MEMORANDUM

TO: Boards of Directors
FROM: Catherine Hayes, Board Secretary
DATE: August 19, 2020
RE: Joint Special Meeting of August 27, 2020

This memorandum shall serve as notice of the Joint Special Meeting of the Boards of Directors of the Eagle River Water and Sanitation District and the Upper Eagle Regional Water Authority:

Thursday, August 27, 2020
11:00 a.m. – 3:30 p.m.

This meeting will be held virtually, via Microsoft Teams to ensure compliance with state and local social distancing requirements.

Microsoft Teams information is available prior to the meeting by emailing chayes@erwsd.org.

Cc:
ERWSD Managers
Carol Dickman

Public meeting materials via email:
Bob Armour, Vail resident
Caroline Bradford, Independent Consultant
Robert Lipnick, Vail resident
Rick Sackbauer, Vail resident
Cliff Thompson, IKS Consulting
1. Consultant/Guest Introduction

2. Public Comment

3. Action Items
   Authority
   3.1 Bond Parameters Resolution – Rick Smith, interim Director of Finance

   Joint
   3.2 Meeting Minutes of July 23, 2020, Authority + District Joint Meeting
   3.3 Late Fee Waiver Extension – Shane Swartwout
   3.4 Consent Agenda – contract log

4. Information Reports
   4.1 Development Report
   4.2 Authority and District Committees
   4.3 Authority July Meeting Summary – draft

5. General Manager Report
   5.1 Sustainability Report: Social Equity
   5.2 Communications and Public Affairs Report
   5.3 Quarterly Financial Reports

   6.1 Low Streamflow Operating Plan Update
   6.2 Backflow Program 101 – Brad Zachman and Evette Smits
   6.3 AWWTF Nutrient Upgrade – Melissa Marts
   6.4 Edwards Spur Road Update – Mark Mantua

7. General Counsel Report – Jim Collins

8. Water Counsel Report – Glenn Porzak
   Authority + District
   8.1 Eagle Park Reservoir Company

9. Executive Session pursuant to § 24-6-402(b) and (e), C.R.S.
   9.1 General Counsel Review of Matters in Negotiation – Jim Collins
   9.2 Water Counsel Review of Matters in Negotiation – Glenn Porzak
      9.2.1 Strategic Reserve Policy
      9.2.2 Bolts Lake Matters
9.3. General Manager Review of Matters in Negotiation – Linn Brooks

9.3.1. Bolts Lake Matters – Lorne Bassel and Gerry Ronon

10. Adjournment

☆ Action Item Attachment

- Public comment of items not on the agenda is limited to three minutes per person on any particular subject for which public comment is accommodated, pursuant to § 18-9-108, C.R.S.

This is a remote meeting and will be held virtually; for Microsoft Teams information to join the meeting, please contact chayes@erwsd.org prior to the meeting.
CERTIFICATE AS TO BOND RESOLUTION

I, Kim Bell Williams, the duly qualified and acting Secretary of the Upper Eagle Regional Water Authority (the “Authority”), hereby certify that attached hereto is a true, correct and complete copy of the resolution (the “Resolution”) adopted by the Board of Directors of the Authority at a regular meeting thereof held on August 27, 2020, by a vote of ____ to ____ , which was properly noticed and at which meeting a quorum was present and acting throughout, and which Resolution has not been amended, modified or rescinded since the date of its adoption, and is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Authority this August ___, 2020.

(SEAL)

________________________
Secretary
RESOLUTION

A RESOLUTION AUTHORIZING THE ISSUANCE OF WATER REVENUE REFUNDING AND IMPROVEMENT BONDS OF THE UPPER EAGLE REGIONAL WATER AUTHORITY; PROVIDING OTHER DETAILS CONCERNING THE BONDS, THE SYSTEM, AND FUNDS APPERTAINING THERETO, INCLUDING BUT NOT LIMITED TO COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH.

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE UPPER EAGLE REGIONAL WATER AUTHORITY:

ARTICLE I

DEFINITIONS; RECITALS; CONTRACT; RATIFICATION

Section 1.01. Definitions. All terms defined in the Service Contract shall have the same meanings where used herein (except where otherwise specifically defined herein). The terms of this Section, defined for all purposes of this Resolution and of any resolution amendatory hereof or supplemental hereto, or relating hereto, and of any instrument or document appertaining hereto, except where the context by clear implication otherwise requires, shall have the meanings herein specified:

“Act” means Section 29-1-204.2, C.R.S.

“Authority” means the Upper Eagle Regional Water Authority or any entity that assumes the obligations of the Authority pursuant to Section 5.11 hereof.

“Average annual principal and interest requirements” means the sum of the principal of and interest on a security or securities, excluding any securities the principal of which is payable within less than one year from the date on which such securities are issued, but including any proposed Parity Lien Bonds in the computation of an earnings test pertaining thereto under Section 4.01.B. hereof, to be paid during each year for the period beginning with the year in which such computation is made and ending with the year in which such security last becomes due at maturity or on a Redemption Date on which any security thereafter maturing is called for prior redemption, whichever time is later. The word “principal,” as used in the preceding sentence, means for all purposes of this paragraph, the principal which must be paid to security holders, whether on a stated maturity date, sinking fund redemption date, or otherwise.

“Board” means the Board of Directors of the Authority.
“Bond Act” means Part 4 of Article 35 of Title 31, C.R.S., relating to the terms, conditions and details of the 2020 Bonds herein authorized, as referred to in and supplemented and qualified by the Act.

“Bond Fund” means the fund so designated and created in Section 3.02 hereof.

“Bondholder” or “owner” or “registered owner” or “holder” means the registered owner of any of the Bonds.

“Bond Purchase Agreement” means the Bond Purchase Agreement between the Authority and the Purchaser concerning the sale of the 2020 Bonds.

“Bond Requirements” means the Principal Installments of, interest on, and any prior redemption premium due in connection with Outstanding Current Bonds, the 2020 Bonds, or any Parity Lien Bonds, as individually or collectively referred to hereinafter.

“Bonds” means the 2010A Bonds, 2013A Bonds, the 2013C Bonds, and the 2020 Bonds as so authorized in this Resolution, and any Parity Lien Bonds issued and Outstanding.

“Certified Public Accountant” or “Accountant” means any independent certified public accountant, or firm of such certified public accountants, duly licensed to practice and practicing as such under the laws of the State of Colorado, appointed and paid by the Authority.

“Chairman” means the Chairman of the Board of Directors of the Authority.

“Construction Project” means the acquisition, construction, and installation of water improvements, facilities, and properties, including without limitation water rights and rights to water and all necessary or appropriate equipment, which are financed with a portion of the proceeds of the 2020 Bonds.

“Continuing Disclosure Certificate” means the undertaking executed by officers of the Authority simultaneous with the delivery of the 2020 Bonds which enables the Purchaser to comply with the Rule.

“Costs of the Construction Project” the Authority’s costs properly attributable to the Construction Project or any part thereof, including without limitation:

(a) the costs of labor and materials, of machinery, furnishings, and equipment, and of the restoration of property damaged or destroyed in connection with construction work;

(b) the costs of insurance premiums, including the premium due in connection with the Policy, indemnity and fidelity bonds, financing charges, bank fees, taxes, or other municipal or governmental charges lawfully levied or assessed;

(c) administrative and general overhead costs;

(d) the costs of reimbursing funds advanced by the Authority in anticipation of reimbursement from Bond proceeds, including any intrafund or interfund loan;
(e) the costs of surveys, appraisals, plans, designs, specifications, and estimates;

(f) the costs, fees, and expenses of printers, engineers, architects, financial consultants, legal advisors, or other agents or employees;

(g) the costs of publishing, reproducing, posting, mailing, or recording documents;

(h) the costs of contingencies or reserves;

(i) the costs of issuing the 2020 Bonds;

(j) the costs of amending any resolution or other instrument relating to the 2020 Bonds or the Construction Project;

(k) the costs of repaying any short-term financing, construction loans, and other temporary loans, and of the incidental expenses incurred in connection with such loans;

(l) the costs of acquiring any property, rights, easements, licenses, privileges, agreements, and franchises;

(m) the costs of demolition, removal, and relocation; and

(n) all other lawful costs as determined by the Board.

“C.R.S.” means the Colorado Revised Statutes, as amended and supplemented as of the date hereof.

“Current Bonds” means any of the 2010 Bonds, the 2013 Bonds or the 2020 Bonds.

“Depository” means any state or national bank, or state chartered or federally chartered savings and loan association which has its principal office in the State of Colorado, is insured by the Federal Deposit Insurance Corporation, and has been designated as an eligible public depository under the Public Deposit Protection Acts.

“District” means any of the Arrowhead Metropolitan District, the Town of Avon, as the successor in interest to the Avon Metropolitan District, Beaver Creek Metropolitan District, Berry Creek Metropolitan District, Eagle-Vail Metropolitan District, or Edwards Metropolitan District, and each of their successors, and any entity which may hereafter become a Contracting Party pursuant to the Establishing Contract. All of the foregoing shall be referred to herein collectively as the “Districts.”

“Engineer,” without further modification, means any registered or licensed professional engineer, or any firm of such engineers, having a favorable reputation for skill and experience in the field of water projects and facilities, and feasibility and rate-making in connection therewith.
“Escrow Account” means the Escrow Account created pursuant to the Escrow Agreement and maintained by the Escrow Bank.

“Escrow Agreement” means the Escrow Agreement dated as of the date of delivery of the 2020 Bonds, between the Authority and the Escrow Bank, if required.


“Establishing Contract” means the Authority Agreement Amending and Restating the Agreement Establishing the Upper Eagle Regional Water Authority and the Master Service Contract dated as of May 27, 2015, among the Districts, which amended and restated the original Establishing Contract dated as of September 18, 1984, as amended by the First Amendment to Establishing Contract of Upper Eagle Regional Water Authority, among the Districts, dated as of April 1, 1985, which established the Authority, and any amendments or supplements thereto.

“Event of Default” means any of the events stated in Section 7.01 hereof.

“Existing Parity Bonds” means the Current Bonds which have been issued and remain Outstanding as of the date of issuance of the 2020 Bonds.

“Federal Securities” means bills, certificates of indebtedness, notes, or bonds which are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States of America (or any interest in any of the foregoing).

“Finance Manager” means the Finance Manager of the Authority or such other officer or employee of the Authority who performs the duties of the chief financial officer.

“Fiscal Year” for the purposes of this Resolution means the 12 months commencing on the first day of January of any calendar year and ending on the last day of December of said year, or such other fiscal year for Authority purposes as may hereafter be provided pursuant to law.

“Future Reserve Fund Bonds” means Parity Lien Bonds which are secured by the Reserve Fund as provided in the resolution authorizing such Parity Lien Bonds.

“General Manager” means the General Manager of the Authority.

“Insurance Policy” means the municipal bond new issue insurance policy, if any, issued by the Insurer that guarantees payment of principal of and interest on the 2020 Bonds when due.

“Insurer” means the issuer of the Insurance Policy, if any, as set forth in the Sale Certificate.

“Insurance Agreement” means an agreement, if any, entered into between the Authority and any Insurer pursuant to Section 2.05 of this Resolution.
“Investment Securities” means any of the following securities, whether acquired by the Authority individually or pursuant to a pool established pursuant to Title 24, Article 75, Part 8, C.R.S., if and to the extent that the same are at the time legal for investment of Authority funds:

(i) Federal Securities;

(ii) Deposits pursuant to the Public Deposit Protection Acts;

(iii) Written agreements under which a bank or trust company which is a member of the Federal Deposit Insurance Corporation, a savings and loan association which is a member of the Federal Deposit Insurance Corporation, or an investment dealer or dealer bank which is recognized as a primary dealer in United States government securities sells to, and agrees to repurchase from the Authority, Federal Securities provided (i) that the market value of such Federal Securities is, at all times, at least equal to the repurchase price specified in the agreement and (ii) that such obligations are held by the Authority or by an agent satisfactory to the Authority in such manner as may be required to provide a perfected security interest in such Federal Securities.

“Net Revenues” means the Revenues after deducting Operation and Maintenance Expenses.

“Official Statement” means the final Official Statement with respect to the 2020 Bonds in substantially the form of the Preliminary Official Statement.

“Operation and Maintenance Expenses” means all expenses incurred in the operation and maintenance of the Authority’s Water System, including the Participating Members’ formerly individually owned Water Systems and normally recurring expenses incurred by the Authority in the conduct of its activities which are properly Authority costs under generally accepted accounting principals as applied to governmental units. Such term does not include depreciation or replacement expenses or reserves therefore, debt service, or principal of or interest on any other borrowing of the Authority.

“Operations Reserve Fund” means the fund so designated and created in Section 3.02 hereof.

“Operations Minimum Reserve” means an amount equal to three months of Operation and Maintenance Expenses as set forth in the Authority’s Annual Budget.

“Outstanding” means, as of any date of calculation, all Bonds theretofore executed, issued and delivered by the Authority except:

(i) Bonds theretofore cancelled by the Registrar or surrendered to the Registrar for cancellation;

(ii) Bonds in lieu of, or in substitution for, which other Bonds shall have been executed, issued and delivered by the Authority and authenticated by the Registrar unless proof
satisfactory to the Registrar is presented that any such Bonds are duly held by the lawful
registered owners thereof;

(iii) Bonds (or portions of Bonds) for the payment or redemption of which
moneys, equal to the principal amount or redemption price thereof, as the case may be, with
interest to the date of maturity or Redemption Date, shall be held in trust and set aside for such
payment or redemption (whether at or prior to the maturity or Redemption Date), provided that if
such Bonds are to be redeemed, notice of such redemption shall have been given as provided in
Section 2.07 hereof or provision satisfactory to the Registrar shall have been made for the giving
of such notice; and

(iv) Bonds deemed to have been paid as provided in Section 6.01 hereof.

“Parity Lien Bonds” means any additional series of bonds or other securities or
obligations payable from the Revenues issued pursuant to Section 4.01 hereof and having a lien
upon the Net Revenues on a parity with the lien of the Existing Parity Bonds, and the 2020
Bonds.

“Participating Members” means the Authority, Arrowhead Metropolitan District,
the Town of Avon, Beaver Creek Metropolitan District, Berry Creek Metropolitan District,
Eagle-Vail Metropolitan District and Edwards Metropolitan District, each being parties to the
Service Contract.

“Paying Agent” means U.S. Bank National Association, Denver, Colorado, as
agent for the Authority for the payment of the 2020 Bonds, or its successors.

“Paying Agent Agreement” means the Paying Agent and Registrar Agreement
dated as of the date of delivery of the 2020 Bonds between the Authority and the Paying
Agent/Registrar.

“Payment Date” means any scheduled interest or principal payment date the 2020
Bonds.

The word “person” means not only a natural person, corporation, or other legal
entity, but also two or more natural persons, corporations, or other legal entities acting jointly as
a firm, partnership, unincorporated association, joint venture, or otherwise.

“Policy Costs” means repayment of draws under the Qualified Surety Bond, if
any, plus all related reasonable expenses incurred by the Insurer, plus accrued interest thereon.

“Preliminary Official Statement” means the Preliminary Official Statement with
respect to the 2020 Bonds.

“Principal Installment” means as of any date of calculation, the sum of the
principal amount of Bonds maturing on such date; provided that for purposes of this
computation, Bonds subject to mandatory sinking fund redemption shall be deemed to mature in
principal installments equal to, and on the dates of, the annual mandatory sinking fund
redemptions.
“Project” means the Refunding Project and the Construction Project.

“Public Deposit Protection Acts” means the Public Deposit Protection Act, Section 11-10.5-101, et seq., C.R.S., as from time to time amended, or the Savings and Loan Association Public Deposit Protection Act, Section 11-47-101 et seq., C.R.S., as from time to time amended.

“Purchaser” means Piper Sandler & Co. of Denver, Colorado, the initial purchaser of the 2020 Bonds.

“Qualified Surety Bond” means a surety bond, insurance policy, letter or line of credit, or similar instrument which may be utilized in the Reserve Fund in lieu of or in partial substitution for moneys on deposit therein to provide security therefor, the issuer or provider of which is the 2010 Insurer, the 2013 Insurer, and the Insurer of the 2020 Bonds, if any, or is acceptable to the 2010 Insurer and the 2013 Insurer.

“Rate Stabilization Fund” means the special fund designated as the “Upper Eagle Regional Water Authority Rate Stabilization Fund” created pursuant to Section 3.06 of the Resolution authorizing the 2010 Bonds and continued herein.

“Rebate Fund” means the Rebate Fund so designated in Section 3.02 hereof.

“Record Date” means the 15th day of the month preceding each Payment Date.

“Redemption Date” means the date fixed in any notice of redemption for the redemption of Bonds prior to their respective maturities, or, with respect to the Refunded Bonds, the first date on which such Refunded Bonds may be called for prior redemption.

“Refunded Bond Requirements” means collectively, (i) the interest due on the Refunded Bonds on each June 1 and December 1 until their prior redemption on the Redemption Date and (ii) the principal of and interest on the Refunded Bonds as the same becomes due upon their prior redemption on the Redemption Date.

“Refunded Bonds” means all of the Outstanding 2010B Bonds as designated in the Sale Certificate.

“Refunding Project” means the use of a portion of the proceeds of the 2020 Bonds and other legally available moneys of the Authority to refund, pay and discharge all of the Refunded Bond Requirements.

“Registrar” means U.S. Bank National Association, Denver, Colorado, as agent of the Authority for the registration and transfer of the 2020 Bonds, or its successors.

“Reserve Fund” means the debt service reserve fund so designated in Section 3.02 hereof.
“Reserve Fund Bonds” means the Outstanding 2010 Bonds, the 2013 Bonds and the 2020 Bonds if so designated in the Sale Certificate relating to such 2020 Bonds, and Future Reserve Fund Bonds.

“Reserve Fund Requirement” has the meaning ascribed to such term in the Sale Certificate.

“Revenue Fund” means the fund so designated and created in Section 3.02 hereof.

“Revenues” means the gross revenues derived by the Authority from the operation of, or attributable to the ownership of, the System, or any part thereof, including all revenue attributable to the System received by the Authority pursuant to the Service Contract or any lease or other contractual arrangement with respect to the use of the System or the service thereof, or from the proceeds of any business interruption insurance relating to the System or from the sale of the System or any portion thereof as permitted herein. “Revenues” also includes all interest, profits, or other income derived from investment of funds or moneys held pursuant to this Resolution. “Revenues” does not include any moneys collected by the Authority acting as agent for the Districts pursuant to the Service Contract, including but not limited to, tap fees and water surcharges imposed by the individual Districts.

“Rule” means Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“Sale Certificate” means the certificate executed by the General Manager or Finance Manager of the Authority dated on or before the date of delivery of the 2020 Bonds, setting forth: (i) the maturities of the 2010B Bonds which shall be refunded; (ii) the rates of interest on the 2020 Bonds; (iii) the conditions on which the 2020 Bonds may be redeemed prior to maturity and the redemption prices therefor; (iv) the existence and amount of any reserve fund; (v) the price at which the 2020 Bonds will be sold; (vi) the principal amount and denominations of the 2020 Bonds; (vii) the amount or amounts of principal maturing in any particular year; (viii) the dates on which principal and interest shall be paid, including, the first interest payment date for the 2020 Bonds; and (ix) whether the Authority shall obtain an Insurance Policy or a Qualified Surety Bond, subject to the parameters and restrictions contained in Section 2.05 of this Resolution.

“Service Charges” means the charges to customers for Water Service by the Authority pursuant to the Service Contract.

“Service Contract” means the Authority Agreement Amending and Restating the Upper Eagle Regional Water Authority and the Master Service Contract, by and among the Districts, dated as of May 27, 2015, as the same may be amended or extended.

“Special Record Date” means a date fixed by the Paying Agent to determine the names and addresses of the Bondholders for purposes of paying interest on a special interest payment date for the payment of defaulted interest, all as further provided in Section 2.05 hereof.
“Subordinate Bonds” means bonds or securities payable from Revenues with a lien on Net Revenues subordinate and junior to the lien thereon of the Bonds.

“Supplemental Act” means the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, C.R.S.

“System” means the Authority’s system for the collection, treatment and distribution of water and consisting of all properties, real, personal, mixed or otherwise, now owned or hereafter acquired by the Authority, through the Service Contract, and through purchase, construction or otherwise, and used in connection with such system of the Authority, and in any way appertaining thereto.


“Term Bonds” means 2020 Bonds that are payable on or before their specified maturity dates from sinking fund payments established for that purpose and calculated to retire such 2020 Bonds on or before their specified maturity dates.

“2010 Bonds” means, collectively, the 2010A Bonds and the 2010B Bonds.

“2010A Bonds” means the Upper Eagle Regional Water Authority, Eagle County, Colorado, Water Revenue Bonds, Series 2010A, originally issued in the aggregate principal amount of $8,695,000 and currently outstanding in the aggregate principal amount of $950,000.

“2010B Bonds” means the Upper Eagle Regional Water Authority, Eagle County, Colorado, Taxable Water Revenue Bonds, Series 2010B (Direct Pay Build America Bonds) originally issued and currently outstanding in the aggregate principal amount of $14,650,000.

“2010 Insurer” means Assured Guaranty Municipal Corp. (formerly Financial Security Assurance Inc.), a New York stock insurance company, or any successor thereto or assignee thereof.

“2013 Bonds” means collectively the 2013A Bonds and the 2013C Bonds.

“2013A Bonds” means the Upper Eagle Regional Water Authority, Eagle County, Colorado, Water Revenue Bonds, Series 2013A, originally issued and currently outstanding in the aggregate principal amount of $11,905,000.

“2013C Bonds” means the Upper Eagle Regional Water Authority, Eagle County, Colorado, Water Refunding Revenue Bonds, Series 2013C, originally issued in the aggregate principal amount of $940,000 and currently outstanding in the aggregate principal amount of $310,000.

“2013 Insurer” means Assured Guaranty Municipal Corp., a New York stock insurance company, or any successor thereto or assignee thereof.
“2020 Bonds” means the Upper Eagle Regional Water Authority, Eagle County, Colorado, Water Revenue Refunding and Improvement Bonds, Series 2020 as authorized by this Resolution and as designated in the Sale Certificate.

“2020 Construction Fund” means the special subaccount of the Authority’s General Fund designated as the “Upper Eagle Regional Water Authority, Water Revenue Bonds, Series 2020, Construction Fund” created pursuant to Section 3.03 hereof, to be utilized for purposes of the Construction Project.

**Section 1.02. Recitals.**

A. The Authority is a political subdivision and a public corporation duly organized and existing under the laws of the State of Colorado.

B. The Authority was established by the Districts pursuant to Section 29-1-204.2, C.R.S., by the Establishing Contract.

C. Pursuant to the Service Contract, the Districts have conveyed to the Authority their individual water systems (which now form a part of the System), and the Authority collects directly from its customers various fees and charges, including the Service Charges.

D. The Existing Parity Bonds have liens on the Net Revenues which constitute irrevocable and first (but not necessarily exclusively first) liens upon the Net Revenues.

E. Except for the Existing Parity Bonds, there are no bonds, notes or evidences of indebtedness or contractual obligations payable from the Net Revenues with a lien on such Net Revenues which is on a parity with the lien thereon of the Existing Parity Bonds.

F. The Authority has previously issued the 2010B Bonds, which 2010B Bonds are currently outstanding in the aggregate principal amount of $14,650,000.

G. The 2010B Bonds are subject to redemption prior to maturity at the option of the Authority, in whole or in part, in integral multiples of $5,000, in any order, from such maturities as are selected by the Authority and by lot from Bonds of the same maturity (giving proportionate weight to Bonds in denominations larger than $5,000) in such manner as the Registrar (as defined in the Bond Resolution) may determine, on December 1, 2020, or on any date thereafter at a redemption price equal to 100% of the principal amount of each Bond or portion thereof so redeemed, plus accrued interest thereon to the redemption date.

H. The Board has determined that the Authority’s overall interest costs will be less if it calls the Refunded Bonds for prior redemption on the Redemption Date and undertakes the Refunding Project.

