

**Eagle River Water & Sanitation District**  
**Board of Directors Meeting**  
**February 24, 2022**  
**MINUTES**

A remote regular meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held Feb. 24, 2022, at 1:00 p.m., in accordance with the applicable statutes of the state of Colorado.

**ATTENDANCE**

**The following Directors were present via Microsoft Teams, thereby constituting a quorum:**

Kate Burchenal  
Dick Cleveland  
Steve Coyer  
George Gregory  
Timm Paxson  
Bill Simmons  
Robert Warner Jr.

**Also in attendance were:**

<u>District Staff</u>	24	Jeffrey Schneider
Tug Birk	25	Chris Wolff
Tom Borawski	26	Len Wright
Linn Brooks	27	Brad Zachman
Jason Cowles	28	
Leah Cribari	29	<u>Consultants</u>
Jesse Hooker	30	Jim Collins, Collins, Cole, Flynn, Winn & Ulmer, PLLC
Diane Johnson	31	Kristin Moseley, Somach Simmons & Dunn
Kira Koppel	32	Glenn Porzak, Porzak Law, LLC
Craig Malkmes	33	Kathryn Winn, Collins, Cole, Flynn, Winn & Ulmer, PLLC
David Norris	34	
Siri Roman	35	<u>Public</u>
Kailey Rosema	36	Tammy Baker
	37	

**DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

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

Director Burchenal disclosed that she is on the Eagle River Watershed Council board of directors. Director Gregory disclosed that he serves on the board of the Upper Eagle Regional Water Authority (Authority) and occasionally undertakes development and construction activities within the District and Authority service areas. Director Simmons disclosed that he is the General Manager of the Beaver Creek Metropolitan District, is an alternate Authority Director, and serves on the board of the Eagle River Fire Protection District. Director Warner disclosed that he is a developer within the District's service area and serves on the Eagle County Planning Commission, which occasionally has dealings with the District.

**CALL TO ORDER**

Chair Simmons called the meeting to order at 1 p.m.

**INTRODUCTIONS**

There were no new employee or consultant introductions.

**PUBLIC COMMENT**

Public comment was called for and there was none.

**ACTION ITEMS**

**Consideration of Minutes** – The minutes of the Jan. 27, 2022, regular meeting and joint meeting with the Upper Eagle Regional Water Authority were considered. Upon motions duly made and seconded, it was unanimously

**RESOLVED** that the minutes of the Jan. 27, 2022, regular meeting and joint meeting be accepted and hereby are approved as presented.

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1 **Rules and Regulations update** – Mr. Birk presented a memo and a redline of the sections proposed for  
2 revision, a copy of which is attached hereto as **Exhibit A** and incorporated herein by this reference. He  
3 said this year's changes were minor and that a fine change enacted in 2021 had been unintentionally left  
4 out. After discussion and upon motion duly made and seconded, it was unanimously

5 **RESOLVED** to approve and accept the revisions to the Rules and Regulations as presented.

6 **Holy Cross Energy Underground Right-of-Way Easement** – Mr. Schneider presented a memo and the  
7 Easement with its Exhibit, copies of which are attached hereto as **Exhibits B and C**, respectively, and  
8 incorporated herein by this reference. After discussion and upon motion duly made and seconded, it was  
9 unanimously

10 **RESOLVED** to approve granting the Underground Right of Way Easement to Holy Cross Energy  
11 on Lot 1, Eagle River Water and Sanitation District Subdivision, as presented.

12 **Board Committees** – Ms. Brooks presented a memo and the board committee list, copies of which are  
13 attached hereto as **Exhibits D and E**, respectively, and incorporated herein by this reference. She noted  
14 Chair Simmons' request to be replaced on the Organizational Development committee as he is term-  
15 limited in May. Chair Simmons noted the important work currently underway on the compensation study  
16 and suggested it was a good time for another director to become involved. Director Warner volunteered to  
17 serve on the committee and the full board concurred.

18 **Contract Log** – The board reviewed the contract log, a copy of which is attached hereto as **Exhibit F** and  
19 incorporated herein by this reference and approved as presented.

20 **Information Reports** – The board reviewed the monthly development report and the Authority's January  
21 meeting summary, copies of which are attached hereto as **Exhibits G and H**, respectively, and  
22 incorporated herein by this reference.

### 23 **STRATEGY ITEMS**

24 **Board Member Input** – In response to a question, Mr. Norris said that W-2s were in the mail.

25 **Sustainability update and 2021 Accomplishments** – Ms. Koppel briefly reviewed local climate  
26 events and overall challenges via a PowerPoint presentation, a copy of which is attached hereto  
27 as **Exhibit I**. She reviewed 2021 organizational accomplishments including various certifications  
28 and awards, local events, greenhouse gas emission reductions, employee engagement, and  
29 revenue made from sustainability programs. She also provided a brief look at 2022 plans.

### 30 **GENERAL MANAGER REPORT**

31 Ms. Brooks referenced the General Manager Report, a copy of which is attached here as **Exhibit J** and  
32 incorporated herein by this reference.

33 **COVID-19 update** – Ms. Brooks relayed local COVID-19 trends and said the staff incident  
34 response team had decided to maintain mask wearing onsite for a while longer.

35 **Climate Speaker Series** – Ms. Brooks reminded directors she was speaking tonight at Walking  
36 Mountains Science Center's Climate Speaker Series which could be attended in person at  
37 Colorado Mountain College or viewed on YouTube.

# Eagle River Water & Sanitation District

## 1 OPERATIONS REPORT

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

4 **Frozen Service Lines** – Ms. Roman said Field Operations staff are dealing with frozen service  
5 lines this winter; possible causes include lack of insulating snow and aging infrastructure.

