

**Eagle River Water and Sanitation District  
Upper Eagle Regional Water Authority  
Joint Special Meeting  
July 23, 2020  
MINUTES**

1 A joint special meeting of the Boards of Directors of the Upper Eagle Regional Water Authority (**Authority**)  
2 and Eagle River Water and Sanitation District (**District**) was held July 23, 2020, at 10:15 a.m., via Skype,  
3 in accordance with the applicable statutes of the State of Colorado.

4 **ATTENDANCE**

5 **The following Authority Directors were present, 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 Sarah Smith Hymes, town of Avon  
10 Kim Bell Williams, EagleVail Metropolitan District  
11 Mick Woodworth, Edwards Metropolitan District

12 **The following District Directors were present, thereby constituting a quorum:**

13 Dick Cleveland  
14 Steve Coyer  
15 George Gregory  
16 Timm Paxson  
17 Bill Simmons  
18 Brian Sipes  
19 Robert Warner

20 **Also in attendance were:**

21 **ERWSD Staff**

22 Linn Brooks  
23 Troy Clous  
24 Catherine Hayes  
25 Diane Johnson  
26 Kira Koppel  
27 Siri Roman  
28 Jeff Schneider  
29 James Wilkins

31 Len Wright

32 Brad Zachman

33 **Consultants**

34 Steve Bushong, Porzak Browning & Bushong LLP  
35 Jim Collins, Collins Cockrel & Cole  
36 Kristin Moseley, Porzak Browning & Bushong LLP  
37 Glenn Porzak, Porzak Browning & Bushong LLP  
38 Kathryn Winn, Collins Cockrel & Cole

39 **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

40 The Boards noted they 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 **For the Authority:**

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

50 **For the District:**

51 Director Cleveland disclosed that he serves on the board of Vail Health. Director Gregory disclosed that he serves on the Boards  
52 of the Upper Eagle Regional Water Authority (Authority and the Berry Creek Metropolitan District and occasionally undertakes  
53 development and construction activities within the District and Authority service areas. Director Simmons disclosed that he is the  
54 General Manager of the Beaver Creek Metropolitan District, an alternate Authority Director, and serves on the boards of the  
55 Edwards Metropolitan District and Eagle River Fire Protection District. Director Warner disclosed that he is a developer within the  
56 District's service area and serves on the Eagle County Planning Commission, which occasionally has dealings with the District.

57  
58 **CALL TO ORDER**

**Eagle River Water and Sanitation District  
Upper Eagle Regional Water Authority**

1 Chair Simmons of the Eagle River Water and Sanitation District called the meeting to order at 10:19 a.m., and  
2 Chair Gregory of the Upper Eagle Regional Water Authority concurred.

3 **PUBLIC COMMENT**

4 Public comment was called for and there was none.

5 **ACTION ITEMS**

6 **Authority**

7 **Consideration of Minutes** – The minutes of the Authority’s regular meeting of June 25, 2020, were  
8 considered. Upon motion duly made and seconded, it was unanimously

9 **RESOLVED** that the minutes of the June 25, 2020, regular meeting be accepted and hereby are  
10 approved as presented.

11 **FY2019 Audit Extension Request** – Mr. Wilkins presented a board action request and related  
12 resolution requesting an extension until Sept. 30 to file the Authority’s FY2019 with the Office of the  
13 State Auditor. After discussion and upon motion duly made and seconded, it was unanimously

14 **RESOLVED** that the resolution to request an audit extension for the Authority be and hereby is  
15 approved as presented.

16 Copies of the board action request and resolution are attached hereto as **Exhibits A** and **B**, respectively,  
17 and incorporated herein by this reference.

18 **District**

19 **Consideration of Minutes** – The minutes of the District’s regular meeting of June 25, 2020, were  
20 considered. Upon motion duly made and seconded, it was unanimously

21 **RESOLVED** that the minutes of the June 25, 2020, regular meeting be accepted and hereby are  
22 approved as presented.

23 **FY2019 Audit Extension Request** – Mr. Wilkins presented a board action request and related  
24 resolution requesting an extension until Sept. 30 to file the District’s FY2019 with the Office of the State  
25 Auditor. After discussion and upon motion duly made and seconded, it was unanimously

26 **RESOLVED** that the resolution to request an audit extension for the District be and hereby is  
27 approved as presented.

28 Copies of the board action request and resolution are attached hereto as **Exhibits C** and **D**, respectively,  
29 and incorporated herein by this reference.

30 **Joint**

31 **Consideration of Minutes** – The minutes of the Authority and District joint special meeting of May 28,  
32 2020, were considered. Upon motion duly made and seconded, it was unanimously

33 **RESOLVED** that the minutes of the May 28, 2020, joint special meeting be accepted and hereby  
34 are approved as presented by both boards.

**Eagle River Water and Sanitation District  
Upper Eagle Regional Water Authority**

1 The minutes of the Authority and District joint special meeting of June 24, 2020, were considered. Upon  
2 motion duly made and seconded, it was unanimously

3 **RESOLVED** that the minutes of the June 24, 2020, joint special meeting be accepted and hereby  
4 are approved as presented by both boards.

5 **Consent Agenda** – The Boards unanimously approved the consent agenda, a copy of which is attached  
6 hereto as **Exhibit E** and incorporated herein by this reference.

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

9 **GENERAL MANAGER REPORT**

10 Ms. Brooks noted other employees would report on the matters on which she is currently working and did  
11 not include a written packet report. She said staff was again minimizing verbal updates during the virtual  
12 meetings and noted a written report on communications attached hereto as **Exhibit G** and incorporated  
13 herein by this reference.