I. The Board has determined and hereby determines that the interest of the Authority and public interest and necessity require the Refunding Project and the Construction Project.
J. The Board hereby determines that the Refunding Project and the Construction Project serve a valid governmental purpose and are necessary, expedient and in the best interest of the Authority and its customers and constituents of the Districts.

K. The Board hereby determines to use a portion of the proceeds of the 2020 Bonds authorized by this Resolution and other legally available moneys to effect the Refunding Project and to effect the Construction Project.

L. Except for the Existing Parity Bonds, the Authority has never pledged revenues derived and to be derived from the operation of the System to the payment of any bonds or for any other purpose (excluding proceedings authorizing the issuance of bonds or other obligations which have heretofore been paid or redeemed in full, both principal and interest, or for the payment or redemption of which full provision has been made).

M. The Authority will meet the requirements of the resolutions authorizing the Existing Parity Bonds, so that the 2020 Bonds may be issued with a lien on the Net Revenues which is on a parity with the lien thereon of the Existing Parity Bonds.

N. Net Revenues shall be pledged to the payment of the 2020 Bonds on a parity with the lien on the Net Revenues of the Existing Parity Bonds.

O. There are on file at the Authority offices the forms of the following: (i) this Resolution; (ii) the Escrow Agreement; (iii) the Preliminary Official Statement; (iv) the Continuing Disclosure Certificate; (v) the Paying Agent Agreement; and (vi) the Bond Purchase Agreement.

Section 1.03. Resolution to Constitute a Contract; Equal Security. In consideration of the acceptance of the 2020 Bonds, the issuance of which is authorized hereunder, by those who shall hold the same from time to time, this Resolution shall be deemed to be and shall constitute a contract between the Authority and the holders from time to time of the 2020 Bonds, and the pledge made in this Resolution by the Authority and the covenants and agreements set forth in this Resolution to be performed by the Authority shall be for the equal and proportionate benefit, security and protection of all holders of the 2020 Bonds, without preference, priority or distinction as to security or otherwise of any of the 2020 Bonds authorized hereunder over any of the others by reason of time of issuance, sale or maturity thereof or otherwise for any cause whatsoever, except as expressly provided in or permitted by this Resolution.

Section 1.04. Ratification. The making of the Service Contract and all action heretofore taken (not inconsistent with the provisions of this Resolution) by the Board and the officers of the Authority and of the Districts, or any of them, directed toward the Project and the sale and issuance of the Authority’s 2020 Bonds to defray in part the Costs of the Construction Project and the costs of the Refunding Project be, and the same hereby are, ratified, approved, and confirmed.

Section 1.05. Approval of Agreements. The forms, terms and provisions of (i) the Paying Agent Agreement, (ii) the Bond Purchase Agreement, (iii) the Continuing Disclosure Certificate, and (iv) the Escrow Agreement are hereby approved, and the Authority shall enter
into and perform its obligations under such documents, in substantially the form thereof presented to the Board at this meeting, with only such changes therein as are required by the circumstances and are not inconsistent therewith or herewith; and the officers are hereby authorized and directed to execute and deliver such documents. The execution of such documents by the appropriate officers of the Authority shall be conclusively deemed to evidence the approval of the form and contents thereof by the Authority.

Section 1.06. Approval of Official Statement. The Board hereby determines that the Preliminary Official Statement, in the form submitted to the Board, but with such revisions, amendments and completions thereof as General Manager or the Finance Manager of the Authority deems necessary or appropriate, is final as of the date hereof, for purposes of Rule 15c2-12 of the Securities and Exchange Commission, except for the omission of no more than the following information:

A. The offering prices of the 2020 Bonds.
B. The interest rates on the 2020 Bonds.
C. The selling compensation with respect to the 2020 Bonds.
D. The aggregate principal amount of the 2020 Bonds.
E. The principal amount of the 2020 Bonds per maturity.
F. The delivery date for the 2020 Bonds.
G. Any ratings on the 2020 Bonds.
H. Other terms of the 2020 Bonds depending on such matters.

The Preliminary Official Statement with respect to the 2020 Bonds shall be substantially in the form of the Official Statement relating to the 2013 Bonds with such changes as approved by the General Manager or the Finance Manager. The distribution and use of the Preliminary Official Statement is in all respects hereby ratified, approved and confirmed. The Purchaser is authorized to prepare or cause to be prepared, and the General Manager or Finance Manager is authorized and directed to approve, on behalf of the Authority, a final Official Statement for use in connection with the offering and sale of the 2020 Bonds. The execution of a final Official Statement by the Chairman shall be conclusively deemed to evidence the approval of the form and contents thereof by the Authority.

ARTICLE II

AUTHORIZATION AND ISSUANCE OF 2020 BONDS

Section 2.01. Bond Sale. Pursuant to Section 11-57-205 of the Supplemental Act, the Board hereby delegates to the General Manager or Finance Manager, the authority to accept the proposal of the Purchaser to purchase the 2020 Bonds as well as the authority to make
determinations in relation to the 2020 Bonds contained in the Sale Certificate subject to the parameters and restrictions contained in Section 2.05 of this Resolution.

**Section 2.02. Authorization of the Project.** The Construction Project and the Refunding Project are hereby authorized.

**Section 2.03. Estimated Cost of the Project.** The costs of the Project are estimated not to exceed $45,750,000, excluding any such cost defrayed or to be defrayed by any source other than 2020 Bond proceeds.

**Section 2.04. Authorization of 2020 Bonds.** For the purpose of defraying in part the costs of the Project, it is hereby declared necessary that the Authority make and issue, and there are hereby authorized to be issued, pursuant to the provisions of the Act, the Bond Act and the Supplemental Act, the “Upper Eagle Regional Water Authority, Water Revenue Refunding and Improvement Bonds, Series 2020,” as more particularly described in the Sale Certificate. Such 2020 Bonds shall be payable both as to Principal Installments and interest solely out of the Net Revenues; and the Authority pledges irrevocably, but not necessarily exclusively, such Net Revenues to the payment of the Principal Installments of the 2020 Bonds and the interest thereon, as herein provided.

Section 11-57-204 of the Supplemental Act provides that a public entity, including the Authority, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act. The Board hereby elects to apply all of the provisions of the Supplemental Act to the 2020 Bonds, except Section 11-57-211 of the Supplemental Act. Either the General Manager or the Finance Manager is hereby independently authorized and directed to execute and deliver the Bond Purchase Agreement and the Sale Certificate and to make and approve the final determinations contained therein, subject to the parameters and restrictions of this Resolution.

The 2020 Bonds are issued under the authority of the Act, the Bond Act and the Supplemental Act and shall so recite as provided in Section 2.17 hereof. Pursuant to Section 31-35-413, C.R.S., such recital conclusively imparts full compliance with all the provisions of such statutory authority and that 2020 Bonds issued containing such recital are incontestable for any cause whatsoever after their delivery for value. Pursuant to Section 11-57-210 of the Supplemental Act, such recital shall be conclusive evidence of the validity and the regularity of the issuance of the 2020 Bonds after their delivery for value.

**Section 2.05. 2020 Bond Details.** The 2020 Bonds shall be issued in fully registered form (i.e., registered as to payment of both Principal Installments and interest) initially registered in the name of Cede & Co., as nominee for The Depository Trust Company, and shall be dated as of their date of delivery. The 2020 Bonds shall be numbered in such manner as the Registrar determines. The 2020 Bonds shall mature, bear interest from their dated date to maturity or prior redemption, and shall be sold, all as provided in the Sale Certificate; provided that:

(i) **Interest Rate.** The net effective rate of interest to be borne by the 2020 Bonds shall not exceed 5.00% per annum,
(ii) **Redemption Provisions.** The 2020 Bonds shall be subject to redemption prior to maturity at the option of the Authority as described in the Sale Certificate, which such optional redemption date not later than December 1, 2030, at a redemption price not to exceed 101%.

(iii) **Purchase Price.** The price at which the 2020 Bonds will be sold to the purchaser, provided that the purchase price shall not be less than 98% of the aggregate principal amount of the 2020 Bonds.

(iv) **Principal Amount.** The aggregate principal amount of the 2020 Bonds, provided that such principal amount shall not exceed $45,750,000.

(v) **Maturity Schedule.** The amount of principal of the 2020 Bonds maturing, or subject to mandatory sinking fund redemption in any particular year; provided that the maximum annual repayment cost shall not exceed $3,250,000 and the total repayment cost shall not exceed $85,000,000.

(vi) **Term of the 2020 Bonds.** The 2020 Bonds shall mature no later than December 1, 2050.

(vii) **Bond Insurance.** Whether any series of the 2020 Bonds will be secured by an Insurance Policy or a Qualified Surety Bond and the terms of any Insurance Agreement with the provider of such Insurance Policy or Qualified Surety Bond.

Such determinations shall be evidenced by the Sale Certificate signed by the General Manager or the Finance Manager dated and delivered as of the Closing Date, which shall not be more than one year from the date of adoption of this Resolution. If the Authority shall determine not to obtain an Insurance Policy to secure the payment of principal of and interest on the any series of the 2020 Bonds, or not to obtain a Qualified Surety Bond, any references to the Insurer, the Insurance Policy, Policy Costs, the Insurance Agreement, or other provisions relating to bond insurance shall be of no force or effect.

Interest on the 2020 Bonds shall be payable semi-annually on June 1 and December 1 commencing on the date described in the Sale Certificate. Interest on the 2020 Bonds is calculated on the basis of a 360-day year of twelve 30-day months, first payable on the date provided in the Sale Certificate, from the dated date thereof, except that 2020 Bonds which are reissued upon transfer, exchange or other replacement shall bear interest from the most recent interest payment date to which interest has been paid or duly provided for, or if no interest has been paid, from the date of the 2020 Bonds.

The Principal Installments of and interest on the 2020 Bonds are payable in lawful money of the United States of America. The Principal Installment of each 2020 Bond shall be payable to the registered owner thereof, as shown on the registration books kept by the Registrar, upon maturity or prior redemption thereof and upon presentation and surrender of the 2020 Bond, at the principal corporate trust office of the Paying Agent, currently located at U.S. Bank Corporate Trust Services, St. Paul, Minnesota. If any 2020 Bond shall not be paid upon
Section 2.06. Optional Redemption of 2020 Bonds

The 2020 Bonds are subject to redemption prior to maturity at the option of the Authority as provided in the Sale Certificate. In the event that less than all of the Outstanding 2020 Bonds shall be redeemed as provided in this Section, the 2020 Bonds to be redeemed shall be selected in such manner as provided in the Sale Certificate.

Notice of Prior Redemption

Notice of any prior redemption shall be given by the Paying Agent in the name of the Authority by sending a copy of such notice by first-class, postage prepaid mail, not less than 30 nor more than 60 days prior to the Redemption Date to each owner of any 2020 Bond, all or a portion of which is called for redemption. Such notice shall specify the numbers and maturities of the 2020 Bonds or portions thereof, to be so redeemed and the date fixed for redemption. Such notice shall also state interest on the 2020 Bonds to be redeemed at his address as it last appears on the registration books kept by the Registrar, but such failure to give such notice to the owner of any 2020 Bond shall not affect the redemption of any other 2020 Bonds.

Payment of interest on any 2020 Bond shall be made by the Paying Agent by check or draft mailed on or before the next interest payment date (or, if such interest payment date is not a business day, on or before the next succeeding business day), to the persons in whose names the 2020 Bond are registered on the Record Date (or by such other arrangement as may be mutually agreed to by the Paying Agent and such a person), but any such interest not so timely paid or duly provided for shall cease to be payable to the person who is the registered owner thereof at the close of business on the Record Date and shall be payable to the person who is the registered owner thereof at the close of business on a Special Record Date for the payment of any such defaulted interest. Such Special Record Date shall be fixed by the Paying Agent whenever moneys become available for payment of the defaulted interest. Notice having been given in the manner hereinabove provided, the 2020 Bonds so called for redemption shall become due and payable on the Redemption Date, and the persons in whose names the 2020 Bond are registered on the Record Date shall be entitled to the payment thereof in the manner hereinbefore provided.
and available on the date of redemption. Upon surrender of any 2020 Bond redeemed in part only, the Paying Agent shall execute and deliver to the owner thereof, at no expense to any owner, a new 2020 Bond or Bonds of authorized denominations equal in aggregate principal amount to the unredeemed portion of the 2020 Bond surrendered.

Notwithstanding the provisions of this section, any notice of redemption shall either (i) contain a statement that the redemption is conditioned upon the receipt by the Paying Agent on or before the Redemption Date of funds sufficient to pay the redemption price of the 2020 Bonds so called for redemption, and that if such funds are not available, such redemption shall be canceled by written notice to the owners of the 2020 Bonds called for redemption in the same manner as the original redemption notice was mailed, or (ii) be given only if funds sufficient to pay the redemption price of the 2020 Bonds so called for redemption are on deposit with the Paying Agent in the applicable fund or account.

**Section 2.08. Sinking Fund Redemption.** The Term Bonds, if any, shall be subject to mandatory sinking fund redemption at the times, in the amounts, and at the redemption prices provided in the Sale Certificate.

On or before the fortieth day prior to each sinking fund redemption date, the Paying Agent shall proceed to select for redemption from all Term Bonds Outstanding then subject to sinking fund redemption, $5,000 units of the Term Bonds equal in the aggregate to the total principal amount of such Term Bonds redeemable with the required sinking fund payment, and shall call such Term Bonds, or portions thereof, for redemption from the sinking fund on the next December 1, and give notice of such call, as provided in Section 2.07 hereof, without further instruction from the Authority.

At the option of the Authority to be exercised by delivery of a written certificate to the Paying Agent on or before the forty-fifth day prior to any sinking fund redemption date, the Authority may (i) deliver to the Registrar for cancellation Term Bonds then subject to sinking fund redemption or portions thereof ($5,000 or any integral multiple thereof) in an aggregate principal amount desired by the Authority or (ii) specify a principal amount of Term Bonds then subject to redemption or portions thereof ($5,000 or any integral multiple thereof) which prior to said date have been redeemed (otherwise than through the operation of the sinking fund) and cancelled by the Registrar and not theretofore applied as a credit against any sinking fund redemption obligation. Each Term Bond or portion thereof so delivered or previously redeemed shall be credited by the Paying Agent at 100 percent of the principal amount thereof against the obligation of the Authority on such sinking fund redemption date and any excess over such amount shall be credited against future sinking fund redemption obligations in chronological order. In the event the Authority shall avail itself of the provisions of clause (i) of the first sentence of this paragraph, the certificate required by the first sentence of this paragraph shall be accompanied by the Term Bonds or portions thereof to be cancelled.

**Section 2.09. Negotiability.** Subject to the provisions expressly stated or necessarily implied herein, the 2020 Bonds shall be fully negotiable and shall have all the qualities of negotiable paper, and the holder or holders thereof shall possess all rights enjoyed by the holders of negotiable instruments under the provisions of the Colorado Uniform Commercial Code.
Section 2.10. **Execution of 2020 Bonds.** Each 2020 Bond (subject to the Authority’s compliance with the provisions of Colorado’s Uniform Facsimile Signature of Public Officials Act, as amended or supplemented) shall be signed in the name of the Authority with the manual or facsimile signature of the Chairman thereof, attested and executed by the manual or facsimile signature of its Secretary or Assistant Secretary, with its seal, or the facsimile thereof, affixed thereto. The validity of such 2020 Bonds bearing the facsimile signatures of the officers in office at the time of the authorization of such facsimiles by such officers prior to the delivery of any 2020 Bonds to the Purchaser shall not be affected by the fact, if such be the case, that before the delivery, transfer or exchange of any 2020 Bonds bearing such signatures, any or all of the persons whose facsimile signatures appear thereon shall have ceased to fill their respective offices. Each officer, at the time of the execution of the 2020 Bonds and of a signature certificate appertaining thereto, may adopt as and for his own facsimile signature the facsimile signature of his predecessor in office in the event that such facsimile signature appears upon any of the 2020 Bonds. No 2020 Bond shall be valid or obligatory for any purpose unless it shall have been manually executed by and bear the signature of a duly authorized representative of the Registrar, and its certificate of authentication, substantially in the form hereinafter provided, and such execution shall be conclusive evidence that such 2020 Bond has been duly issued and delivered.

Section 2.11. **Registration and Payment.** The Registrar shall keep or cause to be kept sufficient books for the registration and transfer of the 2020 Bonds, which shall at all times be open to inspection by the Authority; and, upon presentation for such purpose, the Registrar shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said books, 2020 Bonds as herein provided. Except as otherwise provided in this Resolution, the person in whose name any 2020 Bond shall be registered, on the registration books kept by the Registrar, shall be deemed and regarded as the absolute owner thereof for the purpose of making payment thereof and for all other purposes; and payment of or on account of either Principal Installments or interest on any 2020 Bond (except as otherwise provided in this Resolution) shall be made only to the registered owner thereof or his legal representative, but such registration may be changed upon transfer of such 2020 Bonds in the manner and subject to the conditions and limitations provided herein. All such payments shall be valid and effectual to discharge the liability upon such 2020 Bond to the extent of the sum or sums so paid.

Section 2.12. **Transfer and Exchange.** The 2020 Bonds shall be transferred and exchanged as follows:

A. Any 2020 Bond may, in accordance with its terms, be transferred upon the books required to be kept pursuant to the provisions of Section 2.11 hereof, by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such 2020 Bond for cancellation, accompanied by delivery of a written instrument of transfer in a form approved by the Registrar, duly executed.

B. Whenever any 2020 Bond or Bonds shall be surrendered for transfer, the Registrar shall authenticate and deliver a new 2020 Bond or Bonds, for a like aggregate principal amount, maturity and interest rate of 2020 Bonds of any authorized denominations.
C. The 2020 Bonds may be exchanged at the Registrar for a like aggregate principal amount of 2020 Bonds of other authorized denominations of the same maturity and interest rate.

D. The Registrar shall not be required (i) to transfer or exchange any 2020 Bond during a period beginning at the opening of business 15 days before the day of the mailing of a notice of redemption of 2020 Bonds and ending at the close of business on the day of such mailing, or (ii) to transfer or exchange any 2020 Bond so selected for redemption in whole or in part, except the unredeemed portion of 2020 Bonds being redeemed in part.

E. The Registrar may require the payment, by the owner of any 2020 Bond requesting transfer or exchange, of any reasonable charges therefor as well as any tax or other governmental charge required to be paid with respect to such transfer or exchange.

Section 2.13. **Bond Replacement.** If any 2020 Bond shall be lost, stolen, destroyed or mutilated, the Registrar shall, upon receipt of such request, evidence or information relating thereto as it may reasonably require, and upon receipt of such compensation for its expense and indemnity, if any, as it may reasonably require from the requesting person, authenticate and deliver a replacement 2020 Bond or Bonds of a like aggregate principal amount and of the same maturity, interest rate and series. If such lost, stolen, destroyed or mutilated Bond shall have matured or be about to mature or shall have been called for redemption, the Registrar may pay such 2020 Bond in lieu of replacement.

Section 2.14. **Bond Cancellation.** Whenever any 2020 Bond shall be surrendered to the Registrar upon payment thereof, or to the Registrar for transfer, exchange or replacement as provided herein, such 2020 Bond shall be promptly cancelled by the Registrar, and a certificate of such cancellation shall be furnished by the Registrar to the Authority.

Section 2.15. **Successor Registrar or Paying Agent.** If the Registrar or Paying Agent initially appointed hereunder shall resign, or if the Authority shall reasonably determine that said Registrar or Paying Agent has become incapable of reasonably fulfilling its duties hereunder, the Authority may, upon notice mailed to each registered owner of 2020 Bonds at the address last shown on the registration books, appoint either the Authority’s Treasurer, another Authority officer, or an institution as successor Registrar or Paying Agent, or both. Except for the Treasurer or other officer of the Authority, every such successor Registrar or Paying Agent shall be a commercial bank. It shall not be required that the same person or institution serve as both Registrar and Paying Agent hereunder, but the Authority shall have the right to have the Treasurer, other Authority officer, or same institution serve as both Registrar and Paying Agent hereunder.

Section 2.16. **Special Obligations.** All of the 2020 Bonds, together with the interest accruing thereon, and the Policy Costs shall be payable and collectible solely out of the Net Revenues, which are so pledged; the holder or holders thereof may not look to any general or other fund for the payment of principal of and interest on such obligations, except the designated special funds pledged therefor; and the 2020 Bonds and the Policy Costs shall not constitute an indebtedness nor a debt of the Authority or of the Districts within the meaning of any constitutional, charter, or statutory provision or limitation.
Section 2.17. **Form of 2020 Bonds.** Subject to the provisions of this Resolution, the 2020 Bonds shall be in substantially the following form, with such omissions, insertions, endorsements and variations as to any recitals of fact or other provisions as may be required by the circumstances, be required or permitted by this Resolution, or be consistent with this Resolution and necessary or appropriate to conform to the rules and requirements of any governmental authority or The Depository Trust Company, as securities depository for the 2020 Bonds, or any usage or requirement of law with respect:
Unless this bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the Registrar (defined below) for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

UNITED STATES OF AMERICA
STATE OF COLORADO

UPPER EAGLE REGIONAL WATER AUTHORITY
WATER REVENUE REFINANCING AND IMPROVEMENT BOND
SERIES 2020

No.______ $__________

INTEREST RATE MATURITY DATE DATED AS OF CUSIP
_____% December 1, 20___ Date of delivery 915770 ___

REGISTERED OWNER:  CEDE & CO.

PRINCIPAL AMOUNT: ________________________________ DOLLARS

The Upper Eagle Regional Water Authority ("Authority"), in the State of Colorado, for value received hereby promises to pay to the registered owner named above or registered assigns, solely from the special funds provided therefor, as hereinafter set forth, the principal sum specified above on the maturity date specified above (subject to any right of prior redemption hereinafter provided for) and to pay solely from such special fund interest thereon from the date of delivery or the most recent interest payment date to which interest has been fully paid or provided for until payment of such principal sum in full, at the rate per annum specified above, semiannually on June 1 and December 1 in each year, commencing 1, 20__. The principal hereof is payable, upon presentation and surrender hereof, to U.S. Bank National Association, Denver, Colorado, or its duly appointed successor, as paying agent (the "Paying Agent"), at its principal corporate trust office currently located at U.S. Bank Corporate Trust Services, St. Paul, Minnesota, under the resolution of the Authority (the “Resolution”) authorizing this bond and the series of which it is one (the “2020 Bonds”). Interest on this bond will be paid by check or draft mailed on or before each interest payment date, or if such interest payment date is not a business day, on or before the next succeeding business day (or by other means of payment agreed upon between the registered owner hereof and the Paying Agent), to the person in whose name this bond (or the immediate predecessor bond or bonds) is registered,
at his address as it last appears on the registration books kept for that purpose by U.S. Bank National Association, in Denver, Colorado, or its duly appointed successors, as registrar (the “Registrar”), under the Resolution at the close of business on the fifteenth day of the calendar month next preceding such interest payment date, but any interest payments in default shall be payable as provided in the Resolution. If upon presentation at maturity or prior redemption, payment of this bond is not made as herein provided, interest shall continue to accrue at the same rate per annum until the principal hereof is paid in full. All such payments shall be in lawful money of the United States of America.

The 2020 Bonds are fully registered (i.e., registered as to payment of both principal and interest) and are issuable in denominations of $5,000 and any integral multiple thereof. This bond bears interest, matures, is payable, is subject to redemption, and is transferable and exchangable as provided in the Resolution. The Authority and the Registrar may deem and treat the person in whose name this bond is registered as the absolute owner hereof for the purpose of making payment and for all other purposes.