6 **Gore Creek Watershed Source Water Protection Plan** – Ms. Cribari referenced a memo and  
7 shared a PowerPoint presentation, copies of which are attached hereto as **Exhibits L and M**,  
8 respectively, and incorporated herein by this reference. She and Ms. Rosema summarized the  
9 work, partners, funding, regulatory framework, background, and findings of the Source Water  
10 Protection Plan for the Gore Creek watershed. Similar work will start this year for the Authority's  
11 service area, to create a Source Water Protection Plan for the Eagle River watershed. In  
12 response to questions, Ms. Cribari noted the difference between permitted and unpermitted  
13 discharges and said there may be potential sources of contamination that are unpermitted; these  
14 can be added to the plan as it is updated.

## 15 ENGINEERING AND WATER RESOURCES REPORT

16 Mr. Cowles noted that he did not have a written report this month. He informed the board that a developer  
17 is preparing a sketch plan submittal for a PUD in Wolcott and has requested a conditional capacity to  
18 serve letter for their application to Eagle County. In response to a question, Mr. Cowles and Ms. Moseley  
19 clarified district involvement in Wolcott area water right cases and existing agreements to recoup costs.

## 20 COMMUNICATIONS AND PUBLIC AFFAIRS REPORT

21 Ms. Johnson referenced her report, a copy of which is attached hereto as **Exhibit N** and incorporated  
22 herein by this reference. She reported on candidates for the open director district seats, reminded  
23 directors of election deadlines, and said the open seats were publicized via legal notices, the February  
24 billing statements, local radio, and a news release. She also mentioned the recent Vail Daily story about  
25 the Bolts Lake project.

## 26 GENERAL COUNSEL REPORT

27 Ms. Wynn stated all documents related to the closing of Bolts Lake had been executed and recorded.

## 28 WATER COUNSEL REPORT

29 **Waters of the U.S. case** – Ms. Moseley provided an article about the evolving WOTUS rule, a  
30 copy of which is attached hereto as **Exhibit O** and incorporated herein by this reference.

31 **Hill v Warsewa case** – Ms. Moseley cited a news story about this case, a copy of which is  
32 attached hereto as **Exhibit P** and incorporated herein by this reference. The case concerns  
33 public access to streams and streambeds and pre-statehood “navigability.” Ms. Brooks said the  
34 Colorado Water Congress’s water stewardship project is drafting an amicus brief to support the  
35 state’s position and asked the board to consider a \$500 contribution for that effort. The board  
36 approved of funds being spent for this purpose and directed staff to make the contribution.

## Eagle River Water & Sanitation District

1       **Legislative Update** – Ms. Moseley mentioned House Bill 22-1151, Turf Replacement Program,  
2       which would provide state funds to finance the voluntary replacement of irrigated turf. In  
3       response to a question, Ms. Brooks said the district has a limited rebate program to remove turf.  
4       Directors support this approach to encourage turf removal and reduce overall water use. Ms.  
5       Brooks noted the importance of comprehensively addressing water conservation needs and  
6       potential staff required to implement a plan. Ms. Moseley mentioned Senate Bill 22-029,  
7       Investment Water Speculation, which will likely be difficult to advance. Lastly, she mentioned the  
8       proposed “RIVR” (recreation in-channel values reach) legislation that is yet to be introduced.

### 9       **EXECUTIVE SESSION**

10      Ms. Winn requested the Board enter Executive Session to receive legal advice of counsel and discuss  
11      negotiations about potential claims and real property acquisition, pursuant to §24-6-402(4)(a)(b) and (e)  
12      C.R.S. She asked that no electronic record be made, as the discussion would be entirely privileged  
13      attorney-client communications. Upon motion duly made and seconded, it was unanimously

14                   **RESOLVED** to enter Executive Session at 2:35 p.m. to discuss negotiations about potential  
15                   claims and a land acquisition, pursuant to §24-6-402(4)(a)(b) and (e) C.R.S. with no  
16                   electronic record created as Ms. Winn opined the contents of the discussion would contain  
17                   privileged attorney-client communications.\*

18      Mr. Porzak requested the Board continue Executive Session to receive legal advice of counsel and  
19      discuss negotiations related to Colorado River Cooperative Agreement matters pursuant to §24-6-  
20      402(4)(b) and (e) C.R.S. He asked that no electronic record be made, as the discussion would be entirely  
21      privileged attorney-client communications. Upon motion duly made and seconded, it was unanimously

22                   **RESOLVED** to enter Executive Session at 3:10 p.m. to discuss CRCA matters pursuant to  
23                   §24-6-402(4)(b) and (e) C.R.S. with no electronic record created as Mr. Porzak opined the  
24                   contents of the discussion would contain privileged attorney-client communications.\*

25      Ms. Moseley requested the Board continue Executive Session to receive legal advice of counsel and  
26      discuss negotiations related to the Intergovernmental Agreement with Minturn and Bolts Lake pursuant to  
27      §24-6-402(4)(b) and (e) C.R.S. She asked that no electronic record be made, as the discussion would be  
28      entirely privileged attorney-client communications. Upon motion duly made and seconded, it was  
29      unanimously

30                   **RESOLVED** to continue Executive Session at 3:50 p.m. to receive advice of counsel and  
31                   discuss negotiations related to the Intergovernmental Agreement with Minturn and Bolts Lake  
32                   pursuant to §24-6-402(4)(b) and (e) C.R.S. with no electronic record created as Ms. Moseley  
33                   opined the contents of the discussion would contain privileged attorney-client  
34                   communications.\*

35      The regular meeting resumed at 4:07 p.m.

# Eagle River Water & Sanitation District

1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 4:08 p.m.

3 Respectfully submitted,

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Secretary to the Meeting