



MEMORANDUM

TO: Boards of Directors
FROM: Diane Johnson, Communications & Public Affairs Manager
DATE: April 20, 2022
RE: April 28, 2022, Regular Joint Meeting

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

**Thursday, April 28, 2022
11:00 a.m.**

This meeting will be held via Microsoft Teams

Call-in information is available prior to the meeting by emailing info@erwsd.org.

C:
ERWSD Managers

Public meeting materials via email:
Bob Armour, Vail resident
Caroline Bradford, Independent Consultant

Rick Sackbauer, Vail resident
Cliff Thompson, IKS Consulting



REGULAR JOINT MEETING
BOARDS OF DIRECTORS

April 28, 2022
11:00 a.m.

Remote via Microsoft Teams

AGENDA

1. **Consultant/Guest Introduction**
2. **Public Comment**
3. **Water Demand Management: 2022 Program Overview – Jason Cowles, Linn Brooks***
4. **Update on Bolts Lake and Minturn matters – Kristin Moseley, Jim Collins†**
 - 4.1. Joint Resolution Regarding Bolts Ditch Federal Legislation☼
 - 4.2. Reimbursement Resolution – Eagle River Water & Sanitation District☼
 - 4.3. Reimbursement Resolution – Upper Eagle Regional Water Authority☼
5. **Executive Session pursuant to §24-6-402(4)(b) and (e), C.R.S.**
 - 5.1. Colorado River Cooperative Agreement matters – Glenn Porzak†
 - 5.2. Eagle River MOU – Kristin Moseley
6. **Adjournment**

☼ **Action Item Attachment**

* **Informational Attachment**

† **Confidential 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 an all-remote meeting. For Microsoft Teams information to join the meeting, please contact info@erwsd.org prior to the meeting.



MEMORANDUM

TO: District and Authority Boards of Directors
FROM: Jason Cowles, P.E. 
DATE: April 20, 2022
RE: Water Demand Management: 2022 Program Overview

The executive management team has been meeting to outline the water demand management program goals for 2022, and we will present our plans at this month's joint meeting. Specifically, the topics we intend to discuss include:

- Water budgeting, progress on data collection and research, next steps, and timelines;
- Proposed changes to water efficiency rebates for 2022, including an unlimited \$1 per square foot turf replacement rebate that any customer can take advantage of;
- Additional staffing resources needed to meet the Board's water conservation objectives;
- Planned outreach to customers that continue to use water in Tiers 4 and 5;
- Drafting of updates to the Rules and Regulations for implementation in 2023; and
- Our communications strategy to customers emphasizing the need for permanent changes.

We look forward to discussing with you at next week's meeting.



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MEMORANDUM

TO: Eagle River Water & Sanitation District and Upper Eagle Regional Water Authority Boards of Directors

CC: Linn Brooks, Jason Cowles, Jim Collins and Kathryn Winn

FROM: Kristin Moseley

DATE: April 20, 2022

RE: Bolts Ditch – Draft Joint Resolution re: Support of Bolts Ditch Federal Legislation

Attached for consideration by both boards is a draft Joint Resolution in support of federal legislation to allow the District and Authority to operate Bolts Ditch within the Holy Cross Wilderness area. As we have previously discussed, Bolts Ditch is the most viable gravity feed option to fill Bolts Lake with water from Cross Creek. However, the historic Bolts Ditch diversion point was mistakenly included within the boundaries of the Holy Cross Wilderness area designation and was, therefore, unable to be physically maintained and operated due to wilderness use restrictions. Battle North and Minturn cooperated on legislation that was passed as part of an omnibus natural resources bill (2019, S.47 the John Dingell Jr. Conservation, Maintenance and Recreation Act), which allowed a wilderness exemption for the Town of Minturn to exclusively operate Bolts Ditch. No other municipality or entity (including Battle North) is legally permitted to operate Bolts Ditch. Thus, if the District/Authority desire to maintain a Cross Creek water option for fill of Bolts Lake, it will be necessary to amend the Bolts Ditch legislation.