This bond, including the interest hereon, does not constitute a debt or an indebtedness of the Authority, nor of Arrowhead Metropolitan District, the Town of Avon, Beaver Creek Metropolitan District, Berry Creek Metropolitan District, Eagle-Vail Metropolitan District, or Edwards Metropolitan District (each individually the “District” and collectively the “Districts”) nor of any other political subdivision of the State of Colorado, within the meaning of any constitutional, charter, or statutory limitation or other provision, shall not be considered or held to be a general obligation of the Authority or any such subdivision, and is payable and collectible solely out of the special funds provided in the Resolution, and out of the revenues (“Revenues”) derived from the operation of or attributable to the ownership of the Authority’s water collection, treatment and distribution system, as described in the Resolution (“System”), after provision only for all necessary and reasonable expenses of the operation and maintenance of the System (the remaining revenues being the “Net Revenues”), which Net Revenues and special funds are so pledged; and the registered owner hereof may not look to any general or other fund for the payment of the principal of and interest on this bond, except the special funds pledged therefor.

Payment of the 2020 Bonds and of any additional bonds or other securities or obligations heretofore or hereafter issued and payable from the Revenues and having a lien on the Net Revenues on a parity with the lien of the 2020 Bonds (“Parity Lien Bonds”) and the interest thereon, shall be made solely from, and as security for such payment there are pledged, pursuant to the Resolution, special funds into which the Authority covenants to pay from certain bond proceeds and from the Net Revenues sums sufficient to pay when due the principal of and the interest on the 2020 Bonds and the Parity Lien Bonds (collectively the “Bonds”). The 2020 Bonds are equally and ratably secured by a lien on the Net Revenues of the System, and the 2020 Bonds constitute an irrevocable and first lien (but not necessarily an exclusively first lien) upon the Net Revenues. Other securities, subject to expressed conditions, may be issued and made payable from the Net Revenues and having a lien thereon subordinate and junior to the lien, or, subject to additional expressed conditions, having a lien thereon on a parity with the lien, of the 2020 Bonds in accordance with the provisions of the Resolution.
Reference is hereby made to the Resolution for a description of: the pledge and covenants securing the payment of the 2020 Bonds; the nature, extent and manner of enforcement of such pledge and covenants; the funds and accounts pledged to the payment of the 2020 Bonds; the rights and remedies of the owners of the 2020 Bonds with respect thereto and the limitations thereon; the terms and conditions upon which the 2020 Bonds are issued; the rights, duties and obligations of the Authority, Paying Agent, Registrar, and owners; the terms upon which additional bonds may be issued; the terms and conditions upon which the 2020 Bonds will be deemed to be paid at or prior to the maturity thereof; the ability to amend the Resolution; and all other provisions applicable to this bond to which the owner hereof, by the acceptance of this bond, assents.

This bond is issued under the authority of Section 29-1-204.2, Part 4 of Article 35, Title 31, Colorado Revised Statutes, and Part 2 of Article 57, Title 11, Colorado Revised Statutes. Pursuant to Section 31-35-413, Colorado Revised Statutes, such recital conclusively imparts full compliance with all the provisions of such statutory authority and that any bond issued containing this recital is incontestable for any cause whatsoever after its delivery for value. Pursuant to Section 11-57-210, Colorado Revised Statutes, such recital shall be conclusive evidence of the validity and the regularity of the issuance of this bond after its delivery for value.

The 2020 Bonds are authorized for the purpose of defraying a portion of the cost of (i) acquiring, constructing, and installing certain water improvements, facilities, and properties, and (ii) refunding certain outstanding obligations, all in conformity with the Constitution and laws of the State of Colorado and the Resolution.

It is further certified, recited, and warranted that all the requirements of law have been fully complied with by the proper officers of the Authority in the issuance of the 2020 Bonds; that the 2020 Bonds are issued pursuant to and in strict conformity with the Constitution and laws of the State of Colorado and the Resolution and any instruments supplemental thereto; and that the 2020 Bonds do not contravene any constitutional or statutory limitation.

This bond shall not be valid or obligatory for any purpose or be entitled to any security or benefit under the Resolution until an authorized representative of the Registrar shall have manually signed the certificate of authentication herein.
IN WITNESS WHEREOF, the Upper Eagle Regional Water Authority has caused this Bond to be signed in its name with the manual or facsimile signature of its Chairman, attested by the manual or facsimile signature of its Secretary or Assistant Secretary, and has caused the manual or facsimile impression of the seal of the Authority to be affixed hereon, all as of _____________, 2020.

UPPER EAGLE REGIONAL WATER AUTHORITY

(Manual or Facsimile Signature) __________
Chairman

(Manual or Facsimile Seal)

Attest:

(Manual or Facsimile Signature) __________
Assistant Secretary
(Form of Registrar’s Certificate of Authentication)

This is one of the Bonds described in the within-mentioned Resolution, and this Bond has been duly registered on the registration books kept by the undersigned as Registrar for such Bonds.

Date of Authentication and Registration: ______________.

U.S. BANK NATIONAL ASSOCIATION,
Denver, Colorado, as Registrar

By ____________________________
Vice President

(End of Form of Registrar’s Certificate of Authentication)
(Form of Assignment)

For value received, _________________________ hereby sells, assigns and transfers unto _________________________ the within Bond and all rights thereunder and hereby irrevocably constitutes and appoints _________________________ attorney, to transfer the same on the books of the Registrar, with full power of substitution in the premises.

Dated: _________________________

Signature Guaranteed:

______________________________
(Signature must be guaranteed by a member of the Medallion Signature Program)

Address of transferee:

______________________________

______________________________

Social Security Number or other Tax Identification Number of Transferee:

______________________________

NOTE:  The signature to this Assignment must correspond with the name as written on the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

EXCHANGE OR TRANSFER FEES MAY BE CHARGED

(End of Form of Assignment)
The following installments of principal (or portion thereof) of this bond have been prepaid in accordance with the terms of the resolution authorizing the issuance of this bond.

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<th>Date of Prepayment</th>
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(End of Form of Prepayment Panel)

(End of Form of Bond)
Section 2.18. Book Entry.

A. Notwithstanding any contrary provision of this Resolution, the 2020 Bonds shall initially be evidenced by one 2020 Bond for each maturity and interest rate in denominations equal to the aggregate principal amount of the 2020 Bonds for that maturity and interest rate. Such initially delivered 2020 Bonds shall be registered in the name of “Cede & Co.” as nominee for The Depository Trust Company, the securities depository for the 2020 Bonds. The 2020 Bonds may not thereafter be transferred or exchanged except:

(1) to any successor of The Depository Trust Company or its nominee, which successor must be both a “clearing corporation” as defined in Section 4-8-102(a)(5), C.R.S., and a qualified and registered “clearing agency” under Section 17A of the Securities Exchange Act of 1934, as amended; or

(2) upon the resignation of The Depository Trust Company or a successor or new depository under clause (1) or this clause (2) of this paragraph A, or a determination by the Authority that The Depository Trust Company or such successor or new depository is no longer able to carry out its functions, and the designation by the Authority of another depository institution acceptable to the Authority and to the depository then holding the 2020 Bonds, which new depository institution must be both a “clearing corporation” as defined in Section 4-8-102(a)(5), C.R.S., and a qualified and registered “clearing agency” under Section 17A of the Securities Exchange Act of 1934, as amended, to carry out the functions of The Depository Trust Company or such successor new depository; or

(3) upon the resignation of The Depository Trust Company or a successor or new depository under clause (1) or clause (2) of this paragraph A, or a determination of the Authority that The Depository Trust Company or such successor or new depository is no longer able to carry out its functions, and the failure by the Authority, after reasonable investigation, to locate another qualified depository institution under clause (2) to carry out such depository functions.

B. In the case of a transfer to a successor of The Depository Trust Company or its nominee as referred to in clause (1) of paragraph A hereof or designation of a new depository pursuant to clause (2) of paragraph A hereof, upon receipt of the Outstanding 2020 Bonds by the Registrar together with written instructions for transfer satisfactory to the Registrar, a new 2020 Bond for each maturity and interest rate of the 2020 Bonds then Outstanding shall be issued to such successor or new depository, as the case may be, or its nominee, as is specified in such written transfer instructions. In the case of a resignation or determination under clause (3) of paragraph A hereof and the failure after reasonable investigation to locate another qualified depository institution for the 2020 Bonds as provided in clause (3) of paragraph A hereof, and upon receipt of the Outstanding 2020 Bonds by the Registrar, together with written instructions for transfer satisfactory to the Registrar, new 2020 Bonds shall be issued in authorized denominations as provided in and subject to the limitations of Sections 2.05 and 2.11 hereof, registered in the names of such persons, and in such authorized denominations as are requested in such written transfer instructions; however, the Registrar shall not be required to deliver such new 2020 Bonds within a period of less than 60 days from the date of receipt of such written transfer instructions.
C. The Authority, the Paying Agent and the Registrar shall be entitled to treat the registered owner of any 2020 Bond as the absolute owner thereof for all purposes hereof and any applicable laws, notwithstanding any notice to the contrary received by any or all of them, and the Authority, the Paying Agent and the Registrar shall have no responsibility for transmitting payments or notices to the beneficial owners of the 2020 Bonds held by The Depository Trust Company or any successor or new depository named pursuant to paragraph A hereof.

D. The Authority, the Paying Agent and the Registrar shall endeavor to cooperate with The Depository Trust Company or any successor or new depository named pursuant to clause (1) or (2) of paragraph A hereof in effectuating payment of the principal amount of the 2020 Bonds upon maturity or prior redemption by arranging for payment in such a manner that funds representing such payments are available to the depository on the date they are due.

E. Upon any partial redemption of any maturity and interest rate of the 2020 Bonds, Cede & Co. (or its successor) in its discretion may request the Authority to issue and authenticate a new 2020 Bond or shall make an appropriate notation on the 2020 Bond indicating the date and amount of prepayment, except in the case of final maturity, in which case the 2020 Bond must be presented to the Registrar prior to payment. The records of the Paying Agent shall govern in the case of any dispute as to the amount of any partial prepayment made to Cede & Co. (or its successor).

ARTICLE III

PLEDGE OF REVENUES; ESTABLISHMENT OF FUNDS AND APPLICATIONS THEREOF

Section 3.01. The Pledge Effected by the Resolution. The 2020 Bonds are special obligations of the Authority payable from and secured by the funds pledged therefor. The Authority covenants to pay promptly the principal of and interest on the 2020 Bonds at the place, on the dates and in the manner specified in this Resolution and in the Sale Certificate. There are hereby pledged for the payment of the principal of and interest on the 2020 Bonds in accordance with their terms and the provisions of this Resolution, subject only to the provisions of this Resolution permitting the application thereof for the purposes and on the terms and conditions set forth in this Resolution, the Net Revenues, the Bond Fund, and the Reserve Fund. The 2020 Bonds constitute an irrevocable and first (but not necessarily an exclusive first) lien upon the Net Revenues on a parity with the lien of the Existing Parity Bonds. The pledge of the Net Revenues shall be valid and binding from and after the date of the delivery of the 2020 Bonds, and the moneys as received by the Authority and hereby pledged shall immediately be subject to the lien of this pledge without any physical delivery thereof, any filing, or further act. The lien of this pledge and the obligation to perform the contractual provisions hereby made shall have priority over any or all other obligations and liabilities of the Authority except any Outstanding Parity Lien Bonds heretofore or hereafter authorized and any Policy Costs as provided herein. The lien of the pledge of the Net Revenues as described in this section shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise.
against the Authority (except as herein otherwise provided) irrespective of whether such parties have notice thereof.

**Section 3.02. Establishment of Funds.** The following funds, constituting book accounts, are hereby created or continued: (a) Revenue Fund, (b) Bond Fund, (c) Reserve Fund, (d) Rebate Fund, (e) Operations Reserve Fund and (f) Rate Stabilization Fund.

**Section 3.03. Delivery of 2020 Bonds and Disposition of Proceeds.** The Treasurer of the Authority shall cause the 2020 Bonds to be prepared and executed as herein provided and on receipt of the purchase price shall deliver them to the Purchaser in such denominations as the Purchaser shall direct, but subject to the provisions of this Article, and the Registrar shall have initially registered such 2020 Bonds in such name or names as the Purchaser shall direct. Any Qualified Surety Bond relating to any series of 2020 Bonds shall be deposited to the Reserve Fund. The 2020 Bond proceeds shall be deposited as follows:

A. **General Fund.** That portion of the proceeds of the 2020 Bonds as specified in the Sale Certificate shall be accounted for in a subaccount of the General Fund to be known as the “Upper Eagle Regional Water Authority, Water Revenue Refunding and Improvement Bonds, Series 2020, Construction Fund” (the “2020 Construction Fund”). Except as otherwise provided herein, the moneys in the 2020 Construction Fund shall be used solely for the purpose of paying the Costs of the Construction Project and for the purposes set forth herein.

B. **Escrow Account.** A portion of the proceeds received from the sale of the 2020 Bonds, including other legally available moneys as are necessary to effect the Refunding Project, shall be deposited credited to the Escrow Account.

The Escrow Account shall be maintained on behalf of the Authority by and in the Escrow Bank in an amount at the time of the deposit and at all times subsequent at least sufficient, together with the known minimum yield to be derived from the investment of the deposits therein or any part thereof in Federal Securities, to pay any reasonable charges of the Escrow Bank payable from such account in connection therewith and to pay the Refunded Bond Requirements, as the same become due, all as provided in the Escrow Agreement. Moneys shall be withdrawn from the Escrow Account in sufficient amounts and at times to permit the payment without default of the Refunded Bond Requirements as provided in the Escrow Agreement. Any moneys remaining in the Escrow Account after provision shall have been made for the payment in full of the Refunded Bond Requirements shall, subject to the provisions of Section 5.18 hereof, be paid to the Authority to be applied to any lawful purposes as the Authority may hereafter determine.

C. The balance shall be deposited in the Authority’s General Fund and applied by the Authority to the payment of the costs of issuance of the 2020 Bonds. When all such costs have been paid or adequate provision has been made therefor, the Authority shall transfer any 2020 Bond proceeds in excess of the amount needed to pay such costs to the Bond Fund.

D. **Purchaser Not Responsible.** The Purchaser, however, shall in no manner be responsible for the application or disposal by the Authority or by its agents, officers or
employees of the funds derived from the sale of the 2020 Bonds or of any other funds herein designated.

Section 3.04. Revenue Fund. So long as any of the Bonds shall be Outstanding either as to Principal Installments or interest, or both, the Revenues shall be promptly deposited in and credited to the Revenue Fund, and the following payments shall be made therefrom:

A. Operation and Maintenance Expenses. First, as a first charge thereon, to the payment of Operation and Maintenance Expenses as they become due and payable.

B. Bond Fund Payments. Second, there shall be credited to the Bond Fund the following:

(1) Monthly, commencing on the first day of the month immediately succeeding the delivery of any Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor from whatever source including moneys already available therefor in the Bond Fund, to pay the next maturing installment of interest on the Bonds then Outstanding, and monthly thereafter, commencing on the first day of the month following the first interest payment date on any Bonds, one-sixth of the amount necessary to pay the next maturing installment of interest on the Bonds then Outstanding, except to the extent any other moneys are available therefor.

(2) Monthly, commencing on the first day of the month immediately succeeding the delivery of any Bonds, or commencing on the first day of the month one year next prior to the first principal payment date of any of the Bonds, whichever commencement date is later, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor from whatever source, to pay the next Principal Installment of the Outstanding Bonds, and monthly thereafter, commencing on the first day of the month following the first principal payment date of such Bonds, one-twelfth of the amount necessary to pay the next Principal Installment of the Outstanding Bonds, except to the extent any other moneys are available therefor.

C. Rebate Fund. Third, there shall be credited into a separate subaccount of the Rebate Fund created for each series of Bonds the amounts required to be credited into such subaccount to comply with the rebate provisions of the Tax Code applicable to such series of Bonds. Nothing in this section requires that a resolution authorizing Parity Lien Bonds establish or provide for the funding of a subaccount in the Rebate Fund for Parity Lien Bonds. The moneys in any subaccount of the Rebate Fund established for a particular series of Bonds shall be used solely to make payment to the United States under the rebate provisions of the Tax Code applicable to such series of Bonds. Moneys in any such subaccount not needed for the purpose of making such payments may be withdrawn from such subaccount and deposited in the Revenue Fund.

D. Reserve Fund. Fourth, there shall be credited monthly to the Reserve Fund, an amount, if any, which is necessary to maintain the Reserve Fund in an amount not less than the Reserve Fund Requirement as a continuing reserve to pay principal of or interest on the
Reserve Fund Bonds. Upon issuance of the 2020 Bonds, the Reserve Fund Requirement for each series of 2020 Bonds shall be met as provided in the Sale Certificate.

In determining the amounts required to be deposited as provided above, the Authority shall receive credit for any investment earnings on the deposit in the Reserve Fund. Investment earnings on deposit in the Reserve Fund shall remain in the Reserve Fund if the amount on deposit in the Reserve Fund is less than the Reserve Fund Requirement. No credit need be made to the Reserve Fund so long as the moneys and/or a Qualified Surety Bond therein equal the Reserve Fund Requirement (regardless of the source of such accumulations). If the amount on deposit in the Reserve Fund exceeds the Reserve Fund Requirement, the excess may be transferred to the Bond Fund. The Reserve Fund Requirement shall be accumulated and maintained as a continuing reserve to be used only to prevent deficiencies in the payment of the principal of and the interest on the Reserve Fund Bonds resulting from the failure to credit to the Bond Fund sufficient funds to pay said principal and interest as the same accrue. The Paying Agent shall be the custodian of any Qualified Surety Bond. By accepting delivery of the Qualified Surety Bond, the Paying Agent shall be deemed to agree to perform all duties required of a paying agent or trustee under the Insurance Agreement with respect to the Qualified Surety Bond. The Reserve Fund Requirement shall be re-calculated upon the issuance of Future Reserve Fund Bonds.

In lieu of all or a portion of the moneys required to be deposited in the Reserve Fund the Authority may at any time or from time to time deposit a Qualified Surety Bond in the Reserve Fund in full or partial satisfaction of the Reserve Fund Requirement. Any such Qualified Surety Bond shall be payable (or available to be drawn upon) on any date on which moneys will be required to be withdrawn from the Reserve Fund as provided herein. Upon deposit of any Qualified Surety Bond in the Reserve Fund, the Authority may transfer moneys equal to the amount payable under the Qualified Surety Bond from the Reserve Fund and apply such moneys to any lawful purpose.

All cash and investments in the Reserve Fund shall be transferred to the Bond Fund for payment of principal and interest on the Bonds before any drawing may be made on any Qualified Surety Bond credited to the Reserve Fund in lieu of cash. Payment of any Policy Costs shall be made prior to replenishment of any such cash amounts. Draws on all Qualified Surety Bonds on which there is available coverage shall be made on a pro-rata basis (calculated by reference to the coverage then available thereunder) after applying all available cash and investments in the Reserve Fund. Payment of Policy Costs shall be made on a pro-rata basis prior to replenishment of any cash drawn from the Reserve Fund.

If the Tax Code does not permit the use of proceeds of any series of Future Reserve Fund Bonds for a full funding of the Reserve Fund in the amount necessary to have the Reserve Fund funded at the Reserve Fund Requirement, the maximum amount of proceeds of such series of Future Reserve Fund Bonds which may be deposited to the Reserve Fund pursuant to the Tax Code shall be deposited to the Reserve Fund upon the issuance of such series of Future Reserve Fund Bonds, and thereafter Net Revenues shall be deposited to the Reserve Fund monthly so that not later than twelve calendar months after the date of issuance of such series of Future Reserve Fund Bonds, the amount on deposit in the Reserve Fund shall equal the Reserve Fund Requirement.
E. **Operations Reserve Fund Payments.** Fifth, there shall be deposited monthly into the Operations Reserve Fund, commencing in the month next succeeding each date on which any series of Bonds are delivered or on which the moneys accounted for in the Operations Reserve Fund for any other reason are less than the Operations Minimum Reserve, amounts which are necessary to bring the total amount in such Operations Reserve Fund to the Operations Minimum Reserve. Moneys in the Operations Reserve Fund shall be available as a reserve to meet unanticipated Operation and Maintenance Expenses or to meet any deficiencies in the Bond Fund. Upon a determination by the Treasurer of the Authority that there are insufficient moneys in the Revenue Fund to pay any specified amount of Operation and Maintenance Expenses due or to become due within any month, the Authority shall transfer an amount sufficient to pay such Operation and Maintenance Expenses from the Operations Reserve Fund to the Revenue Fund. In addition, if there shall be insufficient funds in the Revenue Fund to make the required deposits to the Bond Fund, as required by this Section, then the Authority shall transfer an amount equal to the difference between the amount then remaining on deposit in the Revenue Fund prior to the transfer and the total amount needed to make the payments required by this Section.

F. **Payment for Subordinate Bonds.** Sixth, any balance remaining in the Revenue Fund, after making the payments provided above in this Section, shall be used by the Authority for the payment of interest on and the principal of Subordinate Bonds hereafter authorized to be issued and payable from the Net Revenues, including reasonable reserve funds therefor and the funding of rebate obligations, as the same accrue; provided that the lien of such Subordinate Bonds on the Net Revenues and the pledge thereof for the payment of such additional obligations shall be subordinate and junior to the lien and pledge of the Bonds as hereinafter provided.

G. **Use of Remaining Revenues.** After the payments hereinabove required to be made by this Section, any remaining moneys in the Revenue Fund shall be used, firstly, for any other Annual Costs and, secondly, to the extent of any remaining surplus, for any one or any combination of lawful purposes of the Authority as its Board may from time to time conclusively determine.

**Section 3.05. General Administration of Funds.** The funds designated in Section 3.02 hereof shall be administered as follows:

A. **Termination Upon Deposits to Maturity or Redemption Date.** No payment need be made into the Bond Fund, if the amount in the Bond Fund equals a sum at least equal to the entire amount of the Outstanding Bonds, both as to Principal Installment and interest, in which case moneys in said fund in an amount at least equal to such Principal Installment and interest requirements shall be used solely to pay such as the same accrue, and any moneys in excess thereof in said fund may be withdrawn and used for any lawful purposes.

B. **Places and Times of Deposits.** Each of the funds designated in Section 3.02 hereof shall be maintained as a separate book account. The moneys in such funds may be deposited in a single account and shall be deposited with a Depository. Each bank account shall be continuously secured to the fullest extent required by the laws of Colorado for the securing of
public funds, and shall be irrevocable and not withdrawable by anyone for any purpose other than the respective designated purposes. Moneys sufficient to pay the Bond Requirements of the Bonds shall be credited with the Paying Agent prior to each interest payment date herein designated, as provided in the Paying Agent Agreement.

C. **Investment of Moneys.** Except as otherwise required by law and subject to the limitations of Section 5.18 hereof, and supplementing the provisions of paragraph B of this Section, any moneys in any account designated in Section 3.02 hereof not needed for immediate use may be invested or reinvested by the Authority in Investment Securities, which:

1. Either shall be subject to redemption at any time at a fixed value by the holder thereof at the option of such holder, or

2. Shall mature not later than the date or respective dates on which the proceeds are to be expended as estimated by the Authority upon each date of such investment or reinvestment.

For the purpose of any such investment or reinvestment, Investment Securities shall be deemed to mature at the earliest date on which the obligor is, on demand, obligated to pay a fixed sum in discharge of the whole of such obligations. The Investment Securities so purchased as an investment or reinvestment of moneys in any such account shall be deemed at all times to be a part of said account. The interest accruing thereon and any profit realized therefrom, as well as the income from time deposits, shall be Revenues. Any loss resulting from such investment shall be charged to the account. The Authority’s Treasurer shall present for redemption or sale on the prevailing market any Investment Securities so purchased as an investment of moneys in the account whenever it shall be necessary to do so in order to provide moneys to meet any payment or transfer from such account.

D. **Character of Funds.** The moneys in any fund or account referred to in this Section shall consist either of lawful money of the United States of America or Investment Securities, or both such money and such Investment Securities. Moneys deposited in a demand or time deposit account in or evidenced by a certificate of deposit of a Depository, appropriately secured in accordance with Colorado law, shall be deemed lawful money of the United States of America.

**Section 3.06. Rate Stabilization Fund.** In order to help offset or reduce any increases in fees, rates and other charges to the users of the System required by Section 5.02 hereof, the Authority previously created a separate fund of the Authority to be known as the “Upper Eagle Regional Water Authority Water Revenue Bonds, Rate Stabilization Fund.” The Authority has previously deposited $600,000 of available Authority funds into the Rate Stabilization Fund.

