruling in the Pando Feeder Canal absolute/diligence case. A copy is  
20 attached hereto as **Exhibit H** and incorporated herein by this reference. The state’s answer brief  
21 is due on June 29, 2020.

22 At 9:27 a.m., Ms. Koppel and Messrs. Cerny and Schneider, and Dr. Wright left the meeting.

### **EXECUTIVE SESSION**

24 Mr. Collins requested the Board enter Executive Session to receive legal advice of counsel regarding the  
25 Cordillera Valley Club residences, pursuant to §24-6-402(4)(a)(b) and (e) C.R.S. He asked that no  
26 electronic record be made, as the discussion would be entirely privileged attorney-client communications.  
27 Upon motion duly made and seconded, it was unanimously

28           **RESOLVED** to enter Executive Session at 9:28 a.m. to receive advice of counsel regarding  
29 the Cordillera Valley Club residences, pursuant to §24-6-402(4)(b) and (e) C.R.S. with no  
30 electronic record created as Mr. Collins opined the contents of the discussion would contain  
31 privileged attorney-client communications.\*

32 Mr. Porzak requested the Board continue Executive Session to receive legal advice of counsel regarding  
33 the Eagle River MOU and Bolts Lake matters, pursuant to §24-6-402(4)(a)(b) and (e) C.R.S. He asked  
34 that no electronic record be made, as the discussion would be entirely privileged attorney-client  
35 communications. Upon motion duly made and seconded, it was unanimously

## Upper Eagle Regional Water Authority

1           **RESOLVED** to continue Executive Session at 10:00 a.m. to receive advice of counsel  
2           regarding Eagle River MOU and Bolts Lake matters, pursuant to §24-6-402(4)(b) and (e)  
3           C.R.S. with no electronic record created as Mr. Porzak opined the contents of the discussion  
4           would contain privileged attorney-client communications.\*

5           At 10:15 a.m., prior to discussion of Bolts Lake, Messrs. Swartwout, Wilkins, and Zachman left the  
6           meeting.

7           The regular meeting resumed at 11:12 a.m.

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# Upper Eagle Regional Water Authority

1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 11:13 a.m.

3 Respectfully submitted,

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

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

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

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15 **Town of Avon**

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18 **Beaver Creek Metropolitan District**

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

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24 **EagleVail Metropolitan District**

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27 **Edwards Metropolitan District**

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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.

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41 \_\_\_\_\_  
42 **James P. Collins, General Counsel**

43 \_\_\_\_\_  
44 **Glenn Porzak, Water Counsel**