14 **COVID-19 Response Update** – Ms. Brooks noted absenteeism among staff remained low,  
15 though some employees were using vacation time. She discussed Eagle County’s shift from a  
16 cautious response (yellow) to a more concerned response (red) to the pandemic as local case  
17 numbers of coronavirus increased. Ms. Brooks is satisfied with the District’s response, and  
18 sanitation and hygiene protocols at District facilities have proven effective. The majority of  
19 administrative staff is working offsite, and District facilities remain closed to the public. In  
20 response to a question, Ms. Brooks said about 65% of employees are working from home and  
21 there are usually fewer than 20% of office employees onsite at the Vail office at any given time.

22 **Drought** – Ms. Brooks noted the current streamflow levels are lower than average, but not nearly  
23 as low as streamflows observed during the 2012 and 2018 droughts. Monsoonal rains are  
24 expected soon, but staff continues to plan for low streamflows in late summer and early fall, as  
25 well as reaching out to excessive users to reduce water use. Staff can use its WaterSmart  
26 platform to identify and send targeted messages to excessive users; a more general approach  
27 will be used for moderately high users.

28 **OPERATIONS REPORT**

29 Ms. Roman presented the operations report, a copy of which is attached hereto as **Exhibit H** and  
30 incorporated herein by this reference. She also referenced a backflow program update, a copy of which is  
31 attached hereto as **Exhibit I** and incorporated herein by this reference.

32 **GENERAL COUNSEL REPORT**

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

**Eagle River Water and Sanitation District  
Upper Eagle Regional Water Authority**

1           **Biosolids Containment Facility Land Update** – Ms. Hayes updated on the desired purchase of  
2           the biosolids containment facility (BCF) land from the Bureau of Land Management (BLM). The  
3           district currently holds a patent for the land from the BLM; a direct sale of the land was requested,  
4           which would allow the District to use the land for a possible solar array. Under the patent, the use  
5           of the land is limited to drying of biosolids, which are the byproduct of the wastewater treatment  
6           process. Of the 25 acres in the parcel, just under 1 acre is needed to dry biosolids.

7           **WATER COUNSEL REPORT**

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

9           **Authority + District**

10           **Eagle Park Reservoir Diligence Ruling** – Mr. Porzak discussed the diligence ruling for the  
11           Eagle Park Reservoir water rights, a copy of which is attached hereto as **Exhibit I** and  
12           incorporated herein by this reference. He noted only four days remained for objections to be filed,  
13           after which the judge would sign the final decree.

14           **Authority**

15           **Diligence Filings** – Mr. Porzak reported on various diligence filings for the Authority, including  
16           those for water rights in Wolford Mountain Reservoir and a multitude of Authority conditional  
17           water rights. A copy is attached hereto as **Exhibit J** and incorporated herein by this reference.

18           **Eagle Park Reservoir Stock Agreement** – Mr. Porzak reported that he expects the Eagle Board  
19           of County Commissioners (BoCC) to approve the conveyance of its shares in Eagle Park  
20           Reservoir to the Authority at its July 28 BoCC meeting. A joint press release on the conveyance  
21           will be issued, and the water will be used for affordable housing projects, per the terms of the  
22           stock agreement. A copy of the agreement is attached hereto as **Exhibit K** and incorporated  
23           herein by this reference.

24           At 11:04 p.m., Mses. Koppel and Messrs. Clous, Schneider, and Wright left the meeting.

25           **EXECUTIVE SESSION**

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

30                    **RESOLVED** to enter Executive Session at 11:05 a.m. to receive advice of counsel regarding  
31                    water supply modeling and strategic planning, pursuant to §24-6-402(4)(b) and (e) C.R.S.  
32                    with no electronic record created as Mr. Collins opined the contents of the discussion would  
33                    contain privileged attorney-client communications.\*

34           At 12:13 the board took a short recess. The meeting resumed at 12:23 p.m., in Executive Session.

**Eagle River Water and Sanitation District  
Upper Eagle Regional Water Authority**

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

5 **RESOLVED** to continue Executive Session at 12:23 p.m. to receive advice of counsel  
6 regarding Bolts Lake matters, pursuant to §24-6-402(4)(b) and (e) C.R.S. with no electronic  
7 record created as Mr. Porzak opined the contents of the discussion would contain privileged  
8 attorney-client communications.\*

9 Prior to the discussion of Bolts Lake matters, Messrs. Wilkins, and Zachman left the meeting.

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

**Eagle River Water and Sanitation District  
Upper Eagle Regional Water Authority**

**ADJOURNMENT**

There being no further business to come before the Boards, the meeting adjourned at 1:58 p.m.

Respectfully submitted,

\_\_\_\_\_  
Secretary to the Meeting

**EAGLE RIVER WATER & SANITATION DISTRICT**

\_\_\_\_\_  
Dick Cleveland, Director

\_\_\_\_\_  
Steve Coyer, Treasurer

\_\_\_\_\_  
George Gregory, Secretary

\_\_\_\_\_  
Timm Paxson, Director

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Bill Simmons, Chair

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Brian Sipes, Director

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Robert Warner, Director

Eagle River Water and Sanitation District  
Upper Eagle Regional Water Authority

UPPER EAGLE REGIONAL WATER AUTHORITY

\_\_\_\_\_  
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

\_\_\_\_\_  
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 P. Collins, General Counsel**

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**Glenn Porzak, Water Counsel**

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