Moneys on deposit in the Rate Stabilization Fund shall be used only to pay the principal of and interest on the Bonds. The Authority may transfer moneys on deposit in the Rate Stabilization Fund to the Bond Fund at such times and in such amounts as determined by the Finance Manager or as directed by the Board. The Authority shall be required to transfer moneys on deposit in the Rate Stabilization Fund to the Bond Fund to the extent necessary to
prevent a default in the payment of the principal of and interest due on the Bonds resulting from a deficiency of moneys on deposit in the Bond Fund. Any such required transfer of moneys from the Rate Stabilization Fund to the Bond Fund shall be made by the Authority prior to any draws being made on the Reserve Fund.

If at any time amounts on deposit in the Rate Stabilization Fund are less than $600,000 there shall be credited to the Rate Stabilization Fund monthly, commencing on the first day of the month next succeeding each date on which the moneys accounted for in the Rate Stabilization Fund for any reason are less than $600,000, Net Revenues in such amounts in substantially equal monthly payments on the first day of each month to re-accumulate the Rate Stabilization Fund to the required amount by not more than 12 such monthly payments.

**ARTICLE IV**

**ADDITIONAL SECURITIES; REVENUE BONDS**

**Section 4.01. Parity Lien Securities.**

A. **No Superior Securities.** No bonds or other securities shall be issued payable from and pledging the Revenues and having a lien upon such Revenues which is superior to the lien of the Bonds:

B. **Parity Lien Bonds.** Nothing contained in this Resolution shall be construed in such manner as to prevent the issuance by the Authority of Parity Lien Bonds provided the following additional requirements have been complied with:

1. **Absence of Default.** At the time of the adoption of the resolution authorizing the issuance of the additional securities, the Authority shall not be in default in making any payments required by Article III hereof with respect to the Bonds, including any payments of Policy Costs.

2. **Historic Earnings Test.** The Net Revenues for any 12 consecutive months out of the 18 months preceding the month in which such securities are to be issued are at least equal to the sum of 110% of the Average annual principal and interest requirements of all outstanding indebtedness of the Authority during such 12 month period payable from the Net Revenues and such proposed indebtedness to be issued.

3. **Adjustment of Revenues.** In any computation under paragraph 2 of this Section, the amount of the Revenues for the applicable period shall be decreased and may be increased by the amount of loss or gain conservatively estimated by an Independent Accountant, Independent Engineer or the Finance Manager, which results from any changes, which became effective not less than 60 days prior to the last day of the period for which Revenues are determined, in any schedule of fees, rates and other charges constituting Revenues based on the number of users during the applicable period as if such modified schedule of fees, rates and other charges shall have been in effect during such entire time period. However, the Revenues need not be decreased by the amount of any such estimated loss to the extent the Independent Accountant, the Independent Engineer or the Finance Manager estimates the loss is temporary in nature or will be offset within a reasonable temporary period by an increase in
revenues or a reduction in Operation and Maintenance Expenses not otherwise included in the calculations under this Section, and estimates any loss under this sentence will not at any time materially and adversely affect the Authority’s apparent ability to comply with the rate maintenance covenant stated in Section 5.02 hereof without modification because of any restrictive legislation, regulation or other action under the police power exercised by any governmental body.

(4) Reduction of Annual Requirements. The respective Bond Requirements (including as such a requirement the amount of any prior redemption premiums due on any Redemption Date) shall be reduced to the extent such Bond Requirements are scheduled to be paid in each of the respective Fiscal Years with moneys held in trust or in escrow for that purpose by any commercial bank with trust power, including the known minimum yield from any investment in Federal Securities and any bank deposits, including any certificate of deposit.

(5) Consideration of Additional Expenses. In determining whether or not additional Parity Lien Bonds may be issued as aforesaid, consideration shall be given to any probable increase (but not reduction) in the Operation and Maintenance Expenses of the System as estimated by the Finance Manager that will result from the expenditure of the funds proposed to be derived from the issuance and sale of the additional securities; but the Finance Manager may reduce any such increase in Operation and Maintenance Expenses by the amount of any increase in revenues or any reduction in Operation and Maintenance Expenses resulting from the capital improvements to which such expenditure relates and not otherwise included in the calculations under this Section, if the Finance Manager also opines that any such increase in revenues or reduction in any increase in Operation and Maintenance Expenses will not materially and adversely affect the Authority’s apparent ability to comply with the rate maintenance covenant stated in Section 5.02 hereof without modification because of any restrictive legislation, regulation or other action under the police power exercised by any governmental body.

(6) If the Parity Lien Bonds are to be Future Reserve Fund Bonds, on the date of delivery of the Parity Lien Bonds there shall be deposited to the Reserve Fund cash, investments and/or a Qualified Surety Bond in an amount sufficient to increase the balance in the Reserve Fund to the Reserve Fund Requirement as calculated taking into account the issuance of the Parity Lien Bonds.

(7) A written certificate by the Finance Manager that such annual Revenues, when adjusted as hereinabove provided in paragraphs (3), (4) and (5), are sufficient to pay such amounts, as provided in this Section, shall be conclusively presumed to be accurate in determining the right of the Authority to authorize, issue, sell and deliver additional securities on a parity with the Bonds.

C. Subordinate Bonds. Nothing herein shall prevent the Authority from issuing Subordinate Bonds.

Section 4.02. Refunding Securities. If at any time after the 2020 Bonds herein authorized, or any part thereof, shall have been issued and remain Outstanding, the Board shall
find it desirable to refund all or any portion of the Outstanding Bonds or all or any portion of Outstanding Subordinate Bonds, such series of Bonds or Subordinate Bonds may be refunded. Any refunding securities payable, in whole or in part, from the Net Revenues may be issued with such details as the Board may by resolution provide so long as there is no impairment of any contractual obligation imposed upon the Authority by any proceedings authorizing the issuance of any unrefunded Bonds. So long as any 2020 Bonds are Outstanding, no such refunding securities payable, in whole or in part, from the Net Revenues may be issued on a parity with unrefunded 2020 Bonds (i.e., as Parity Lien Bonds under this Resolution) without the consent of the holder or holders of the unrefunded Bonds unless either (1) as a result of the refunding, the refunding securities do not increase by more than $5,000, for any Fiscal Year in which the unrefunded 2020 Bonds will be Outstanding, the Bond Requirements for such year evidenced by such refunding bonds and by the Outstanding 2020 Bonds not refunded or (2) such refunding obligations are issued in compliance with the provisions governing Parity Lien Bonds in Section 4.01.

ARTICLE V

PROTECTIVE COVENANTS

Section 5.01. Use of Bond Proceeds. The Authority, with the proceeds derived from the sale of the 2020 Bonds will, after the sale, issuance, and delivery of the 2020 Bonds, proceed without delay to effect the Construction Project and the Refunding Project.

Section 5.02. Service Charges and Their Collection. There shall be charged to customers for Water Service, such rates, fees and charges as shall be: non-discriminatory, fair and reasonable, and adequate (after taking into consideration other moneys available or anticipated to be received, including any funds in the Rate Stabilization Fund) in each Fiscal Year so that Revenues shall be sufficient to pay (i) Operation and Maintenance Expenses, (ii) 110% of each Fiscal Year’s Bond Requirements of the Bonds, (iii) an amount equal to current costs of improvements to the System, excluding major capital additions, made in the ordinary course of business, (iv) any amounts required to meet then existing deficiencies pertaining to any fund or account relating to the Net Revenues or any securities payable therefrom and (v) 100% of any Policy Costs then due and owing.

When determining the Bond Requirements due on the Bonds for a Fiscal Year for purposes of this Section, there shall be excluded from such principal and interest requirements amounts on deposit in such Fiscal Year in the Rate Stabilization Fund.

No free Water Service shall be furnished by the Authority. The Authority shall cause all rates, fees, and Service Charges appertaining to the System to be collected as soon as is reasonable, shall prescribe and enforce rules and regulations for the payment thereof, and shall provide methods of collection and penalties as provided in the Service Contract, to the end that Revenues shall be adequate to meet the requirements hereof.

Section 5.03. Maintenance of Revenues; Service Contract.
A. The Authority shall promptly collect all charges due for Water Service as the same become due, and shall at all times maintain and promptly and use commercially reasonable efforts to vigorously enforce its rights against any person who does not pay such charges when due.

B. The Authority shall enforce the provisions of the Service Contract and duly perform its covenants and agreements thereunder. The Authority will not consent or agree to or permit any rescission of or amendment to the Establishing Contract and the Service Contract, or either of them, which will in any manner materially and adversely affect the rights or security of the Bondholders under this Resolution, unless there is first secured the written consent of the Bondholders whose rights would be so affected, and any action by the Authority in violation of this covenant shall be null and void as to the Authority and any other party to such contracts.

Section 5.04. Records. Proper books of record and account will be kept by the Authority, showing complete and correct entries of all transactions relating to the System. Such books shall include (but not necessarily be limited to) monthly records showing:

A. The amount of Service Charges paid by the customers of the Authority,

B. The Revenues received from Service Charges, and

C. A detailed statement of the Operation and Maintenance Expenses.

Section 5.05. Right to Inspect. Any holder of at least 25% of the aggregate principal amount of the 2020 Bonds or any duly authorized agent of such holder and shall have the right at all reasonable times to inspect all records, accounts, and data relating thereto and to inspect the System and all properties comprising the System.

Section 5.06. Audits. The Authority shall annually require an audit to be completed within the time required by law by a Certified Public Accountant and to be performed in accordance with generally accepted auditing standards, on the financial statements of the Authority, which shall be prepared in accordance with generally accepted accounting principles as applied to governmental units. Such audit will be available for inspection by any holder of Bonds and will be completed within a reasonable time. Each such audit shall include whatever matters may be thought proper by the Certified Public Accountant to be included therein.

All expenses incurred in the making of the audits and reports required by this Section may be regarded and paid as an Operation and Maintenance Expense.

Section 5.07. Efficient Operation. The Authority will maintain the System in efficient operating condition and (subject to the provisions of the Establishing Contract) make such improvements, enlargements, extensions, repairs, and betterments thereto as may be necessary or advisable to ensure its economical and efficient operation at all times.

Section 5.08. Charges and Liens Upon System. From the Revenues, the Authority will pay all taxes and assessments or other municipal or governmental charges, if any, lawfully levied, assessed upon, or in respect to the System, or any part thereof, when the same
shall become due, and it will duly observe and comply with all valid requirements of any
municipal or governmental authority relative to any part of the System; and the Authority will
not create nor suffer to be created any lien or charge upon the System or upon the Revenues
therefrom except as permitted by this Resolution, and it will make adequate provisions to satisfy
and discharge within 60 days after the same shall accrue, all lawful claims and demands for
labor, materials, supplies, or other objects, which, if unpaid, might by law become a lien upon
the System or upon the Revenues therefrom; provided, however, that nothing herein shall require
the Authority to pay, or to cause to be discharged, or to make provision for, any such tax,
assessments, lien, or charge before the time when payment thereof shall be due or so long as the
validity thereof shall be contested in good faith by appropriate legal proceedings or in continuing
good faith negotiations.

Section 5.09. **Insurance.**

A. The Authority in its operation of the System will carry fire and extended
coverage insurance, workmen’s compensation insurance, public liability insurance, business
interruption and other types of insurance in such amounts and to such extent as is normally
carried by municipal corporations operating similar water facilities. The cost of such insurance
may be considered one of the Operation and Maintenance Expenses of the System. In the event
of property loss or damage, insurance proceeds shall be used first for the purpose of restoring or
replacing the property lost or damaged if such property is necessary for operation of the System,
and any remainder shall be treated as Net Revenues and shall be subject to distribution in the
manner provided in Section 3.04 hereof for Revenues derived from the operation of the System.

B. The Authority may establish and create a special fund for the purpose of
providing a self-insurance fund. Amounts to be deposited in or credited to such fund in any
Fiscal Year shall be accounted for as Operation and Maintenance Expenses. To the extent that
moneys are deposited in such fund, if created, such moneys may be invested in Investment
Securities. To the extent of the amounts held in such fund, the face amount of appropriate
insurance policies may be reduced.

Section 5.10. **Corporate Existence.** The Authority will maintain its corporate
identity and existence so long as any of the Bonds remain Outstanding, unless another body
corporate and politic by operation of law succeeds to the powers, privileges, rights, liabilities,
disabilities, duties and immunities of the Authority and is obligated by law to operate and
maintain the System and to fix and collect the Revenues as herein provided without adversely
and materially affecting at any time the privileges and rights of any holder of any Outstanding
Bond.

Section 5.11. **Disposal of Facilities Prohibited.** Except for the use of the
facilities and services pertaining thereto in the normal course of business and the pledge and use
of Revenues and other moneys as herein provided, neither all nor a substantial part of the System
will be sold, leased, mortgaged, pledged, encumbered, alienated or otherwise disposed of, until
all the Bonds have been paid in full, as to all Bond Requirements, or unless provision has been
made therefor, or until the Bonds have otherwise been redeemed, including, without limitation,
the termination of the pledge as herein authorized, except as provided in Section 5.12 hereof.
Notwithstanding the above, in the event that the Authority should determine that it is in
the best interest of the Authority and the Districts, the Authority is hereby authorized to transfer
all (but not part) of the assets and obligations of the System to Eagle River Water and Sanitation
District, or a subdistrict thereof, so long as Eagle River Water and Sanitation District, or a
subdistrict thereof, assumes all outstanding obligations of the Authority, including the payment
of the Bonds.

Section 5.12. Disposal of Unnecessary Property. The Authority at any time
and from time to time may sell, exchange, lease or otherwise dispose of any property constituting
a part of the System and not useful in the construction, reconstruction or operation thereof, or
which will cease to be necessary for the efficient operation of the System, or which will have
been replaced by other property reasonably estimated to be able to generate equivalent Net
Revenues. Any proceeds of any such sale, exchange or other disposition received and not used
to replace such property so sold or so exchanged or otherwise disposed of, will be deposited by
the Authority in the Revenue Fund or into a special book account for betterment, enlargement,
extension, other improvement and equipment of the appropriate portion of the System, or any
combination thereof, as the Authority may determine. Administration and allocation of the
moneys so deposited shall be as provided in Sections 3.04 and 3.05 hereof.

Section 5.13. Loss From Condemnation. If any part of the System is taken by
the exercise of a power of eminent domain, the amount of any award received by the Authority
as each taking will be paid into the Revenue Fund or a capital improvement account pertaining to
the appropriate portion of the System for the purposes thereof, or will be applied to the
redemption of the Bonds or held as a reserve for deposit subsequently into such a capital
improvement account or for such prior redemption of obligations or for both such deposits and
such redemption, as the Authority may determine.

Section 5.14. Performance Bonds. Each Authority official or other person
having custody of any funds derived from operation of the System, or responsible for the
handling of such funds, shall be fully bonded in amounts deemed appropriate by the Authority at
all times, which bond shall be conditioned upon the proper application of said funds. The cost of
each such bond may be considered one of the Operation and Maintenance Expenses.

Section 5.15. Competent Management. The Authority shall employ
experienced and competent management personnel for the System. In the event of default on the
part of the Authority in paying principal of or interest on the Bonds promptly as each falls due,
or in the keeping of any covenants herein contained, and if such default shall continue for a
period of 60 days, the Authority shall retain a firm of competent management Engineers skilled
in the operation of water systems to assist the management of the System so long as such default
continues.

Section 5.16. Performing Duties. The Authority will faithfully and punctually
perform all duties with respect to the System required by the Constitution and laws of the State
of Colorado and this Resolution of the Authority, including but not limited to, the making and
collecting of reasonable and sufficient rates and charges for Water Service as hereinbefore
provided, and the proper segregation of the Revenues and their application to the respective
funds.
Section 5.17. **Other Liens.** Other than as provided by this Resolution and by the resolutions authorizing the Existing Parity Bonds, there are no liens or encumbrances of any nature whatsoever on or against the System or the Revenues derived or to be derived from the operation of the same.

Section 5.18. **Tax Covenant.** The Authority covenants for the benefit of the registered owners of the 2020 Bonds that it will not take any action or omit to take any action with respect to the 2020 Bonds, the proceeds of the 2020 Bonds, any other funds of the Authority or the facilities financed or refinanced with the proceeds of the 2020 Bonds if such action or omission (i) would cause the interest on the 2020 Bonds to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Tax Code, in effect on the date of delivery of the 2020 Bonds, (ii) would cause interest on the 2020 Bonds to lose its exclusion from gross income for federal income tax purposes under Section 55(b)(2) of the Tax Code, or (iii) would cause interest on the 2020 Bonds to lose its exclusion from Colorado taxable income or Colorado alternative minimum taxable income under present Colorado law. The foregoing covenant shall remain in full force and effect notwithstanding the payment in full or defeasance of the 2020 Bonds until the date on which all obligations of the Authority in fulfilling the above covenant under the Tax Code and Colorado law have been met.

Section 5.19. **Continuing Disclosure Covenant.** The Authority shall comply with the provisions of the Continuing Disclosure Certificate. Any failure by the Authority to perform in accordance with this Section shall not constitute an Event of Default under this Resolution, and the rights and remedies provided by this Resolution upon the occurrence of an Event of Default shall not apply to any such failure. Neither the Registrar nor the Paying Agent shall have any power or duty to enforce this Section. No Owner of a 2020 Bond shall be entitled to damages for the Authority’s non-compliance with its obligations under this Section; however, the Owners of the 2020 Bonds may enforce specific performance of the obligations contained in this Section by any judicial proceeding available.

**ARTICLE VI**

**DEFEASANCE**

Section 6.01. **Defeasance.** When the Bond Requirements due in connection with any 2020 Bond have been duly paid, the pledge and lien and all obligations hereof shall thereby be discharged and the 2020 Bond shall no longer be deemed to be “Outstanding” within the meaning of this Resolution. There shall be deemed to be such due payment when the Authority has placed, or has caused to be placed, in escrow or in trust with a Depository, an amount sufficient (including the known minimum yield available for such purpose from Federal Securities in which such amount wholly or in part may be initially invested) to meet all Bond Requirements of such 2020 Bond, as the same become due to the final maturity of the 2020 Bond. The following provisions of this Resolution shall remain in full force and effect notwithstanding the defeasance of any (but less than all) of the 2020 Bonds: Sections 1.01, 1.02, 2.05, 2.06, 2.07, 2.10, 2.11, 2.12, 2.13, 2.14, 2.15, 2.16, 5.18, 5.19, 6.01, 9.02, and 9.03. The Federal Securities shall become due at or prior to the respective times at which the proceeds thereof shall be needed, in accordance with a schedule established and agreed upon between the Authority and such bank at the time of the creation of the escrow or trust, or the Federal
Securities shall be subject to redemption at the option of the holders thereof to assure such availability as so needed to meet such schedule. Except in the situation where there is payment or defeasance of all of the Outstanding 2020 Bonds, the provisions of this Section shall be subject to contractual restrictions, if any, governing the rights of the holders of such 2020 Bonds.

ARTICLE VII

DEFAULTS; REMEDIES

Section 7.01. Events of Default. Each of the following events is hereby declared an “event of default”:

A. Nonpayment of Principal. Payment of a Principal Installment of any of the Bonds shall not be made when the same shall become due and payable, either at maturity or by proceedings for prior redemption, or otherwise.

B. Nonpayment of Interest. Payment of any installment of interest on any Bonds shall not be made when the same becomes due and payable.

C. Inability to Perform. The Authority shall for any reason be unable to fulfill its obligations hereunder.

D. Default of any Provision. The Authority shall default in the due and punctual performance of its covenants or conditions, agreements, and provisions contained in the Bonds or in this Resolution on its part to be performed (other than as described in paragraphs A and B hereof and in Section 5.19 above), and if such default shall continue for 60 days after written notice specifying such default and requiring the same to be remedied shall have been given to the Authority by the holders of at least twenty-five percent (25%) in principal amount of the Bonds then Outstanding.

E. Cross Defaults. The occurrence and continuance of an “event of default,” as defined in any Parity Lien Bond resolution or any Insurance Agreement.

Section 7.02. Remedies for Defaults. Upon the happening and continuance of any of the events of default as provided in Section 7.01 hereof, then and in every case the holder or holders of not less than twenty-five percent (25%) in principal amount of the Bonds then Outstanding, may proceed against the Authority, its governing body, and its agents, officers, and employees to protect and enforce the rights of any holder of Bonds under this Resolution by mandamus or other suit, action, or special proceedings in equity or at law, in any court of competent jurisdiction, either for the appointment of a receiver or for the specific performance of any covenant or agreement contained herein or an award of execution of any power herein granted for the enforcement of any proper legal or equitable remedy as such holder or holders may deem most effectual to protect and enforce the rights aforesaid, or thereby to enjoin any act or nothing which may be unlawful or in violation of any rights of any Bondholder, or to require the governing body of the Authority to act as if it were the trustee of an express trust, or any combination of such remedies. All such proceedings at law or in equity shall be instituted, had, and maintained for the equal benefit of all holders of the Bonds then Outstanding.
Notwithstanding the foregoing provisions of this Section, nothing in this Resolution shall act as or be deemed a waiver by the Authority of the defenses, protections and limitations of liability under the Colorado Governmental Immunity Act, Title 24, Article 10, C.R.S., as now or hereafter amended.

Section 7.03. Receiver’s Rights and Privileges. Any receiver appointed in any proceedings to protect the rights of such holders hereunder, the consent to any such appointment being hereby expressly granted by the Authority, may enter and may take possession of the System, may operate and maintain the same, may prescribe fees, rates and other charges and may collect, receive and apply all Revenues arising after the appointment of such receiver in the same manner as the Authority itself might do.

Section 7.04. Rights and Privileges Cumulative. The failure of any holder of any Outstanding Bond to proceed in any manner herein provided shall not relieve the Authority, or any of its officers, agents or employees of any liability for failure to perform or carry out any duty, obligation or other commitment. Each right or privilege of any such holder (or trustee thereof) is in addition and cumulative to any other right or privilege, and the exercise of any right or privilege by or on behalf of any holder shall not be deemed a waiver of any other right or privilege thereof.

Section 7.05. Duties upon Default. Upon the happening of any of the events of default as provided in Section 7.01 hereof, the Authority, in addition, shall do and perform all proper acts on behalf of and for the holders of the Bonds to protect and to preserve the security created for the payment of their Bonds and to insure the payment of the Bond Requirements of the Bonds promptly as the same become due. During any period of default, so long as any of the Bonds issued hereunder, as to any Bond Requirements, are Outstanding, except to the extent it may be unlawful to do so, all Net Revenues shall be paid into the Bond Fund. If the Authority fails or refuses to proceed as in this Section provided, the holder or holders of no less than twenty-five percent (25%) in principal amount of the Bonds then Outstanding, after demand in writing, may proceed to protect and to enforce the right of the holders of the Bonds as hereinabove provided, and to that end any such holders of the Outstanding Bonds shall be subrogated to all rights of the Authority under any agreement, lease or other contract involving the System or the Revenues entered into prior to the effective date of this Resolution or thereafter while any of the 2020 Bonds are Outstanding.

Section 7.06. Duties in Bankruptcy Proceedings. If any user of the System proceeds under any laws of the United States relating to bankruptcy, including, without limitation, any action under any law providing for corporate reorganization, it shall be the duty of the Authority, and its appropriate officers are hereby authorized and directed, to take all commercially reasonable steps for the benefit of the holders of the Bonds in such proceedings, including the filing of any claims for unpaid fees, rates and other charges or otherwise arising from the breach of any of the covenants, terms or conditions of any contract involving the System.