The District/Authority started down the road of seeking amendment to the Bolts Ditch legislation when the District/Authority was negotiating the proposed three-party Bolts Lake agreement with Minturn and Battle North. The proposed amendment would have allowed the District/Authority to operate Bolts Ditch in addition to the Town of Minturn. We had numerous meetings with Rep. Neguse and his staff about the concept and he was willing to include the minor legislative change as part of the CORE Act. However, that legislative effort was discontinued when negotiations around the three-party Bolts Lake Agreement broke down with

Minturn. Now that the Minturn IGA has been entered into, which specifically provides for Minturn's support of the Bolts Ditch federal legislation, the time is ripe to seek further amendment of legislation. It also provides an opportunity to work with federal legislators and staff with the aim of tapping into additional federal infrastructure funding for Bolts Lake.

RESOLUTION
EAGLE RIVER WATER & SANITATION DISTRICT &
UPPER EAGLE REGIONAL WATER AUTHORITY
Regarding Bolts Ditch Federal Legislation

WHEREAS, the Eagle River Water and Sanitation District (“District”) is a quasi-municipal corporation and political subdivision of the State of Colorado and a duly organized and existing special district pursuant to Article 1, Title 32, Colorado Revised Statutes.

Whereas, the District provides water service to the Vail and Wolcott regions, and provides sewer service from Vail to Wolcott.

Whereas, the District is functionally integrated with the Upper Eagle Regional Water Authority (the “Authority”), which provides water service to the area between Vail and Wolcott. Together they constitute the second largest municipal water provider on the west slope. The District staff operate the Authority’s water system.

Whereas, the District and Authority are adjudicating water rights and have purchased land within the Town of Minturn (“Minturn”) in order to construct and operate a 1,200 acre foot water storage reservoir called Bolts Lake, which will provide sustainable water supplies for the region.

Whereas, the District and Authority entered into an Intergovernmental Agreement with Minturn, in which the District and Authority agreed to provide Minturn with augmentation water supplies from Bolts Lake and other water sources to supplement Minturn’s municipal water system.

Whereas, Bolts Ditch is an essential filling source for Bolts Lake, and Minturn assigned its interest in the Bolts Ditch physical headgate and ditch structure to the District and Authority.

Whereas, Section 1101 of Public Law 116-9, the John D. Dingell Jr. Conservation, Management, and Recreation Act (the “Act”), allows Bolts Ditch to be operated with the Holy Cross Wilderness area for diversion of water and use, and maintenance and repair of the Bolts Ditch and headgate. However, the Act restricts use, maintenance and repair authority exclusively to Minturn.

Whereas, the District, Authority and Minturn are seeking to expand the Act to include the District and Authority as additional governmental entities that may also use, maintain and repair the Bolts Ditch and its headgate.

NOW THEREFORE, the District and Authority hereby request Congressman Neguse and Senators Bennet and Hickenlooper to introduce legislation to include the District and Authority as additional governmental entities that may use, maintain, and repair Bolts Ditch and its headgate.

Unanimously adopted this ____ day of April 2022.

EAGLE RIVER WATER & SANITATION DISTRICT

By: _____
William Simmons, Chair

ATTEST:

By: _____
George Gregory, Secretary

UPPER EAGLE REGIONAL WATER AUTHORITY

By: _____
George Gregory, Chair

ATTEST:

By: _____
Secretary

EAGLE RIVER WATER AND SANITATION DISTRICT

REIMBURSEMENT RESOLUTION

WHEREAS, the Eagle River Water and Sanitation District, Eagle County, Colorado (“**District**”), acting by and through its duly elected Board of Directors has determined that it has incurred certain expenditures and that it expects to incur and pay certain additional expenditures (“**Expenditures**”) for water capital improvements, including construction of facilities and acquisition costs at the Bolts Lake Reservoir (“**Project**”) to serve primarily existing development and adjacent areas, for the benefit of the Vail Water Subdistrict (“**Vail Subdistrict**”), its residents, taxpayers and customers, including all necessary, incidental, and pertinent expenses, and disbursements in connection therewith; and

WHEREAS, the District reasonably expects the Vail Subdistrict to finance the project, including advances and the reimbursement of the Subdistrict for the Expenditures, with the proceeds of tax-exempt obligations (“**Obligations**”), to be issued in the future by the Vail Subdistrict and secured by rates, charges, and impact fees imposed within the Vail Subdistrict; and

WHEREAS, the Internal Revenue Service (“**IRS**”) has issued regulations (“**Regulations**”) under Section 103 of the Internal Revenue Code (“**Code**”) clarifying when the allocation of the proceeds of tax-exempt obligations to reimburse Expenditures made by an entity will be treated as an expenditure of such proceeds within the meaning of Section 103 of the Code; and