ARTICLE VIII

INSURANCE POLICY AND RESERVE POLICY PROVISIONS

42
Section 8.01. Insurer To Be Deemed Owner, Rights of the Insurer, Payments by the Insurer: Notices.

A. Notwithstanding any provision of this Resolution to the contrary, so long as the Insurer is not in default in its payment obligations under the Insurance Policy, the Insurer shall at all times be deemed the sole and exclusive Owner of the Outstanding 2020 Bonds for the purposes of all approvals, consents, waivers, institution of any action, and the direction of all remedies pursuant to this Resolution, including but not limited to approval of or consent to any amendment of or supplement to this Resolution which requires the consent or approval of the Owners of a majority in aggregate principal amount of the 2020 Bonds then Outstanding pursuant to this Resolution; provided, however, that the Insurer shall not be deemed to be the sole and exclusive Owner of the Outstanding 2020 Bonds with respect to any amendment or supplement to this Indenture which seeks to amend or supplement this Indenture for the purposes set forth in clauses A (1) through A (6) of Section 9.02 hereof, and provided, further, that the Insurer shall not have the right to direct or consent to Authority, Paying Agent or Owner action as provided herein, if:

1) the Insurer shall be in default under the Insurance Policy;

2) any material provision of the Insurance Policy shall be held to be invalid by a final, non-appealable order of a court of competent jurisdiction, or the validity or enforceability thereof shall be contested by the Insurer; or

3) a proceeding shall have been instituted in a court having jurisdiction in the premises seeking an order for relief, rehabilitation, reorganization, conservation, liquidation or dissolution in respect of the Insurer and such proceeding is not terminated for a period of 90 consecutive days or such court enters an order granting the relief sought in such proceeding.

B. In the event that the principal of or interest on a 2020 Bond shall be paid by the Insurer pursuant to the terms of the Insurance Policy: (1) such 2020 Bond shall continue to be “Outstanding” under this Resolution, and (2) the Insurer shall be fully subrogated to all of the rights of the Owner thereof in accordance with the terms and conditions of paragraph A of this Section and the Insurance Policy.

C. This Resolution shall not be discharged unless and until all amounts due to the Insurer have been paid in full or duly provided for.

D. The rights granted under this Resolution to the Insurer to request, consent to or direct any action are rights granted to the Insurer in consideration of its issuance of the Insurance Policy. Any exercise by the Insurer of such rights is merely an exercise of the Insurer’s contractual rights and shall not be construed or deemed to be taken for the benefit of or on behalf of the Owners, nor does such action evidence any position of the Insurer, positive or negative, as to whether Owner consent is required in addition to consent of the Insurer.

E. No modification, amendment or supplement to this Resolution shall become effective except upon obtaining the prior written consent of the Insurer.
F. No contract shall be entered into nor any action taken by the Authority or the Paying Agent pursuant to which the rights of the Insurer or security for or sources of payment of the 2020 Bonds under this Resolution may be impaired or prejudiced except upon obtaining the prior written consent of the Insurer.

ARTICLE IX

MISCELLANEOUS

Section 9.01. Delegated Powers. The officers of the Authority hereby are authorized and directed to take all action necessary or appropriate to effectuate the provisions hereof, including, without limiting the generality of the foregoing:

A. Printing Bonds. The printing of the 2020 Bonds; and

B. Final Certificates. The execution of certificates, relating, inter alia, to the signing of the 2020 Bonds, the exemption of the interest of the 2020 Bonds from income taxation, the tenure and identity of the Authority officials, delivery of the 2020 Bonds, the receipt of the 2020 Bond purchase price, the absence of litigation, pending or threatened, affecting the validity thereof, the use of the proceeds thereof and as to the Official Statement relating to the 2020 Bonds.

Section 9.02. Amendment of Resolution.

A. Limitations Upon Amendments. This Resolution may be amended or supplemented by resolution adopted by the Board in accordance with the laws of the State of Colorado, without receipt by the Authority of any additional consideration, but (except as provided in paragraph B of this Section) with the written consent of the holders of a majority of the Bonds Outstanding at the time of the adoption of such amendatory or supplemental resolution (not including in any case any Bonds which may then be held or owned for the account of the Authority, but including such refunding securities as may be issued for the purpose of refunding any of the Bonds herein authorized if such refunding securities are not owned by the Authority); provided, however, that no such resolution (without consent of each Bondholder who may be adversely affected thereby) shall have the effect of permitting:

(1) An extension of the maturity or sinking fund redemption date, or time of any interest payment on any Bond authorized hereby; or

(2) A reduction in the principal amount of any Bond, the rate of interest thereon, or the redemption premium, if any, payable thereon; or

(3) The creation of a lien upon or a pledge of Revenues ranking prior to the lien or pledge created hereby; or

(4) A reduction of the principal amount of Bonds required for consent to such amendatory or supplemental resolution; or
(5) The establishment of priorities as between Bonds issued and Outstanding under the provisions hereof; or

(6) The modification of or otherwise affecting the rights of the holders of less than all of the Bonds then Outstanding.

B. Amendments Without Bondholder Consent. Notwithstanding the provisions of paragraph A of this Section, no resolution supplementing this Resolution which authorizes Parity Lien Bonds, and making necessary provisions in connection therewith, but without otherwise modifying the contractual rights of the holders of the Bonds, shall require any consent of the Outstanding Bondholders. This Resolution and the rights and obligations of the Authority and of the holders of the Bonds may also be modified or amended at any time, without the consent of any Bondholders, but only to the extent permitted by law and only for any of the following purposes:

(1) to add to the covenants and agreements of the Authority in this Resolution contained, other covenants and agreements thereafter to be observed; or

(2) to make such provisions for the purpose of curing any ambiguity, or of curing or correcting any formal defect or omission in this Resolution, or in regard to questions arising under this Resolution, as the Authority may deem necessary or desirable, and which shall not adversely affect the interests of the holders of the Bonds; or

(3) in order to preserve or protect the excludability from gross income for federal income tax purposes of the interest allocable to the Bonds.

C. Notice of Amendment. Whenever the Authority shall propose to amend or modify this Resolution under the provisions of paragraph A of this Section, it shall cause notice of the proposed amendment to be mailed to each holder of the Outstanding Bonds at his address as it last appears on the registration records kept by the Registrar. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy of the proposed amendatory resolution is on file in the office of the Authority’s Secretary for public inspection.

D. Time for Amendment. Whenever at any time within one year from the date of the mailing of said notice there shall be filed in the office of the Authority’s Secretary an instrument or instruments executed by the requisite holders of the Bonds then Outstanding, as provided in paragraph A of this Section, which instrument or instruments shall refer to the proposed amendatory resolution described in said notice and shall specifically consent to and approve the adoption thereof, but not otherwise, the Board may adopt such amendatory resolution and such resolution shall become effective.

E. Binding Consent to Amendment. If such requisite holders of the Bonds Outstanding, at the time of the adoption of such amendatory resolution, or the predecessors in title of such holders, shall have consented to and approved the adoption thereof as herein provided, no holder of any Bond, whether or not such holder shall have consented to or shall have revoked any consent as in this Section provided, shall have any right or interest to object to any of the terms or provisions therein contained or to the operation thereof or to enjoin or restrain the Authority from taking any action pursuant to the provisions thereof.
F. **Time Consent Binding.** Any consent given by the holder of a Bond pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of the mailing of the notice above provided for and shall be conclusive and binding upon all future holders of the same Bond during such period. At any time after six months from the date of the mailing of such notice, such consent may be revoked by the holder who gave such consent or by a successor in title by filing notice of such revocation with the Authority Secretary, but such revocation shall not be effective if the requisite holders of the Bonds Outstanding, as hereinabove described in this Section, including the holder making such purported revocation, have, prior to the attempted revocation, consented to and approved the amendatory resolution referred to in such revocation and such amendatory resolution has been adopted.

G. **Proof of Instruments.** The fact and date of the execution of any instrument under the provisions of this Section may be proved by the certificate of any officer in any jurisdiction who by the laws thereof is authorized to take acknowledgment of deeds within such jurisdiction, that the person signing such instrument acknowledged before him the execution thereof, or may be proved by an affidavit of any witness to such execution sworn to before such officer.

Section 9.03. **Resolution Irrepealable.** After any of the 2020 Bonds are issued, this Resolution shall constitute a contract between the Authority and the holder or holders of the 2020 Bonds from time to time; and this Resolution shall be and remain irrepealable until the 2020 Bonds and the interest on the 2020 Bonds shall be fully paid, cancelled, and discharged, as herein provided.

Section 9.04. **Pledge of Revenues.** The creation, perfection, enforcement, and priority of the pledge of revenues to secure or pay the 2020 Bonds as provided herein shall be governed by Section 11-57-208 of the Supplemental Act and this Resolution. The revenues pledged for the payment of the 2020 Bonds, as received by or otherwise credited to the Authority, shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge on the revenues pledged for payment of the 2020 Bonds and the obligation to perform the contractual provisions made herein shall have priority over any or all other obligations and liabilities of the Authority. The lien of such pledge shall be valid, binding, and enforceable as against all Persons having claims of any kind in tort, contract, or otherwise against the Authority irrespective of whether such Persons have notice of such liens.

Section 9.05. **No Recourse against Officers and Agents.** Pursuant to Section 11-57-209 of the Supplemental Act, if a member of the Board, or any officer or agent of the Authority acts in good faith, no civil recourse shall be available against such member, officer, or agent for payment of the principal, interest or prior redemption premiums on the 2020 Bonds. Such recourse shall not be available either directly or indirectly through the Board or the Authority, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of the 2020 Bonds and as a part of the consideration of their sale or purchase, any person purchasing or selling such 2020 Bond specifically waives any such recourse.

Section 9.06. **Conclusive Recital.** Pursuant to Section 11-57-210 of the Supplemental Act, the 2020 Bonds shall contain a recital that they are issued pursuant to the
Supplemental Act. Such recital shall be conclusive evidence of the validity and the regularity of the issuance of the 2020 Bonds after their delivery for value.

Section 9.07. Severability. If any section, paragraph, clause, or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Resolution.

Section 9.08. Limitation on Actions. Pursuant to Section 11-57-212 of the Supplemental Act, no legal or equitable action brought with respect to any legislative acts or proceedings of the Authority in connection with the authorization or issuance of the 2020 Bonds, including but not limited to the adoption of this Resolution, shall be commenced more than thirty days after the authorization of the 2020 Bonds.

Section 9.09. Holidays. If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Resolution, shall be a legal holiday or a day on which banking institutions in the city in which is located the principal office of the Registrar and Paying Agent are authorized or required by law to remain closed, such payment may be made or act performed or right exercised on the next succeeding day not a legal holiday or a day on which such banking institutions are authorized or required by law to remain closed, with the same force and effect as if done on the nominal date provided in this Resolution, and no interest shall accrue for the period after such nominal date.

Section 9.10. Repealer Clause. All bylaws, orders, resolution, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution, or part thereof, heretofore repealed.

Section 9.11. Recordation. This Resolution, immediately on its final passage, shall be recorded in the Authority book or resolution kept for that purpose and authenticated by the signatures of the Chairman and the Secretary of the Authority.

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PASSED AND APPROVED on August 27, 2020.

UPPER EAGLE REGIONAL WATER AUTHORITY

____________________________________
Chairman

(SEAL)

____________________________
Secretary
TO: Board of Directors
FROM: Shane Swartwout, Customer Service Manager
DATE: August 27, 2020
RE: Request to Extend the Late Payment Policy Change

Summary of Subject: Staff recommends extending the late payment policy change to coincide with all future extensions of the State of Colorado executive order D 2020-157 related to providing relief to public utility customers impacted by the coronavirus disease (COVID-19).

Discussion and Background: The current late payment policy change, which waives finance charges on past due balances and suspends service disconnections for non-payment, has been effective since the March 2020 billing period. Since the initial policy change, the Boards have approved two (2) extensions (April 23 and May 28 board meetings) as requested by staff. To continue to support customers impacted by the COVID-19 pandemic and to be consistent with Governor Polis’s executive orders (D 2020-098, D 2020-132, and D 2020-157), staff recommends extending the late payment policy change to coincide with all future extensions of executive order D 2020-157 related to COVID-19 relief for public utility customers until the expiration of the order. This will help reduce additional Board action requests and maintain consistency with the State executive orders.

Alternatives: An alternative option is for the board to decide to return to the normal late payment policy and collection process.

Legal Issues: Jim Collins is available to discuss any issues during the meeting.

Budget Implication: There are perpetual lien rights on all properties within the district and the owner of record for the property is ultimately responsible for all rates and use charges. The proposed policy change represents a delay in collecting revenue, not a loss in revenue.

Recommendation: Staff recommends the Board to approve extending the late payment policy change to coincide with all future extensions of the State of Colorado executive order D 2020-157.

Proposed Action: I move to approve extending the late payment policy change as presented.
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<th>Contract Number</th>
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<th>Change Order</th>
<th>Project Name</th>
<th>Contractor</th>
<th>Amount</th>
<th>Manager</th>
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<th>Projected Water Demand Annual Acre-Feet Consumption (AF)</th>
<th>Development Approval Process Step:</th>
<th>Construction Approval Process Step:</th>
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**New Development Report**

**August 2020**

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Melissa Mills McClota  
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Kim Bell Williams (A) | Geoff Dreyer (A)  
Sarah Smith Hymes (A)  
Steve Coyer (D)  
Bill Simmons (D) |

(A) = Authority  
(D) = District
The following is a summary of items discussed at the July 23, 2020, Authority Board Meeting with the Eagle River Water & Sanitation District:

Board members present and acting on the Authority’s behalf included: Chair George Gregory, Secretary Kim Bell Williams, Treasurer Geoff Dreyer, Pam Eilsner, Sarah Smith Hymes, Mick Woodworth.

**COVID-19 Operations Update**
Linn Brooks noted absenteeism among staff remained low, though some employees were using vacation time. She discussed Eagle County’s shift from a cautious response to a more concerned response to the pandemic as local case numbers of coronavirus increased. Linn is satisfied with the District’s response, and sanitation and hygiene protocols at District facilities have proven effective. The majority of administrative staff is working offsite, and District facilities remain closed to the public.

**Drought**
Linn Brooks noted the current conditions are lower than average, but not nearly as low as streamflows observed during the 2012 and 2018 droughts. Monsoonal rains are expected soon, but staff continues to plan for low streamflows in late summer and early fall, as well as reaching out to excessive users to reduce water use.

**Solar Array Update**
Catherine Hayes updated on the desired purchase of the biosolids containment facility (BCF) land from the Bureau of Land Management (BLM). The district currently holds a patent for the land from the BLM; a direct sale of the land was requested, which would allow the District to use the land for a possible solar array. Under the patent, the use of the land is limited to drying of biosolids, which are the byproduct of the wastewater treatment process.

**Water Counsel Update**
Glenn Porzak reported on various diligence filings for the Authority, including those for water rights in Eagle Park Reservoir, Wolford Mountain Reservoir, and a multitude of Authority conditional water rights.

**Eagle Park Reservoir Stock Agreement**
Glenn Porzak reported that he expects the Eagle Board of County Commissioners to approve the conveyance of its shares in Eagle Park Reservoir to the Authority at its July 28 BoCC meeting. A joint press release on the conveyance will be issued, and the water will be used for affordable housing projects, per the terms of the stock agreement.
MEMORANDUM

TO: Boards of Directors
FROM: Linn Brooks, General Manager
DATE: August 19, 2020
RE: General Manager's Report

COVID-19 Incident
Our COVID-19 Sustain Phase response remains stable. Absenteeism due to illness is low and at normal levels. Some staff members were recently tested, but there were no new positive cases. Our current concern is for employee absenteeism due to the spread of the coronavirus in schools; this could cause absences due to their own or their child's required quarantine, illness, or to homeschool children due to partial or full school closures. All departments are reviewing projects and workloads, planning for a diminished workforce.

New cases of coronavirus in Eagle County have fallen significantly; however, all District protocols will remain in place. The start of the school year could cause cases to increase, as could the start of the tourism season.

Drought Plan 2020
Brad Zachman included a memo in packets regarding the District's low streamflow SOP, by which operations are modified to maximize streamflows. Dr. Len Wright will present up-to-date hydrologic data in the meeting. Streamflows continue to drop, with very low flows expected around the end of August and early September. There are good indications that outreach to customers has reduced some customer usage. Staff will continue these efforts through the season.

Backflow Compliance Effort
Brad Zachman and Evette Smits will present a Backflow 101 overview to the boards this month. This should aid in understanding progress and challenges in the program. Staff continues diligent work towards end of year compliance; however, it is uncertain if this will be achieved due to many challenges, which will be discussed.
MEMORANDUM

TO: Boards of Directors
FROM: Kira Koppel, Sustainability Coordinator
DATE: August 18, 2020
RE: Social Equity at the District

On July 30, the District hosted a one-hour panel discussion for its employees, to begin a meaningful dialogue about social equity and its importance at the District. The event was titled A Virtual Panel Discussion Exploring Social Equity. I participated as a panelist, along with three distinguished guest panelists. The event was moderated by our HR Manager, Melissa Mills McLoota. The discussion further addressed the social equity information included in last month’s sustainability memo.

A total of 46 participants joined the discussion and offered plenty of positive feedback on the event. This also created some momentum for future action; several employees reached out with a desire to contribute to this effort both at work and in our community. A post-event debrief was held to ensure this is the beginning of an ongoing conversation regarding social equity at the District. We would like to engage the board to help inform future efforts in this space.

Please reference this document if you’d like more information about the panelists and objectives of the panel discussion. You can view the hour-long discussion here if you would like.

Panelist information:

- Kira Koppel, District sustainability coordinator
- KellyLiken, the Community Market
- BeatrizSoto, Wilderness Workshop
- AngeloFernandez, Eagle County

More on social equity at the District:

Social equity, while always relevant, came into the spotlight in recent months; nationwide protests continue as participants demand racial justice. Social equity is a key tenet of our sustainability strategy, as one of the three main components of sustainability, alongside environmental and economic concerns. Social equity is essential to our HR policies and is also required to achieve true organizational sustainability. Social equity is essential to our work as a water provider and local government; we must engage every part of the District in this effort. We work to deliver clean drinking water and maintain river health for our full service area – not just particular communities or individuals. Our tiered billing system and current late fee waivers
promote fair, equitable access to water. Our housing program and merit-based hiring are part of our strategy for social equity at the District. Climate change planning is also part of this effort, as it affects water quantity and disproportionately impacts communities of color and marginalized members of society, including the Latinx population.

If you would like more information on this topic, please reach out: kkoppel@erwsd.org.

Other resources:

- Angelo Fernandez, shared this list of resources with us after the discussion. Read and click through it to begin or build upon your social equity knowledge.
Statewide water planning
A variety of statewide and regional planning efforts have continued during the pandemic, albeit at a slower pace, less meetings, and associated media coverage or public information pushes. The CWCB has made progress on Colorado’s Demand Management Feasibility Investigation, relative to the seven basin states’ drought contingency plans. The Upper Division States are in the feasibility stage and would have to agree that an Upper Basin Demand Management program is feasible in order to move towards program development. A 204-page update was submitted to the CWCB board in July; Aspen Journalism published this story based on that board meeting.

Similarly, per Colorado’s Water Plan, the Basin Roundtables are each working to update the individual Basin Implementation Plans that were submitted with the plan when it was finalized in 2015. The Colorado Basin Roundtable resumed work on the BIP in May. In 2015, I partnered with the Eagle River Watershed Council to lead the effort for the Eagle River region of the BIP. This year, the ERWC has taken the lead and Len Wright is assisting with technical issues, in coordination with similar existing efforts such as the Eagle River Community Water Plan, the Wild & Scenic alternative management plan, and Eagle River MOU planning.

Drought
Governor Polis activated Colorado’s Drought Task Force and Phase 2 of the State Drought Mitigation and Response Plan on June 22. Conditions have worsened since (see the water resources section of the operations report) and resulted in all of Colorado being in drought on the Aug. 6 drought monitor, which is the first time in eight years that 100% of the state has been categorized as such (see attached reports).

Attachments:
1. Colorado Department of Natural Resources July 2020 drought update.
2. August 7, 2020, Denver Post story: For first time in 8 years, 100% of Colorado is under drought or abnormally dry conditions.
3. August 7, 2020, Washington Post story: In Colorado’s climate change hot spot, the West’s water is evaporating.
On June 22, 2020, Governor Polis activated the State Drought Mitigation and Response Plan and the supporting Drought- and Agricultural Impact Task Forces to respond to deepening drought conditions across the state. As of July 30th, dry conditions now cover 99.35% of the state with 83.72% in severe, extreme, or exceptional drought categories. To stay informed on the evolving 2020 drought season and response resources, please visit the Colorado Water Conservation Board drought website and submit questions on Twitter at @CO_H2O (observations, reports, or images can be tagged with #codrought2020).

The latest U.S. Drought Monitor, released July 30th, presents abnormally dry conditions in all but 0.65% of the state (in Weld County). D4 (exceptional) drought conditions emerged for the first time on July 2 in Baca and Prowers counties but dropped off the monitor after one week. D3 (extreme) conditions cover 26.6% of the state; D2 (severe drought) covers 32.2%; D1 (moderate drought) covers 24.9%; and D0 (abnormally dry) covers 16% of the state.

The 90-day Standardized Precipitation Index (SPI) (April 21 to July 21) continues to show slightly below average moisture for nearly all of Colorado with deeper shortfalls now more prevalent in north central and front range mountains in addition to NE and SW corners.

El Niño Southern Oscillation (ENSO) conditions now show borderline La Niña conditions, with the atmospheric response at weak La Niña or neutral. Sea surface temperature outlooks continue with equal chances neutral/La Niña in the fall and winter.

NOAA’s Climate Prediction Center’s three month outlook maps continue to show very high confidence for above average temperatures July through Sept. and a stronger chance for below average precipitation compared to last month.

The VegDri Index (a satellite derived product that looks at how well plants are photosynthesizing) shows a bullseye of severe drought conditions in the NE (see Aug 2 map to the right).

Reservoir storage, fell 7% over the last month (now 93% of average) with slightly better than average storage in northern CO and below average in southern CO. The Rio Grande basin-wide storage is only 55% of average for this time of year, the lowest in the state.

Several municipal water providers are reporting above average demands (10-30% above avg) and increased concerns around the lack of precipitation.

Next Water Availability Task Force Meeting:

AUGUST 25, 2020 9:30a - 11:30a - Webinar
Co-Chairs: Megan Holcomb, CWCB & Tracy Kosloff, DWR
Questions? Contact ben.wade@state.co.us
Additional info at cwcb.colorado.gov/drought
For first time in 8 years, 100% of Colorado is under drought or abnormally dry conditions

Federal designation is consistent with wider transformation of Southwest amid climate change

Curecanti Creek Trail at the Black Canyon of the Gunnison National Park on July 29, 2020. Gunnison County is experiencing severe drought, according to the U.S. Drought Monitor, which on Thursday, Aug. 6, 2020, classified 100% of Colorado as being in drought or abnormally dry for the first time in eight years.

By BRUCE FINLEY | bfinley@denverpost.com | The Denver Post
PUBLISHED: August 7, 2020 at 6:00 a.m. | UPDATED: August 7, 2020 at 10:00 a.m.
Hot and dry conditions are hammering Colorado, intensifying a 20-year shift toward aridity.

On Thursday, federal officials designated 100% of the state abnormally dry or in drought for the first time in eight years — “extreme” or “severe” in many areas — consistent with a broader transformation of the Southwest amid climate warming.

A combination in Colorado of paltry spring snow, warmer temperatures that triggered earlier melting of winter mountain snowpack, feeble rain through summer, and parched soil from previous dry years led to this formal label.

It means shriveling crops — and dying forests primed to burn, often uncontrollably due to past suppression of wildfires.

It means shrinking water flows in streams and rivers.

It means people in crowded cities competing for shady open space.

Gov. Jared Polis has activated Colorado’s traditional “drought plan” to track impacts, save water, coordinate local responses and help hard-hit farmers.

“We take it seriously,” said Conor Cahill, Polis’s press secretary. “Our goal is to work with our federal partners to get assistance and resources to impacted communities.”

But the increasingly hot and relatively rain-less conditions over the past six weeks are bolstering an emerging consensus among climate scientists that, beyond a temporary drought with an end, Colorado and much of the West are mired in a multi-decade shift.

“We know that temperatures in Colorado and the world will continue to increase so long as we emit vast quantities of greenhouse gases into the atmosphere every year,” said Colorado State University water center senior scientist Brad Udall, who has researched a 13% depletion of Colorado River water and refers to “aridication” because “drought” implies an eventual return to normal.

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“Temperatures, for hundreds of years, are not going to return to 20th century averages. We need to be thinking in terms of more frequent periods of very hot and dry — unlike anything we’ve experienced before,” Udall said.
The hot and dry conditions have caused “reduced wheat yields this summer, reduced pasture forage and probably reduced corn yields as well,” said Peter Goble, climate and drought specialist in the state’s climatology office.

“The Eastern Plains of Colorado missed out on timely rains in May and June. It was a punch in the gut for farmers and ranchers at the worst time of the year. In recent weeks, this has spread to the Front Range urban corridor. We haven’t had any good, statewide, drought-busting rains for a long time,” Goble said.

“Our temperatures are warming without an increase in precipitation to counteract that. Soil moisture available to crops, grasses, trees and other plants is dried up more quickly,” he said. “Given the warming temperatures, we need to be prepared as a state.”

Colorado mountain snowpack, near normal on April 1 and once a predictor of sufficient water through fall, may not be as reliable. Now in the West “things can change quickly,” U.S. Department of Agriculture snow survey director Brian Domonkos said. “We had a dry fall. We had a pretty good snowpack, near average. Then spring was dry. And we had a mostly dry summer.”

The U.S. Drought Monitor’s map of Colorado, designating 100% of the state in drought or abnormally dry conditions for the first time in eight years.
This week's U.S. Drought Monitor assessment designated all of Colorado, and much of the West, in some stage of drought, which can trigger federal payments for agricultural producers. It shows most of southern Colorado in extreme drought, much of the rest of the state including the northeastern plains in severe drought, with moderate drought elsewhere and a few patches of western Colorado abnormally dry.

It's the fourth time in two decades — following 2002, 2006 and 2012 — that all of Colorado was designed as abnormally dry or in drought.

During those decades, people across the Southwest have endured hotter, drier conditions that scientists link to climate change caused by burning fossil fuels. Some scientists compare the shift to aridity to historic “mega-droughts” confirmed in tree-ring and other studies that show periodic shifts over the past 1,200 years to hot-and-dry conditions lasting 40 years or longer.

Dry times are hitting Colorado and the Southwest amid tumultuous climate conditions nationwide. The tropical storm Isaias has been raking the East Coast. A wildfire has forced evacuations on the West Coast near Los Angeles. In July, Phoenix registered record-high heat with an average temperature of 98.9 degrees. In Sitka, Alaska, temperatures hit a record-tying 88 degrees on July 31, and in Richland, Washington, the temperatures on July 30 topped 113 degrees.

For the next 10 days, National Weather Service forecasts anticipate the West will remain dry with light rain over parts of New Mexico and southeast Arizona. Temperatures in the Rocky Mountain region are expected to hover 3 to 6 degrees above average, especially on the semi-arid high plains east of the mountains, where the most people live in Denver and other dense cities.

Hardest hit so far are farmers and ranchers in the Colorado River Basin and the Rio Grande River Basin as water flows, from tributary streams down to main stems, diminish.

“Farming in this environment has become... this realization we’ve had to live with since 2002 that, in the Rio Grande Basin, more often than not, the years are average or below average. We have this unique underground aquifer that helps us bridge some of the gaps. But the gaps are so big, and we have stressed the aquifer probably beyond its capacity,” said Rio Grande Water Conservation District manager Cleave Simpson, an alfalfa grower in the San Luis Valley, where farmers have been trying to reduce groundwater pumping for eight years.
“We will lose ground this summer. We’ve got to figure out how to farm with less water, or farm less acres,” Simpson said. “You hear about people selling cows. You just feel it. I mean, in Alamosa, 11 out of 13 days in a row were record highs for us — just bizarre. And in one day in June, in 12 hours, we set both a new record low and a record high.”

Wildfire map

Click markers for details, use buttons to change what wildfires are shown. Map data is automatically updated by government agencies and could lag real-time events. Incident types are numbered 1-5 — a type 1 incident is a large, complex wildfire affecting people and critical infrastructure, a type 5 incident is a small wildfire with few personnel involved. Find more information about incident types at the bottom of this page.

Popular in the Community
In Colorado's climate change hot spot, the West's water is evaporating - Washington Post

This giant climate hot spot is robbing the West of its water

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ORCHARD CITY, Colo. — On New Year’s Day in 2018, Paul Kehmeier and his father drove up Grand Mesa until they got to the county line, 10,000 feet above sea level. Instead of the three to five feet of snow that should have been on the ground, there wasn’t enough of a dusting to even cover the grass.

The men marveled at the sight, and Kehmeier snapped a photo of his dad, “standing on the bare pavement, next to bare ground.”

Here, on Colorado’s Western Slope, no snow means no snowpack. And no snowpack means no water in an area that’s so dry it’s lucky to get 10 inches of rain a year. A few months after taking the photo, Kehmeier stared across the land his family had tilled for four generations and made a harsh calculation: He could make more money selling his ranch’s water than working his land.

Water from Colorado’s snowpack is distributed across the region through a complex network of dams, pipelines and irrigation canals.
A 20-year drought is stealing the water that sustains this region, and climate change is making it worse.

“In all my years of farming in the area, going back to about 1950, 2018 was the toughest, driest year I can remember,” said Paul’s father, Norman, who still does a fair share of the farm’s tractor work at 94.

This cluster of counties on Colorado's Western Slope — along with three counties just across the border in eastern Utah — has warmed more than 2 degrees Celsius, double the global average. Spanning more than 30,000 square miles, it is the largest 2C hot spot in the Lower 48, a Washington Post analysis found.
The average flow of the Colorado River has declined nearly 20 percent over the past century, half of which is because of warming temperatures, scientists say. With the region’s snowpack shrinking and melting earlier, the ground absorbs more heat — and more of the precious water evaporates.

On the Kehmeiers’ farm, like the rest of the area, just under two inches of rain fell between Jan. 1 and July 19. Less than half an inch has fallen since the farming season began on April 1, just 25 percent of the long-term average.

“The seasons where you don’t want to see the warming are warming faster,” said Jeff Lukas, a researcher at the University of Colorado at Boulder’s Western Water Assessment.

In the 2015 Paris accord, international leaders agreed to cut greenhouse gas emissions to prevent the Earth’s overall warming to “well below” 2 degrees Celsius by 2100.
The world has already warmed by 1 degree Celsius since the industrial revolution, on average. But global warming doesn’t affect the planet uniformly, and 10 percent of it is already at 2C, The Post found. These hot spots offer a window into what will happen as more of the planet warms: In New Jersey and Rhode Island, a 2C world has weakened winter’s bite; in Siberia, 10,000-year-old mammoths are being exposed by thawing permafrost; and from Japan to Angola to Uruguay and Tasmania, changing ocean currents and warming water have decimated fisheries and underwater kelp forests.

In Colorado, the rising temperature is forcing a reckoning in this conservative community. The Colorado River supplies water to 40 million people across the West and in Mexico. It nurtures everything from vineyards to cattle to peach trees on the Western Slope, and flows to Los Angeles’s water faucets and Arizona’s cotton fields.
Farming in America’s dry interior has always amounted to an act of defiance. Water has reinvented the landscape that Kehmeier’s ancestors began working on more than a century ago. A vast irrigation network of pipes, tunnels and dams steers melted snow into fields across the valley and has transformed this sagebrush terrain into a thriving agricultural hub.

[How to use The Post’s climate data analysis]

With his family’s century-old water rights, Kehmeier stores water in a reservoir atop Grand Mesa. Facing long odds on the farm in 2018, he sold it for $100 an acre foot — quadruple the normal price — to a nearby fruit grower and Orchard City. (An acre foot is what it takes to cover an acre of land in a foot of water, roughly 325,000 gallons.)

“It would have to come about 16 miles from the top of that mountain down the creek,” he said, pointing toward Grand Mesa, “and the chance of getting it down the creek in a hot dry year when there’s not much water in the creek and a lot of thieves beside the creek, it was questionable. So, let somebody else deal with that.”

Kehmeier, who grows alfalfa and grass hay, didn’t agonize over his decision, but he didn’t like driving by his dried-up field every day. Call it a blessing or a curse, but farming is in his blood.

“And if it’s in your blood, you want to do it,” he said. “I want to go out kicking and scraping if I have to, but I don’t want to give up.”

He could always plant hay the following year, he thought. Surely, the snow would return.
Colorado’s Grand Valley, marked by towering mesas, red sandstone spires and two intersecting rivers, didn’t used to be farm country. Until 1881, it was the home of the Ute people — hunters and gatherers. But after White settlers arrived and sought to impose an agrarian lifestyle on them, the Utes fought back and killed the federal agent assigned to the valley. In retaliation, Congress passed a law expelling them to a reservation in neighboring Utah, giving the White settlers free rein to claim the Utes’ land. Between 1,000 and 1,500 men, women and children were forced to leave, according to tribal history.

By 1884, William E. Pabor had established the Fruita Town and Land Co. to sell lots, touting the area’s farming potential to would-be settlers.

“They saw fields of green grain waving, they saw harvest days at hand/ And the blessings of abundance in the homestead on the land,” he wrote.
Even though farming is “in his blood,” Kehmeier took a job in town to help make ends meet.
An agricultural paradise, complete with the kind of orchards and vineyards Pabor rhapsodized about, took root.

In 1894, Paul Kehmeier’s great-grandfather William and his wife, Leota, arrived on Surface Creek Mesa, southeast of the valley, with three young children in a covered wagon. They ordered apple trees to plant a year or two afterward.

“They were following the trend of pioneers constantly moving towards the West,” said Norman Kehmeier, sitting on his porch as he pointed to the buff-colored house that his grandfather built.

As the pioneers moved in, they started collecting data on the temperature. Five miles north of the family farm, a cattle rancher with a chemistry background began submitting daily weather observations to the Department of Agriculture’s Weather Bureau, the predecessor of the National Weather Service.

Starting in 1898, Henry Kohler recorded the monthly mean temperature, the total precipitation and other details. He and other observers sent their reports to be compiled in Denver.

These early records, written in cursive, form the foundation of NOAA’s official temperature records, which show that around the close of the 19th century, Delta County’s climate was more than 2 degrees Celsius cooler than it is today.

Even as they eyed the weather, these settlers dug ditches and open canals to maximize their access to water. That early engineering feat has morphed into a vast network that now irrigates 919,017 acres of crops on the Western Slope, according to the state’s water plan. Thousands of miles of ditches crisscross the landscape, a small portion of which have been lined with concrete or transformed into buried pipe.

But that network only functions if there’s snowpack.
Last year, Paul Kehmeier adapted to the new reality: He installed even more irrigation equipment and took a job in town.

“You know the saying you see around here on billboards?” he quipped. “‘Behind every successful farmer is a wife with a job in town.’”

For the most part, the lanky 64-year-old farmer is soft-spoken. He believes human activity is helping warm the planet and seeks to reduce his carbon footprint by raising perennial crops and often using an electric motorcycle to get around on the farm instead of a pickup truck.

But he takes umbrage at the idea that he’s a victim of climate change: “I’m not in crisis, and global warming is not going to be the death of me in the next few years.”

Scientists are still working to decipher why some parts of the world are warming so much faster than others. It is clear why high latitude regions like the Arctic are melting, but the reasons behind some other hot spots are more elusive. Shifting ocean currents off the coasts of Angola, Tasmania and Uruguay have formed visible warming hot spots, upending marine life.

Winters in the Northeast are less cold, but experts cannot say yet whether a warmer Atlantic Ocean is driving it. Western Colorado is experiencing a feedback loop, according to Colorado State University senior scientist Brad Udall, because there is less soil moisture to absorb the solar energy and transfer it to the air through evaporation.

“Heating begets drying, and then drying further begets heating,” he said.

Dry areas warm faster for lack of moisture to cool things down, said Chris Milly, a senior resource scientist at the U.S. Geological Survey. Land use, irrigation and natural variability could also help explain part of the disparity.
Milly and another colleague recently found that much of the Colorado River’s climate-induced decline — amounting to 1.5 billion tons of missing water — comes from the fact that the region’s snowpack is shrinking and melting earlier. That’s as much water as 14 million Americans use in a year.

The reservoirs in Lake Mead and Lake Powell are roughly half full. They supply water for millions of people in the river’s Lower Basin: Arizona, California and Nevada.

The area around Grand Junction, a city named for the intersection of two rivers, helped nurture the growth of the West. Now, local residents are trying to cope with a present that looks very different from this region’s past.

“What we’re seeing is changes in real time,” said Mark Harris, who directs the Grand Valley Water Users Association. “As water managers, regardless of our personal beliefs, we can’t totally disregard these worst-case scenarios. The trends are leading in one direction.”

In a normal year, the Kehmeiers grow between 350 and 400 tons of hay; in 2018, they raised 30 or 40.
A cloud seeder like this one at the Cedaredge Water Treatment facility uses silver iodide solution to encourage a larger water and snow yield during storms.

To squeeze more snow from the heavens, Grand Junction’s water managers have turned to an increasingly popular strategy out West: cloud seeding. When a storm approaches, silver iodide particles are shot into the sky so they can stick to freezing water vapor and form snowflakes.

Not only are Colorado taxpayers funding this effort: Arizona, California, Nevada and New Mexico residents are spending $450,000 a year to boost the flow of the ever-shrinking Colorado River.

‘You smell that?’

With so many people eager to tap into the Colorado River, selling your water carries some risks. Eventually, you might not be farming at all.

The lesson is 308 miles away, in a town called Sugar City, east of Pueblo, Colo. Farmers there sold off all their water rights to surrounding municipalities.

“It used to be a sugar beet growing area,” Kehmeier said. “And that’s about the saddest, dust-blown little nothing town that you ever saw.”
Under a 1922 compact, Upper Basin states — Colorado, Utah, Wyoming and New Mexico — must deliver an average of 8.25 million acre feet of water over the course of 10 consecutive years to the Lower Basin states and Mexico.

But as the Colorado River’s annual flow since 2000 is 2.3 million acre feet below its 20th-century average, it is becoming harder to deliver on its commitment.

The city of Grand Junction recently analyzed whether it has enough water to supply its 30,000 customers even if the drought persists. In the near term, according to its utilities
director Randi Kim, the city is fine.

But it also looked over the next 50 years — and came up as much as 3,300 acre feet short, which would force it to tap water directly from the Colorado and Gunnison rivers. And that was without calculating the full impacts of climate change.

“Our pristine mountain water supply would not be able to meet those projections,” Kim said. “I mean, it’s basically just melted snow. It’s beautiful water.”

An hour to the southeast, David Harold is also trying to cope.

“I grow just about anything that I can get my hands on. I do hops. I do hemp. I do squash. I do sweet corn, and I do dried beans,” Harold said as he steered his truck around his property, papers spilling off his dashboard. “We have cattle.”
Hemp was a new addition to Harold’s rotation. There is a hemp gold rush underway in the valley, fueled by the ever-burgeoning consumer demand for CBD oil products. It’s a somewhat awkward fit for this conservative-leaning patch of America.

“You smell that?” said Steve Anderson, manager of the Uncompahgre Valley Water Users Association, wrinkling his nose as he stepped out of his SUV right next to an enormous hemp field.

Hemp uses less than half the water compared with corn, hay or alfalfa. Last year, people rushed to plant about 14,000 acres on the area he manages.

“It’s not gonna work out. We have a bunch of people, some with limited farming practice getting into it,” said Anderson, a bespectacled man in overalls whose drawl stretches out his words. “So I wish ’em all the best of luck. But what we’re seeing now is not sustainable.”

Harold, for his part, knows he’s taking a gamble. When it comes to hemp, he said, “We don’t know what we’re doing. You know, mine is not the worst, but it’s definitely not great. You know, it’s mediocre.”

Colorado accounted for almost a quarter of the nation’s hemp acreage last year, according to Colorado State University agribusiness professor Dawn Thilmany, but it was a gamble that did not pay off. Due to a glut, the price dropped 66 percent. In the end, Harold couldn’t find a buyer.
David Harold, with his son Luca, tried growing hemp when CBD oil products became popular.

Harold is determined to keep growing other crops, like the Olathe Sweet sweet corn his father trademarked. The two of them, and a few other farmers, formed a group dubbed No Chico Brush to keep farming alive here.

That name alludes to the native scrubs that would replace the green swaths of the valley that exist thanks to irrigation. Harold and other farmers are now consulting with environmentalists and local officials, trying to balance competing water uses in the valley.

“We don’t want our water to disappear, and the irrigated agriculture to disappear,” Harold said, as he collected compost from his field. “And then this place turns back into, you know, just a valley of chico brush.”

Debating climate in oil and gas country
This past winter, it looked like the snowpack would deliver. The Upper Basin’s snowpack was right at 100 percent. But hotter temperatures robbed the mesa of this bounty, by evaporating water as it ran down the mountain. The Colorado River’s current runoff is just 54 percent compared with average, according to federal data.

Paul Kehmeier is used to dealing with evaporation: “We have to, as we call it, ‘suffer the shrink.’” But several factors compounded his problems this year. Someone opened the head gate at his main reservoir, so water flowed downhill for two months when it should have been stored.

“Our little site is not much better than 2018,” he said.

Everyone can see the problem, but in a swing state like Colorado, politicians remain divided about the solution.
In Denver, on the other side of the Rockies, a climate task force has just proposed putting a carbon sales tax on the ballot to help fund a transition away from fossil fuels — a move that would be a first for any U.S. city. But around Grand Junction, where the oil and gas industry still dominates, the politics are more complicated.

The Democrat running for the Colorado’s 3rd Congressional District, Diane Mitsch Bush, identifies dwindling snowpack and prolonged drought as major threats to the region. “Climate change is the defining issue of our time,” she declares on her website.

But her GOP rival Lauren Boebert — a gun rights activist whose husband has spent his entire career working in oil and gas — has mocked Democratic calls for climate action.

After presumptive Democratic presidential nominee Joe Biden tweeted in May, “Climate change poses an existential threat to our future,” Boebert was quick to shoot back. “What’s your climate change solution that doesn’t include taxation and socialism? Oh wait . . .” she replied.
This area’s economy is so intertwined with fossil fuels that when teenagers across the globe skipped school in a climate strike last September, student activists took a different tack.

Seventeen-year-old Liliana Flanigan, who just graduated from Palisade High School, remembers when she heard kids elsewhere planned to cut class. “And I remember feeling like” — her voice dropped to a whisper — “‘I can’t drop out of class.’ I mean, it would honestly cause more harm than good.” Instead, the kids protested after school.

The Kehmeiers used to consider themselves Republicans, and still call themselves conservatives. But under President Trump, Norman said, “I have very much left the party, or as I’ve said, the party has left me.”

Last fall, he offered that “maybe” some of the warming he’d observed over his lifetime came from natural causes rather than fossil fuel burning.
“I’m not a climate denier, but I’m not sure how much of it is human caused,” he said. “I reserve judgment on that.”

But in recent months, he’d come to reflect on the tipping points that may no longer be avoidable: warming oceans and thawing permafrost. “I’m quite concerned about climate change,” he said in a phone call earlier this year.

Still, with his 95th birthday approaching, he holds fast to a bit of the optimism that has sustained his family on this improbable farming mecca for more than a century.

“I have faith the species will solve the problem after I’m gone.”

The runoff from snowpack in the Colorado River’s Upper Basin has been cut nearly in half this year.
Methodology

To analyze warming temperatures in the United States, The Washington Post used the National Oceanic and Atmospheric Administration’s Climate Divisional Database (nClimDiv), which provides monthly temperature data at the national, state and county levels between 1895 and 2019 for the Lower 48 states. NOAA does not provide this data for Hawaii, and its data for Alaska begins in 1925.

We calculated annual mean temperature trends in each state and county in the Lower 48 states using linear regression — analyzing both annual average temperatures and temperatures for the three-month winter season (December, January and February). While not the only approach for analyzing temperature changes over time, this is a widely used method.

Annual temperature averages in the interactive county feature are displayed as departures from the 1895-2019 average temperature for each county. These departures from the average are referred to as “temperature anomalies” by climate scientists.

To make the maps, we applied the same linear regression method for annual average temperatures to NOAA’s Gridded 5km GHCN-Daily Temperature and Precipitation Dataset (nClimGrid), which is the basis for nClimDiv. For mapping purposes, the resolution of the data was increased using bilinear interpolation.

The nClimDiv and nClimGrid data sets were accessed on Feb. 3.

Code and data supporting this analysis are available in a Github repository.

Juliet Eilperin
Juliet Eilperin is a Pulitzer Prize-winning senior national affairs correspondent for The Washington Post, covering environmental and energy policy. She has written two books, "Demon Fish: Travels Through the Hidden World of Sharks" and "Fight Club Politics: How Partisanship is Poisoning the House of Representatives."

John Muyskens
John Muyskens is a graphics editor at the Washington Post specializing in data reporting.

Carolyn Van Houten
Carolyn Van Houten is a staff photojournalist at the Washington Post. Previously, she worked at the San Antonio Express-News and held internships at National Geographic, The Tampa Bay Times, and The Chicago Tribune.
UPPER EAGLE REGIONAL WATER AUTHORITY
FINANCIAL REPORT
FOR THE 2nd QUARTER ENDING JUNE 30, 2020

A list of checks/disbursements is available upon request.
Upper Eagle Regional Water Authority  
Budget Comparison Notes – Controller’s Report  
For the 2nd Quarter Ending June 30, 2020

Quarterly Financial Reports:
The 2nd quarter ending June 30, 2020 financial reports are attached. The Revenue and Expense Trends Graph breaks out operating expense from debt expense over the past 5 years. This graph does not include bond or capital activity. The Capital Governance Committee made up of Linn and James has met to review budget transfers and requests for unbudgeted funds. Approved budget revisions to date are shown on the budget comparison report and are summarized below.

Budget Transfers:
Budgets and forecasts were analyzed at year-end. Managers updated the 2020 forecast by requesting budget transfers. Explanations of the major budget transfers are as follows; please see the line # references on the Budget Comparison report.

Line #6 $195,981 reduction was made to the Village Hall Water Main project because project spending took place in 2019 that was planned for 2020.

Line #28 This transfer is the capital rollovers from 2019 to 2020 as requested by managers along with a few other minor adjustments.

Variances & Forecasts:
Water service revenue as of June 30th is higher than budgeted by 8%.

Total routine expenditures are currently below budget to date, but we expect them to finish near budgeted amounts by year end. Currently Water Treatment and Distribution are close to budget. Nonrecurring replacements/repairs category is below budget as well due to few distribution system repairs. Water rights protection is under budget for the first two quarters and water quality is low because of few expenditures in water demand management.

Developer and Other Funding is below budget by about 35%. WSIF fees are coming in slower than projected. We have also not received our BAB’s credit, usually received around May due to closures at the IRS because of COVID.

Capital spending is slower than anticipated. We expect spending to increase over the summer months. We will monitor all accounts and adjust the forecast as necessary as we progress through the year. At this point in the year, it is too early to tell if we need to make any significant transfers.