WHEREAS, to satisfy IRS requirements with respect to the foregoing, the Board of Directors of the District (“**Board**”) desires to declare its “official intent” within the meaning of §1.150-2 of the Regulations, to reimburse the Vail Subdistrict for any Expenditures from proceeds of the Obligations.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Eagle River Water and Sanitation District acting for and on behalf of the Vail Water Subdistrict as follows:

1. The Board hereby declares its “official intent” to reimburse the Vail Subdistrict for the Expenditures from a portion of the proceeds from the Obligations. The expected maximum principal amount of the Obligations is \$20,000,000.

2. The Expenditures related to hard construction costs to be reimbursed pursuant to this Resolution shall have been incurred no earlier than sixty (60) days prior to the date hereof in connection with the construction of the Project. Said Expenditures also include, but are not limited to, engineering, design, preliminary legal work, and financing work in connection with the Project.

3. The Board shall not use reimbursed money for purposes prohibited by Treasury Regulation § 1.150-2(h).

FURTHER RESOLVED, that all Resolutions of the Board inconsistent with this Resolution are hereby repealed to the extent of such inconsistency and all actions of the officers, agents and employees of the District which are in furtherance of or in conformance with the purposes and intent of this Resolution are hereby in all respects ratified, approved and confirmed.

RESOLVED this 28th day of April 2022, by a vote of _____ in favor and _____ opposed.

**EAGLE RIVER WATER AND
SANITATION DISTRICT**

By: _____
William Simmons, Chairman

Attest:

George Gregory, Secretary

UPPER EAGLE REGIONAL WATER AUTHORITY
REIMBURSEMENT RESOLUTION

WHEREAS, the Upper Eagle Regional Water Authority, Eagle County, Colorado (“**Authority**”), acting by and through its duly appointed Board of Directors has determined that it has incurred certain expenditures and that it expects to incur and pay certain additional expenditures (“**Expenditures**”) for water capital improvements, including construction of facilities and acquisition costs at the Bolts Lake Reservoir (“**Project**”) to serve primarily existing development and adjacent areas, for the benefit of the Authority, its residents, and customers, including all necessary, incidental, and pertinent expenses, and disbursements in connection therewith; and

WHEREAS, the Authority reasonably expects to finance the Project with the proceeds of tax-exempt obligations (“**Obligations**”), to be issued in the future and secured by rates, and impact fees imposed by the Authority; and

WHEREAS, the Internal Revenue Service (“**IRS**”) has issued regulations (“**Regulations**”) under Section 103 of the Internal Revenue Code (“**Code**”) clarifying when the allocation of the proceeds of tax-exempt obligations to reimburse expenditures made by an entity will be treated as an expenditure of such proceeds within the meaning of Section 103 of the Code; and

WHEREAS, to satisfy IRS requirements with respect to the foregoing, the Board of Directors of the Authority (“**Board**”) desires to declare its “official intent” within the meaning of §1.150-2 of the Regulations, to reimburse itself for any Expenditures from proceeds of the Obligations.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Upper Eagle Regional Water Authority as follows:

1. The Board hereby declares its “official intent” to reimburse the Authority for the Expenditures from a portion of the proceeds from the Obligations. The expected maximum principal amount of the Obligations is \$30,000,000.

2. The Expenditures related to hard construction costs to be reimbursed pursuant to this Resolution shall have been incurred no earlier than sixty (60) days prior to the date hereof in connection with the construction of the Project. Said Expenditures also include, but are not limited to, engineering, design, preliminary legal work, acquisition, and financing work in connection with the Project.

3. The Board shall not use reimbursed money for purposes prohibited by Treasury Regulation § 1.150-2(h).

FURTHER RESOLVED, that all Resolutions of the Board inconsistent with this Resolution are hereby repealed to the extent of such inconsistency and all actions of the officers, agents and employees of the Authority which are in furtherance of or in conformance with the purposes and intent of this Resolution are hereby in all respects ratified, approved, and confirmed.

RESOLVED this 28th day of April 2022, by a vote of _____ in favor and _____ opposed.

**UPPER EAGLE REGIONAL WATER
AUTHORITY**

By: _____
George Gregory, Chairman

Attest:

Kim Bell Williams, Secretary