FYI: Monthly reports in the information section of your board packet:
Water Sales Revenue Year to Date – for detail water sales revenue vs. budget  
Water Sales - for monthly detail and tracking of 1,000 gallons sold  
Developer Impact Fee Revenue – for collections of Water System Impact Fees, Cash in lieu of Water Rights and Cash in Lieu of Storage Tank
### Upper Eagle Regional Water Authority

#### Budget Comparison

**For the 2nd Quarter Ending June 30, 2020**

<table>
<thead>
<tr>
<th>Original Budget</th>
<th>Revised Forecast</th>
<th>Actual</th>
<th>Better/(Worse) % Budget</th>
<th>$ Budget</th>
<th>Original Budget</th>
<th>Revised Forecast</th>
<th>Budget transfers</th>
<th>Actual</th>
<th>Better/(Worse) % Budget</th>
<th>$ Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>WATER SERVICE REVENUE</strong></td>
<td>$4,721,833</td>
<td>$4,841,833</td>
<td>$5,229,183</td>
<td>8.0%</td>
<td>$387,350</td>
<td>$10,550,000</td>
<td>$0</td>
<td>$10,550,000</td>
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<tr>
<td><strong>ROUTINE EXPENDITURES</strong></td>
<td></td>
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<tr>
<td>1 Water Treatment</td>
<td>$893,353</td>
<td>$873,353</td>
<td>$887,711</td>
<td>(1.6%)</td>
<td>($14,358)</td>
<td>$1,778,591</td>
<td>0</td>
<td>$1,778,591</td>
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<td></td>
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<tr>
<td>2 Water Distribution</td>
<td>160,000</td>
<td>160,000</td>
<td>139,901</td>
<td>12.6%</td>
<td>20,099</td>
<td>311,000</td>
<td>0</td>
<td>311,000</td>
<td></td>
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<tr>
<td>3 Nonrecurring Replacements/Repairs</td>
<td>813,083</td>
<td>634,019</td>
<td>454,111</td>
<td>28.4%</td>
<td>179,909</td>
<td>1,538,083</td>
<td>16,667</td>
<td>1,704,750</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4 General &amp; Administrative</td>
<td>2,411,700</td>
<td>2,411,700</td>
<td>2,347,279</td>
<td>2.7%</td>
<td>64,421</td>
<td>4,766,600</td>
<td>0</td>
<td>4,766,600</td>
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<td></td>
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<tr>
<td>5 Water Rights Protection &amp; Studies</td>
<td>175,000</td>
<td>175,000</td>
<td>146,532</td>
<td>16.3%</td>
<td>28,468</td>
<td>350,000</td>
<td>0</td>
<td>350,000</td>
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</tr>
<tr>
<td>6 Water Quality</td>
<td>8,000</td>
<td>8,000</td>
<td>8,999</td>
<td>88.4%</td>
<td>5,301</td>
<td>70,000</td>
<td>0</td>
<td>70,000</td>
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</tr>
<tr>
<td><strong>Total Routine Expenditures</strong></td>
<td>$4,459,136</td>
<td>$4,260,072</td>
<td>$3,976,232</td>
<td>6.7%</td>
<td>$283,840</td>
<td>$8,814,274</td>
<td>($179,314)</td>
<td>$8,634,960</td>
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<tr>
<td><strong>FUNDS GENERATED FROM SALES</strong></td>
<td>$262,697</td>
<td>$581,761</td>
<td>$1,252,951</td>
<td>115.4%</td>
<td>$671,190</td>
<td>$1,735,726</td>
<td>179,314</td>
<td>$1,915,040</td>
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<tr>
<td><strong>DEVELOPER &amp; OTHER FUNDING</strong></td>
<td></td>
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</tr>
<tr>
<td>7 Plant Investment &amp; WSI Fees</td>
<td>$266,667</td>
<td>$266,667</td>
<td>$80,796</td>
<td>(69.7%)</td>
<td>($185,871)</td>
<td>$800,000</td>
<td>0</td>
<td>$800,000</td>
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<tr>
<td>8 Capital Replacement SFE Base</td>
<td>350,000</td>
<td>350,000</td>
<td>390,498</td>
<td>11.6%</td>
<td>40,498</td>
<td>700,000</td>
<td>0</td>
<td>700,000</td>
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<td></td>
</tr>
<tr>
<td>9 Contributed Capital Cash</td>
<td>0</td>
<td>0</td>
<td>45,184</td>
<td>0.0%</td>
<td>45,184</td>
<td>0</td>
<td>0</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>10 Interest &amp; Miscellaneous Income</td>
<td>231,280</td>
<td>231,280</td>
<td>35,421</td>
<td>(84.7%)</td>
<td>(195,859)</td>
<td>474,439</td>
<td>0</td>
<td>474,439</td>
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</tr>
<tr>
<td><strong>Total Other Funding</strong></td>
<td>$847,947</td>
<td>$847,947</td>
<td>$551,899</td>
<td>(34.9%)</td>
<td>($296,048)</td>
<td>$1,974,439</td>
<td>0</td>
<td>$1,974,439</td>
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</tr>
<tr>
<td><strong>FUNDS GENERATED FOR DEBT &amp; CAPITAL</strong></td>
<td>$1,110,644</td>
<td>$1,429,708</td>
<td>$1,804,850</td>
<td>26.2%</td>
<td>$375,142</td>
<td>$3,710,165</td>
<td>$179,314</td>
<td>$3,889,479</td>
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<tr>
<td><strong>DEBT SERVICE &amp; CAPITAL EXPENSES</strong></td>
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<tr>
<td>11 Bond Proceeds Revenue</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>0.0%</td>
<td>$0</td>
<td>$25,000,000</td>
<td>$0</td>
<td>$25,000,000</td>
<td></td>
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</tr>
<tr>
<td>12 Debt Service Expense</td>
<td>$729,748</td>
<td>$729,748</td>
<td>$726,571</td>
<td>0.4%</td>
<td>$3,177</td>
<td>$2,601,743</td>
<td>0</td>
<td>$2,601,743</td>
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<tr>
<td>13 Bond Issue Expense</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0.0%</td>
<td>0</td>
<td>250,000</td>
<td>0</td>
<td>250,000</td>
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<tr>
<td>14 Capital Construction &amp; Capital Replacement Plant</td>
<td>4,619,166</td>
<td>4,701,965</td>
<td>2,850,797</td>
<td>39.4%</td>
<td>1,851,168</td>
<td>13,522,166</td>
<td>4,352,150</td>
<td>17,874,316</td>
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</tr>
<tr>
<td><strong>Total Debt Service &amp; Capital Expenses</strong></td>
<td>$5,348,914</td>
<td>$5,431,713</td>
<td>$3,577,368</td>
<td>34.1%</td>
<td>$1,854,345</td>
<td>$16,373,909</td>
<td>$4,352,150</td>
<td>$20,726,059</td>
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<tr>
<td><strong>SURPLUS/(DEFICIT)</strong></td>
<td>($5,348,914)</td>
<td>($5,431,713)</td>
<td>($3,577,368)</td>
<td>(34.1%)</td>
<td>($1,854,345)</td>
<td>$8,626,091</td>
<td>($4,352,150)</td>
<td>$4,273,941</td>
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<tr>
<td>15 Beginning Funds Available</td>
<td>$7,362,728</td>
<td>$3,178,880</td>
<td>$7,362,728</td>
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<tr>
<td>16 Ending Funds Available</td>
<td>$5,590,210</td>
<td>$15,515,136</td>
<td>$15,526,148</td>
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<tr>
<td><strong>FUNDS RESTRICTED</strong></td>
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<tr>
<td>17 3 Month Operating Reserve</td>
<td>$2,247,750</td>
<td>$2,247,750</td>
<td>$2,247,750</td>
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<tr>
<td>18 Bonds Rate Stabilization Fund</td>
<td>600,000</td>
<td>600,000</td>
<td>600,000</td>
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<tr>
<td>19 Debt Service Payable</td>
<td>854,885</td>
<td>277,000</td>
<td>277,000</td>
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<tr>
<td>20 Unspent Bond Proceeds</td>
<td>0</td>
<td>8,507,000</td>
<td>8,507,000</td>
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<tr>
<td><strong>Total Funds Restricted</strong></td>
<td>$3,702,635</td>
<td>$11,631,750</td>
<td>$11,631,750</td>
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<tr>
<td><strong>Unrestricted for General Reserves</strong></td>
<td>$1,887,575</td>
<td>$3,883,386</td>
<td>$3,894,398</td>
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<tr>
<td>21 25% Targeted Dollar Amount for General Reserves</td>
<td>3,702,635</td>
<td>11,631,750</td>
<td>11,631,750</td>
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<tr>
<td><strong>Reserves</strong></td>
<td>$2,109,941</td>
<td>$2,109,941</td>
<td>$2,109,941</td>
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</tbody>
</table>

### Coverage Ratios:

- **Target Met (1.00 is minimum goal)**
  - 0.89
  - 1.84
  - 1.85

- **Debt Service Coverage (excluding nonrecurring repair/replacements - 1.00 is minimum target)**
  - 3.11
  - 2.02
  - 2.01

- **Debt Service Coverage with Rate Stabilization Fund (1.10 is minimum target)**
  - 3.93
  - 2.25
  - 2.24
UERWA
Revenue & Expense Trends
2nd Quarter 2020

Billing Revenue  Tap Fees Rev  Other Revenue  Op Expense  Debt & Ops Expense

2016 Actual  2017 Actual  2018 Actual  2019 Actual  2020 Forecast

0  5,000,000  10,000,000  15,000,000  20,000,000  25,000,000
On Wednesday, August 12, 2020, the I-70 project team held its 10th technical team and 6th project leadership team update via teleconference. Approximately 30 stakeholders attended, including the District’s NEPA consultant Larissa Read. The planning team presented an overview of the Environmental Assessment (EA) that will be released in early September for a 30-day review. The format of the EA will be a "template EA," which is a shortened, more user-friendly document focused on impacts and mitigation, with ~15 technical appendices addressing water quality, wetlands, recreation, geology and soils, noise, wildlife, and hazardous materials.

Public comment is encouraged during the comment period; two weeks’ notice will be provided in local media outlets prior to the release of the EA. There will be no in-person open house due to COVID, but a presentation will be available virtually and two hard copies will be publicly available in the Vail area (likely at the library and town hall). A decision document (Finding of No Significant Impact) is expected in late 2020.

Additionally, the project team provided an update on the $140M Infrastructure for Rebuilding America (INFRA) grant that will allow critical project components to start in early 2021. Contractors were selected and high-priority areas identified. Early actions include east-bound auxiliary lane construction between mile markers 185-190, reconstruction of the lower runaway truck ramp, and wildlife underpasses and fencing. "Context Sensitive Solutions" will continue to be a priority approach for Colorado Department of Transportation (CDOT) and the Federal Highway Administration (FHWA), including the creation of several new issue task forces that will be in place during construction. Meeting notes and a map of the INFRA projects will soon be posted, and Siri Roman will distribute to interested board members.

The system-wide water production comparison for 2019 vs. 2020 was updated through Aug. 17. The 2020 water production is similar to the same period in 2019. The 2020 maximum daily production was 13.06 MGD on August 2.
The chlorination system at the West Vail Wells 7/8 site failed temporarily on July 17. Operations staff responded to the incident and collected chlorine residual samples at seven sites within the section of the distribution system served by the wells. Other than the entry point sample, all samples within the distribution system had measurable chlorine residuals that ranged from 1.16 – 1.50 mg/L. Colorado Department of Public Health and Environment (CDPHE) was notified of the incident and did not require additional follow-up action.

Wildridge Tank #2 overflowed on Aug. 6 due to failure of the level transducer and an associated display unit. No damage was reported from the overflow, and the level transducer and display unit were replaced and tested.

Streamflows in the Eagle River are quickly dropping due to drought conditions. From Aug. 10 – 17, the Eagle River streamflow gage below AWWTF dropped below the 100 CFS planning trigger and the 85 CFS implementation trigger for the Low Streamflow Standard Operating Procedure (SOP). This SOP helps mitigate low streamflows in Gore Creek and the Eagle River by shifting as much production as possible from up-valley facilities (i.e., Avon Drinking Water Facility and the Vail wells) to down-valley facilities (Edwards Drinking Water Facility, Berry Creek Wells, Edwards Well, and Cordillera Wells).

With the possible extended closure of I-70 in Glenwood Canyon due to the Grizzly Creek Fire, all water treatment facility supervisors are closely monitoring treatment chemical inventory. We have
proactively placed orders to top off the stock for some chemicals. Fortunately, we have not experienced significant delays in the supply chain to date.

CDPHE approved the water department’s Optimized Corrosion Control Treatment (OCCT) test plan, which was submitted in July. The OCCT test began on July 10 and will run for twelve weeks.

Annual lead and copper sampling was completed.

The Water and OTS staff continue to work on commissioning sites for the RTU project within the Authority system. The Mountain Star sites were commissioned this month.

Water, CIP, and Field Operations staff potholed at Eagle Park Reservoir to investigate a seep near the spillway. The potholing work was inconclusive, and additional investigation will be performed later this year when the reservoir level is lower.

Eagle Park Reservoir releases began on Aug. 12 at a rate of 0.34 CFS and were increased to 2.0 CFS on August 17. An additional adjustment to 2.78 CFS is planned for August 18. Black Lakes are both at full pool and not releasing.

The second Black Lakes fish stocking event took place on July 22.

Wildfire and weed mitigation work is ongoing at tank sites. Work also continues on water storage tank maintenance projects in the District and Authority systems. Hatch replacements at Bachelor Gulch Tanks #1 and #2 are nearly complete. Work to raise and install a new hatch is ongoing at Greystone Tank. Work will start in late August at the EagleVail Tanks, Strawberry Creek Tanks, Bachelor Gulch Tanks #3 and #4, and Wildridge Tank #3.

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WASTEWATER & LABORATORY

The Colorado Department of Public Health and Environment (CDPHE) posted new draft discharge permits for the Vail, Avon, and Edwards wastewater treatment facilities. Staff and our consultant, Pinyon Environmental, are reviewing the draft permits to understand the changes in the permit limits and compliance schedules. CDPHE granted an extension to the review/comment period to November 11, which will allow adequate staff review time.

Since March 2020, Vail Honeywagon has taken ~400 cubic yards of the District’s class A biosolids to amend their compost.

The wastewater treatment facilities’ influent flows are starting to trend closer to last year’s influent flows.
Field Operations is working with the Water Department and CIP to assist and excavate repairs to overflow tank drain lines at Beaver Creek Tank #1 and the Highland Meadows Tank sites. These crews are also installing temporary culverts and filling in water bars to allow contractor access at Bachelor Gulch Tank #2 and Wildridge Tank #3.

The Field Operations supervisors presented an overview of our distribution system, pressure zones, and hydrants to the Eagle River Fire Protection District. This presentation was well received, and encore presentations were requested for the other shifts.

The 5-year jetting program has been in full operation since the beginning of July. This year’s jetting areas include Singletree, Arrowhead, Edwards and Homestead. We are currently at 55% completion for 2020 maintenance.

The Field Operations industrial lead mechanic coordinated with Denver Industrial Pumps to be onsite for in-field training on pump repairs in critical BPS’s located down valley. This effort facilitated repair of three pumps while staff gained in-house repair experience and knowledge for future repairs.
ENGINEERING

WATER PROJECTS

Berry Creek Booster Pump Station 1 Replacement

Carter Keller

General Project Scope: The Berry Creek Booster Pump station pumps water from the main Edwards Cordillera Valley Club (CVC) pressure zone (Berry Creek Tank 1) up to the larger Berry Creek Tank. This station is at the end of its useful life. This project will replace the station from an in-ground vault to a bunker-style, at-grade access vault. The replacement will increase reliability and address electrical safety issues that were identified, including inadequate access, ventilation, code compliance, and tank hatch improvements. Other items to be addressed include landscaping improvements and electrical, instrumentation, and controls upgrades, as well as emergency backup power and pumping connections.

Project Update: The new booster pump station is substantially complete with final completion to follow in the next few weeks. Punchlist items, final cleaning, and closing documents, and final payment remain.

Radio Telemetry Unit (RTU) System Upgrades

Carter Keller

General Project Scope: This project is a systematic approach to install standardized communication equipment to increase the reliability of the telemetry system throughout the distribution system (82 sites) and develop a standard (i.e., non-proprietary) telemetry platform to allow competitive pricing for upgrades, replacement, and system maintenance. Implementation is anticipated over a three-year period with a highly detailed sequence and schedule to limit distribution system disruptions.

Project Update: The Authority’s phase one/part one was completed. This consisted of establishing a radio path back to our fiber network and commissioning eight sites. The second portion of phase one will start after Labor Day and run through November. The project team began scoping meetings for Authority phase two, which will start in spring 2021 and include 22 sites. The focus will be to finish the Avon sites and move into the Edwards area.

Traer Creek Water Storage Tank

Mark Mantua

General Project Scope: This project consists of the replacement of the Traer Creek Water Storage Tank. In addition to the tank replacement, the scope includes piping, appurtenances, and selective replacement of identified equipment including the remote telemetry units and control cabinets.

Project Update: The Authority received 60% design drawings and specifications and is providing comments on the design. The Authority contracted with Coggins & Sons to drill a test pier at the deepest part of the tank site, beginning the week of August 24. The test pier should reduce risks and costs for the Authority on the project, as current unknowns include depth of bedrock and uncertainty with drilling piers. The results can be included in bidding documents and should help reduce contractor uncertainty and related pricing.
**WASTEWATER PROJECTS**

**Avon Wastewater Treatment Facility (AWWTF) Nutrient Upgrades**  
Melissa Marts

**General Project Scope:** As identified in the Wastewater Master Plan Update, the Avon WWTF requires upgrades to meet Regulation 85, which involves reducing the concentrations of nitrogen and phosphorus in the effluent. These improvements will also allow staff to bypass flows from Vail WWTF to AWWTF during the peak winter season. This project also includes improvements identified in a 2017 condition assessment in other process areas throughout the facility. Scope includes the following: addition of 0.6 million gallons of aeration basin capacity; a new secondary clarifier; structural modifications to the existing aeration basins to remove the existing double-tees and replace with a building structure; a new odor control study and system; and other improvements throughout the facility.

**Project Update:** A separate update memorandum and brief presentation is provided under separate cover in the packet for the Avon WWTF Nutrient Upgrade project.

**Dowd Junction Collection System Improvements**  
Debbie Hoffman/Jeffrey Schneider

**General Project Scope:** The project consists of four major components, all of which are at the end of their useful lives: the aerial interceptor crossing at Dowd Junction; Lift Station 4, which conveys all of Minturn’s wastewater; the aerial interceptor crossing at the Minturn Road bridge; and the force main downstream of Lift Station 4. The project will also include capacity for growth in its respective service areas, most notably the Minturn area improvements.

**Project Update:**
Gould Construction is waiting for a Union Pacific Railroad (UPRR) Right of Entry permit prior to mobilization on the Minturn aerial crossing project. Project submittals are nearly complete. District staff has been working on public notification, due to the project’s high visibility location adjacent to Highway 24.

There are still outstanding permits with Eagle County that need to be resolved for the West Vail interceptor replacement prior to final bid documents. District staff met onsite with Century Link to finalize the scope of work required with this replacement. The project will be advertised in late fall for 2021 construction.

The CDPHE design report for the lift station has been reviewed by staff and will be submitted by the end of August. The instrument and control communication scope of work was defined by the District’s design team to progress the design to the 90% level.
The latest US Drought Monitor for Colorado was updated on August 11, and published on August 13, as shown in Figure 1. One hundred percent of Colorado is considered at least “Moderately Dry,” with 61% classified in drought level D2, “Severe Drought,” as is almost the entirety of Eagle County. Just over a year ago Colorado was 100% drought-free.

Figure 1. Colorado drought monitor, August 2020.
A “relentless high-pressure ridge” (per the National Weather Service) remained stationary to our west over the first part of August, keeping conditions hot and dry. While the mid-to-long range forecast maps show warm and dry conditions likely to continue, there is slight optimism in the shorter-term forecast, albeit with a high degree of uncertainty. The NWS forecast concludes, “the good news is that the pattern late week into the weekend isn’t looking as bone dry as it has been for the past several weeks. We’ll take any progress we can get.” Forecast maps are shown in Figs. 2 and 3.

Figure 2. One-month temperature forecast, NOAA, August 2020.
Figure 3. One-month precipitation forecast, NOAA, August 2020.
August is typically the most critical period in the annual hydrologic cycle for the rivers and streams in our service area: demand and stream temperatures are high, while precipitation is low. This year measured streamflow on Gore Creek is statistically a bit higher than downstream on the Eagle River; the Eagle River in several reaches is at or below the Instream Flow (ISF) level, which is the level the Colorado Water Conservation Board has the right to place a call on the river for environmental flows. While District and Authority water rights are generally senior to these flow levels, staff pays close attention as small operational adjustments can minimize the impact of diversions on specific source water reaches.

The Colorado Basin River Forecast Center predicted flow rates for Gore Creek indicate flows are likely to remain above the Instream Flow levels through August. The ISF levels drop on September 1, so there is a good chance Gore Creek flows will remain above the threshold this water year.

Figure 4. Streamflow (cfs), Gore Creek Above Red Sandstone Creek (USGS August 2020).
Staff is closely monitoring environmental measurements (streamflow, precipitation, stream temperature) during this dry period, and coordinating operations to minimize impacts of diversions on streamflows and aquatic habitat. To this end, we collect and summarize high-frequency environmental data that includes comparative hydrographs of streamflow, stream temperature, and precipitation. Examples of this data reporting are shown below in Figs. 6 through 9. Figs. 6 and 7 present detailed flow measurements at the USGS gages in 15-minute increments, along with a 24-hour moving average to show trends. Comparisons to previous years' data are also of interest.
Figure 6. Detailed comparison of measured streamflow for 2002, 2012, 2018 and 2020 on Gore Creek above the confluence with Red Sandstone Creek.
Figure 7. Detailed hydrograph for the Eagle River at Avon, comparing measured flows in 2018 with 2020. Note current flow is below the In-Stream Flow for August.
Stream temperatures are collected at four stations on Gore Creek and the Eagle River, as shown in Figure 8. The USGS records stream temperature at Dowd Junction on Gore Creek and on the Eagle River at Wolcott. In addition, the District collects temperature at two stations on the Eagle River, above the Avon and Edwards wastewater discharge locations for permitting purposes. These data are shown for a recent week in Figure 8.

Figure 8. Stream Temperature on Gore Creek and the Eagle River.
Cumulative precipitation over the summer irrigation months is another monitor of relative dryness. This assists us in comparing water use from other years by providing context of relative dryness.

Figure 9. Comparison of cumulative summer rainfall, Vail CO.
Watershed statistics and reservoir levels are shown in Figure 10. Eagle Park Reservoir releases began and are currently at 2.8 cfs (note: only a portion of that release is directly related to District or Authority operations). Water year-to-date stream volume statistics are shown in the table embedded in Figure 10, another indicator of how the watershed is producing overall. These statistics mirror observations elsewhere: that upper watershed flows are doing better than lower flows on the Eagle River. Currently, our reservoirs are in good shape, but next year’s snow water equivalent graphs will be indicative of what conditions might look like one year from now.
Figure 10. Service Area Watershed Map (ERWSD 2020).
Policy Guidance Statement

As we observe our current watershed conditions and see the wildfire dangers across the state, remember that as of August 2020, our water supply is good and our environmental resources, while stressed, are healthy. This is the result of many years of careful planning and investment in the current water supplies. A recent presentation by the Western Water Assessment at the University of Colorado at Boulder highlighted a key concept to keep in mind as we transition to an altered climate: precipitation estimates from climate models are highly uncertain, but it is recognized that temperature and humidity predictions of the future climate are much more certain. The impact on streamflow from temperature impacts alone can be profound and devastating.

A study on the Delores river showed that as temperatures increase, evapotranspiration rates dramatically increase. This is a key “bucket” in the simple hydrologic water budget that directly impacts runoff and the amount of precipitation that makes it to the streams. In this study, precipitation was held constant at historical norms and temperature rose a few degrees based on climate modeling. Evapotranspiration increased accordingly, by about 15%. The impact of this on the water budget dropped the mean annual runoff volume by 25%. That is not variability, or reduced rainfall, that is a 25% hit on the average water budget purely based on a few degrees of temperature shift.

The punchline of that discussion is that while winter conditions for skiing may be good, and even great, that may not protect us from more frequent and more severe late summer stresses on water resources.
MEMORANDUM

TO: Boards of Directors
FROM: Brad Zachman, Water Manager
DATE: August 19, 2020
RE: Water Department Procedures for Managing Low Stream Flows

The purpose of this memo is to summarize the actions that the Water Department has taken to date to manage low stream flow conditions in Gore Creek and the Eagle River.

As a standard operating practice, District staff routinely monitors stream flow conditions in Gore Creek and the Eagle River. If stream flow in either source drops below defined thresholds, Water Department staff initiates a Standard Operating Procedure (SOP) that defines specific operational steps that are taken to shift diversions from up-valley to down-valley facilities. The overarching goals of the SOP are to minimize surface water diversions from Gore Creek and the Eagle River, maximize the stream flow upstream of the Edwards Wastewater Treatment Facility, reduce the potential for instream flow calls, and ultimately minimize required releases from storage reservoirs.

Within a span of four days between August 11th to August 14th, the Eagle River stream flow gauge (below the Avon Wastewater Treatment Facility (AWWTF)) dropped below the 100 cfs planning threshold and the 85 cfs implementation threshold. In accordance with the Low Stream Flow SOP, the following actions have been taken:

- The diversion for the Avon Drinking Water Facility (ADWF) was switched from the Metcalf Ditch intake to the raw water pump station located approximately 1.5 miles downriver (8/17). This change increases stream flow within the two diversion points by approximately 4.5 MGD (7.0 cfs).
- Four additional Cordillera groundwater wells were placed into service (8/17-8/19). This resulted in an increase in groundwater production of approximately 0.2 MGD (0.16 cfs). Currently, six of the seven available Cordillera wells are in service. The seventh is offline, in reserve.
- The Edwards Water Treatment Facility (EDWF) production rate was increased by approx. 1.0 MGD (1.55 cfs) (8/18). An additional 1.0 MGD (1.55 cfs) is theoretically available at this site, though an increased membrane clean-in-place frequency may practically limit net production.
- The Edwards Well is operating at its maximum production rate.
- The Berry Creek Wells are operating near capacity. An additional 0.36 MGD (0.56 cfs) is theoretically available at this site, though aquifer drawdown limitations may practically restrict overall production.
• ADWF production has been reduced approximately 1.0 MGD (1.55 cfs) based on the adjustments made to the groundwater and down-valley sites described above.

Depending on system demands, stream flow conditions, and the effectiveness of the changes made to date, additional actions may be taken to further shift production to groundwater and down-valley production sites. Additional steps may include: maximizing production of the Berry Creek Wells (+0.56 cfs) and maximizing production at EDWF (+1.55 cfs). It is important to note, however, that each of these proposed changes will create additional operational and staffing challenges that will need to be carefully addressed to maintain safe operation of the water systems.
MEMORANDUM

TO: District Board of Directors
FROM: Melissa Marts, P.E. and Jeffrey Schneider, P.E.
DATE: 8/17/2020
RE: Avon WWTF Nutrient Upgrade Project Construction Update

The purpose of this memorandum is to provide an update on the Avon Wastewater Treatment Facility (AWWTF) Nutrient Upgrades Project. A PowerPoint presentation showing project progress will be provided at the meeting.

Moltz mobilized on May 4, 2020, after ERWSD delayed the execution of the contract to deal with potential uncertainties related to COVID-19. The work began with removal of the power line that once served the barn, mobilization activities, site demolition, and installation of a construction fence with noise mitigation fabric along our west property line near LiftView condominiums. Moltz has completed the excavation and temporary retaining wall to place rebar and has completed two large concrete slab pours for the aeration basin expansion. The work completed to date has required significant coordination with ERWSD operations staff, to manage taking off and putting back on treatment processes to expedite work.

Moltz and Carollo employees are in compliance with the most current District Contractor COVID-19 Policy. Interactions between the contractor and District staff has been minimized, and meetings are primarily held remotely over Skype, and construction staff avoid entering AWWTF office areas. The topic is continually addressed and reinforced at weekly construction meetings.

District staff is working closely with LiftView management to use excess spoils to implement site improvements on the southeast area of the LiftView property. This will benefit both LiftView and ERWSD by creating more usable space for LiftView residents and improving site drainage and reduce hauling excess spoils to the landfill. ERWSD has also been working closely with Derek Place, Building Official for the Town of Avon to coordinate the building permit and site inspections. Mr. Place has been extremely helpful throughout the design and during the construction permitting process.

District staff and Carollo Engineers continue to work through deferred design components such as architectural details and landscape design. ERWSD will present a revised architectural plan to Town of Avon Planning and Zoning on September 1.

District staff continues to be pleased with the quality of work from Moltz. The project schedule is currently running one week behind schedule due to reconfiguration of bypass piping within treatment basins that should result in an overall schedule and safety benefit to the project in the future. The project is progressing smoothly without any partnering conflicts as all parties are going above and beyond to solve unexpected issues as a team. The ERWSD staff has stepped up to support construction needs while keeping the Avon WWTF operating efficiently and in compliance.
MEMORANDUM

TO: Board of Directors
FROM: Mark Mantua
DATE: August 19, 2020
RE: Edwards Spur Road Transmission Main Update

Summary of Subject: This memorandum is to provide an update on the Edwards Spur Road 16-inch diameter water main beneath the Eagle River Bridge in Edwards, CO, and will be accompanied by a brief PowerPoint presentation. The pipeline and support structure were installed by CDOT’s general contractor and subcontractor in the summer of 2019 in conjunction with the Edwards Spur Road project. The pipeline is exhibiting signs of deflection, or ‘snaking,’’ meaning that the alignment is not straight as shown on the construction plans. The board update on 5-28-20 details circumstances around the snaking pipeline.

Discussion and Background: The Edwards Spur Road transmission main crosses the Eagle River at Spur Road. The existing 8” transmission main was replaced in summer 2019 with a new 16” main. UERWA entered into an agreement with CDOT to install the new transmission main under the roadway bridge on pipe hangers. After pressurization, the pipeline visibly deflected beyond the manufacturer’s allowable amount, putting the pipeline at risk for failure.

Due to risk of failure, UERWA implemented an at grade bypass along the access road to the Edwards Drinking Water Facility. The bypass would serve customers in the event of a break. The bypass will be utilized to ensure continuous service to customers in Old Edwards Estates during the repair.

An independent engineering report concluded that an installation issue caused the deflection, and additional “pipe guides” will help deflection from occurring. CDOT is working with UERWA to correct the deflection. UERWA’s offer to CDOT was to pay to furnish and install the new steel support elements and CDOT accepted our proposal. Cost for correcting installation issues, namely straightening the joints, extending the pipe, resetting the solid sleeve will be incurred by CDOT and its contractors.

The following steps have been taken towards correcting the pipeline deficiency:

1. HDR provided design plans for additional lateral support and bracing.
2. An independent engineering consultant reviewed and approved HDR’s support and bracing design.
3. Steel shop drawings were produced by the contractor.
4. Steel shop drawings were approved by the HDR.
5. Lateral support and bracing is being fabricated and will arrive in September.
6. UERWA and HDR produced a written plan for implementing a repair and distributed it to CDOT and CDOT’s contractors for review.

Next steps: The next steps to resolving the issue are enumerated below:

1. Isolate and depressurize pipeline segment (by UERWA)
2. Cut portion of pipeline to reduce length, straighten snaking and joint deflections, ensure proper insertion, and reset expansion fitting per manufacturer’s recommendations. (by Contractor)
3. Install additional lateral supports (by Contractor)
4. Perform pressure testing, disinfection, and bacteriological testing (by Contractor with UERWA support)
5. Restore service and demobilize temporary bypass (by UERWA)

UERWA staff is monitoring the pipeline joint deflections on a weekly basis. We intend to keep the pipeline in service until additional movement or leakage occurs or until the corrective action is implemented.

**Legal Issues:** Due to the complicated nature of the construction defect and the inclusion in a CDOT project, UERWA staff has been in tight coordination with legal counsel throughout and will continue to do so as a solution is implemented. Legal counsel has reviewed all official correspondence and will continue to advise on negotiation strategy moving forward. We are awaiting a formal amendment to the CDOT Utility Agreement under which the work was performed.

**Budget Implication:** The pipeline snaking appears to be a combination construction and design defect. However, as a show of good faith, UERWA furnished resources for the temporary bypass. The bypass totaled $10,191 plus UERWA operations staff time. In addition, the third party engineering review carried a cost of 11,182. After negotiation with HDR regarding this design omission, $25,000 in costs were absorbed by HDR. The costs absorbed by HDR cover re-design and onsite inspections during re-install. CDOT agreed to absorb costs at a time and material basis. UERWA estimates the costs absorbed by CDOT will total roughly $120,000. Total material and installation costs to install the new pipe guides will likely cost UERWA $45,000. The total cost to UERWA is approximately $66,373, as detailed below in Table 1.

**Table 1: Summary of UERWA Costs**

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<tr>
<td>Third Party Engineering</td>
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<tr>
<td>Installation of new pipe guides</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$66,373</strong></td>
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</tbody>
</table>
Attachment 1

Water Counsel Agenda Item

Attachment Name: Protest to the Ruling of the Referee
Attachment Date (if applicable): July 27, 2020

Purpose of Agenda Item:

☒ Background for board meeting discussion (information only)

☒ Enter into public record

☒ Request board input/direction

Topic: Eagle Park Reservoir

Summary of Topic: Attached is a copy of the Protest to the Ruling of the Referee without the exhibits filed by the State and Division Engineers to the finding of diligence for the Eagle Park Reservoir storage rights.
DISTRICT COURT, WATER DIVISION 5,
STATE OF COLORADO

109 Eighth Street, Suite 104
Glenwood Springs, CO 81601
(970) 928-3062

CONCERNING THE APPLICATION FOR
WATER RIGHTS OF THE EAGLE PARK
RESERVOIR COMPANY,
IN EAGLE, SUMMIT, GRAND, PITKIN, AND
GARFIELD COUNTIES, COLORADO

| Attorneys for the State and Division Engineers: |
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| *Counsel of Record |

PROTEST TO THE RULING OF THE REFEREE

Under section 37-92-304(2), C.R.S. (2020), the State Engineer and the Division Engineer for Water Division 5 ("Engineers"), by and through the Attorney General and the undersigned Assistant Attorneys General, protest the Ruling of the
Referee in Case No. 19CW3145, entered on July 6, 2020. As grounds, the Engineers state as follows:

1. The Engineers outlined a number of concerns in this case in the Summary of Consultation, e-filed on March 2, 2020.

2. Specifically, the Summary of Consultation’s second concern noted that it was unclear which case adjudicated a change of water rights for the Eagle Park Reservoir storage water right (“Reservoir Right”) and the Eagle Park Reservoir First Enlargement storage water right (“First Enlargement”) (collectively “Storage Rights”) to add the East Fork Pumping Plant as an alternate point of diversion for the Storage Rights.

3. Applicants e-filed a Response to the Summary of Consultation on March 16, 2020, claiming that East Fork Pumping Plant was mentioned in the change of water rights decreed in Case No. 97CW288 and referenced in the diligence applications for the Storage Rights in Case Nos. 00CW210 and 04CW163.

4. The Ruling of the Referee, e-filed on July 6, 2020, approves Applicants’ request for a finding of reasonable diligence for the remaining conditional portions of the Reservoir Right and the First Enlargement for all decreed purposes. In addition, the Ruling provides that the East Fork Pumping Plant was added as an alternate point of diversion for the Storage Rights “in Case No. 97CW288 and confirmed in Case No. 13CW11.” Ruling in Case No. 19CW3145 at ¶ 6(b)(7).

5. The Engineers disagree that the Storage Rights have been changed to add the East Fork Pumping Plant as an alternate point of diversion based on the original cases adjudicating these water rights and the subsequent cases involving these water rights as detailed below.

6. As originally decreed, the Storage Rights did not include the East Fork Pumping Plant as a point of diversion.

7. The original decree for the Reservoir Right entered in Case No. 92CW340 did not include the East Fork Pumping Plant as a point of diversion for the Reservoir Right. Decree entered in Case No. 92CW340 at ¶ 2.1-2.6.

8. The original decree for the First Enlargement entered in Case No. 93CW301 did not include the East Fork Pumping Plant as a point of diversion for the First Enlargement. Decree entered in Case No. 93CW301 at ¶ 2.1-2.6.
9. The Storage Rights were not changed in Case No. 97CW288 to add the East Fork Pumping Plant as a point of diversion.

10. The resume notice for the application in Case No. 97CW288 claimed a change of water right for 80 c.f.s. of the Pando Feeder Canal right allowing for the water right to be alternately stored in the Eagle Park Reservoir structure. Resume Notice of App. in Case No. 97CW288 at ¶ 35, attached as Exhibit A. The resume notice did not mention any change of water rights for the Storage Rights to add the East Fork Pumping Plant as a point of diversion.

11. The decree entered in Case No. 97CW288 decreed alternate points of diversion and storage for 80 c.f.s. of the Pando Feeder Canal water right, allowing up to 6,000 acre-feet of water to be diverted under that right at the East Fork Pumping Plant and two other points of diversion for storage in Eagle Park Reservoir. Decree entered in Case No. 97CW288 at ¶ 4-5. The decree, however, did not decree a change of water rights for the Storage Rights to add the East Fork Pumping Plant as a point of diversion.

12. The resume notices for the applications for findings of reasonable diligence and to make absolute for the Storage Rights filed in Case Nos. 00CW210, 04CW138, 04CW163, and 13CW11, likewise, did not include or notice a claim for a change of water rights for the Storage Rights to add the East Fork Pumping Plant as a point of diversion.

13. The resume notice for the application in Case No. 00CW210 claimed to make absolute 3,148 acre-feet of the original 5,300 acre-feet of the Reservoir Right decreed as conditional in Case No. 92CW340. Resume Notice of App. in Case No. 00CW210 at ¶ 12, attached as Exhibit B. The resume notice did not mention any change of water rights for the Storage Rights to add the East Fork Pumping Plant as a point of diversion.

14. The decree entered in Case No. 00CW210 decreed 3,148 acre-feet of the Reservoir Right as absolute. The decree, however, did not grant a change of water rights for the Storage Rights to add the East Fork Pumping Plant as a point of diversion. Decree entered in Case No. 00CW210 at ¶ 6.

15. The resume notice for the application in Case No. 04CW138 claimed a finding of reasonable diligence for the remaining balance of 2,152 acre-feet of the Reservoir Right that were not made absolute in Case No. 00CW210. Resume Notice of App. in Case No. 04CW138 at ¶ 2, attached as Exhibit C. The resume notice did not mention any change of water rights for the Storage Rights to add the East Fork Pumping Plant as a point of diversion.
16. The decree entered in Case No. 04CW138 decreed a finding of reasonable diligence with respect to the remaining conditional 2,152 acre-feet of water decreed to the Reservoir Right. The decree, however, did not grant a change of water rights for the Storage Rights to add the East Fork Pumping Plant as a point of diversion. Decree entered in Case No. 04CW138 at ¶ 5.

17. The resume notice for the application in Case No. 04CW163 claimed a finding of reasonable diligence for the 22,300 acre-feet conditional First Enlargement. Resume Notice of App. in Case No. 04CW163 at ¶ 4, attached as Exhibit D. The resume notice did not mention any change of water rights for the Storage Rights to add East Fork Pumping Plant as a point of diversion.

18. The decree entered in Case No. 04CW163 decreed a finding of reasonable diligence with respect to the 22,300 acre-feet First Enlargement. The decree, however, did not grant a change of water rights for the Storage Rights to add the East Fork Pumping Plant as a point of diversion. Decree entered in Case No. 04CW163 at ¶ 5.

19. The resume notice for the application in Case No. 13CW11 claimed to make 153 acre-feet of the conditional portion of the Reservoir Right absolute and requested a finding of reasonable diligence for the remaining conditional portions of the Storage Rights. Resume Notice of App. in Case No. 13CW11 at ¶ 11, attached as Exhibit E. The application did not and could not include a claim for a change of water right for the Storage Rights to add the East Fork Pumping Plant as a point of diversion. However, the application did incorrectly list the East Fork Pumping Plant as an existing point of diversion for the Storage Rights.¹

20. The decree entered in Case No. 13CW11 approved a finding that 153 acre-feet of the conditional portion of the Reservoir Right was made absolute for all decreed uses and granted reasonable diligence for the remaining conditional portions of the Storage Rights. The decree did not grant a change

¹ Under Rule 3(c) of the Uniform Local Rules for All State Water Court Divisions, “an application [for a finding of reasonable diligence or to make absolute] shall not be combined with any other case or application except by leave of court and the owner of each such right shall be an applicant in such application.” Also section 37-92-302(2)(a), C.R.S., requires “[i]n the case for applications for approval of a change of water right or plan for augmentation, the forms shall require a complete statement of such change or plan, including a description of all water rights to be established or changed by the plan.”
of water rights for the Storage Rights to add the East Fork Pumping Plant as a point of diversion. Decree entered in Case No. 13CW11 at ¶ 19-20.

21. Finally, the resume notice for the application in this case did not mention any change of water rights for the Storage Rights to add East Fork Pumping Plant as a point of diversion. Resume Notice of App. in Case No. 19CW3145, attached as Exhibit F.

22. The resume constitutes the notice of the water right decree sought and adequate notice is essential to ensure that interested parties have opportunity to participate in any proceeding that may affect their water rights. Danielson v. Jones, 698 P.2d 240, 245 (Colo. 1985). The resume notice procedure substitutes for personal service and provides the only notice to interested parties of pending water right proceedings. Closed Basin Landowners Ass'n v. Rio Grande Water Conservation Dist., 734 P.2d 627, 633 (Colo. 1987). The monthly resume notice includes “the name and address of the applicant, a description of the water right or conditional water right involved, and a description of the ruling sought.” § 37-92-302, C.R.S.

23. Compliance with the statutory notice provisions is evaluated by an inquiry notice standard. Closed Basin Landowners Ass'n v. Rio Grande Water Conservation Dist., 734 P.2d 627, 633 (Colo. 1987). Inquiry notice requires notice of sufficient facts to attract the attention of interested persons and prompt a reasonable person to inquire further. Inquiry notice charges a party with notice of all the facts that a reasonably diligent inquiry would have disclosed. Colburn v. Gilcrest, 55 Colo. 92, 94, 151 P. 909, 910 (1915). The resume will be found to be insufficient if the resume taken as a whole is insufficient to inform or put the reader on inquiry of the nature, scope and impact of the application. Monaghan Farms, Inc. v. City & Cty. of Denver By & Through Bd. of Water Comm'rs, 807 P.2d 9, 15 (Colo. 1991). While the Colorado Supreme Court has “consistently accepted a broad definition of inquiry notice,” the Court has repeatedly held that notice is inadequate where there is a “complete absence of material information” concerning a claim. City of Thornton v. Bijou Irr. Co., 926 P.2d 1, 26 (Colo. 1996).

24. Importantly, “Although an incorrect determination that is within the jurisdiction of the water court cannot be collaterally attacked, a claim or issue adjudicated without proper notice cannot be given effect.” Chatfield East Well Co. v. Chatfield East Prop. Owners Ass'n, 956 P.2d 1260, 1274 (Colo. 1998). In addition, “to the extent a decree is beyond the authority of the court [for lack of proper notice], it cannot be made valid by any rule of res judicata or any statutes of limitation.” Board of County Comm'rs v. Collard, 827 P.2d 546, 553 (Colo. 1992).
25. The resume notices of Applicants' applications in Case Nos. 97CW288, 00CW210, 04CW138, 04CW163, 13CW11, and this case do not mention a claim to change the Storage Rights to add the East Fork Pumping Plant as a point of diversion. This defect is critical because "[the] resume notice procedures are calculated to alert all water users on the stream system whose rights may be affected by the application and to provide these persons an opportunity to participate in the water right proceeding and to oppose the application." *Bar 70 Enters., Inc. v. Tosco Corp.*, 703 P.2d 1297, 1302-03 (Colo. 1985). Because the Applicants did not properly notice a claim to change the Storage Rights to add the East Fork Pumping Plant as a point of diversion in Case Nos. 97CW288, 00CW210, 04CW138, 04CW163, and 13CW11 the Court did not have proper jurisdiction to grant such a claim in those cases. As such, any holdings in the 97CW288, 00CW210, 04CW138, 04CW163, and 13CW11 decrees that the East Fork Pumping Plant is a point of diversion for the Storage Rights are void. Additionally, because the Applicants did not properly notice a claim to change the Storage Rights to add the East Fork Pumping Plant as a point of diversion in this case, the Court lacks jurisdiction in this case to enter a decree holding that the East Fork Pumping Plant is a point of diversion for the Storage Rights.

26. In a similar situation, the Colorado Supreme Court held that a decree granting a water right for beneficial uses beyond those included in the original application and resume was void as to those findings. *Danielson*, 698 P.2d at 246 ("[T]he failure of Jones' original application and the published resume based thereon to provide potential objectors with any notice of the fish culture and storage uses ultimately included in the decree resulted in a lack of substantial compliance with the notice provisions of the Water Right Act and vitiated those provisions of the decree that authorized the use of 27.5 gpm for fish culture and storage purposes."); see also *Stonewall Estates v. CF & I Steel Corp.*, 592 P.2d 1318, 1320 (Colo. 1979) (finding the applicant's resume regarding an application for a nontributary water right was defective as it failed to mention the asserted nontributary nature of the water and the decree adjudicating that right was void for lack of jurisdiction).

27. Due to these issues, the Engineers respectfully file this protest to the Ruling of the Referee e-filed July 6, 2020. The Engineers request that the Court enter a final decree holding that the East Fork Pumping Plant is not a point of diversion for the Storage Rights and that the portions of the decrees entered in Case Nos. 00CW210, 04CW138, 04CW163, and 13CW11 that list the East Fork Pumping Plant as a point of diversion for the Storage Rights are void for lack of proper notice.
Submitted this 27th day of July, 2020.

PHILIP J. WEISER  
Attorney General

Filed under C.R.C.P. Rule 121 § 1-26.  
A duly signed original is on file with the Office of the Attorney General for the State of Colorado.

/s/ Kunal Parikh  
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Attorney for the State and Division Engineers  
*Counsel of Record
CERTIFICATE OF SERVICE

This is to certify that on July 27, 2020, I caused a true and correct copy of the foregoing PROTEST TO THE RULING OF THE REFEREE to be served electronically via CO-Courts e-file system or by US Mail first class, postage prepaid, to each of the following:

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<tr>
<th>Party Name</th>
<th>Party Type</th>
<th>Attorney Name</th>
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<tr>
<td>Colorado River Water Conservation Dist</td>
<td>Applicant</td>
<td>JASON VICTOR TURNER (Colorado River Water Conservation District)</td>
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<td>PETER CHENEY FLEMING (Colorado River Water Conservation District)</td>
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<tr>
<td>Division 5 Engineer</td>
<td>Division Engineer</td>
<td>DIVISION 5 WATER ENGINEER (State of Colorado DWR Division 5)</td>
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<td>Eagle Cty Board of County Commissioners</td>
<td>Applicant</td>
<td>BRYAN ROBERT TREU (Fayle County Attorneys Office)</td>
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<td>HOLLY KIRSNER STRABLIZKY (Fayle County Attorneys Office)</td>
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<tr>
<td>Eagle Park Reservoir Company</td>
<td>Applicant</td>
<td>GLENN EDWARD PORZAK (Porzak Browning &amp; Bushong LLP)</td>
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<td>KRISTIN HOWSE MOSELEY (Porzak Browning &amp; Bushong LLP)</td>
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<td>Eagle River Water Sanitation District</td>
<td>Applicant</td>
<td>GLENN EDWARD PORZAK (Porzak Browning &amp; Bushong LLP)</td>
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<td>KRISTIN HOWSE MOSELEY (Porzak Browning &amp; Bushong LLP)</td>
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<td>State Engineer</td>
<td>State Engineer</td>
<td>COLORADO DIVISION OF WATER RESOURCES (State of Colorado - Division of Water Resources)</td>
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<td>Upper Eagle Regional Water Authority</td>
<td>Applicant</td>
<td>GLENN EDWARD PORZAK (Porzak Browning &amp; Bushong LLP)</td>
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<td>KRISTIN HOWSE MOSELEY (Porzak Browning &amp; Bushong LLP)</td>
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<td>Veil Associates Inc.</td>
<td>Applicant</td>
<td>PAUL F HOLLEMAN (Buchanan Sperring and Hollerman PC)</td>
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E-filed pursuant to C.R.C.P. 121. Duly signed original on file at the Office of the Attorney General.

/s/ Pauline Wilber