

Upper Eagle Regional Water Authority

Board of Directors Meeting

March 26, 2015

MINUTES

1 A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority
2 (Authority) was held March 26, 2015, at 8:30 a.m., in the Walter Kirch Room of the Eagle River
3 Water & Sanitation District (District), 846 Forest Road, Vail, Eagle County, Colorado, in
4 accordance with the applicable statutes of the State of Colorado.

5 ATTENDANCE

6 The following Directors were present, thereby constituting a quorum:

7 Tom Allender, EagleVail Metropolitan District
8 Geoff Dreyer, Arrowhead Metropolitan District
9 Todd Goulding, Town of Avon
10 George Gregory, Berry Creek Metropolitan District
11 Jim Power, Beaver Creek Metropolitan District
12 Mick Woodworth, Edwards Metropolitan District

13 Also in attendance were:

14 <u>ERWSD Staff</u>	24	
15 Linn Brooks	25	Steve Sego
16 Jason Cowles	26	James Wilkins
17 Carol Dickman	27	<u>Consultants</u>
18 Todd Fessenden	28	Jim Collins, Collins Cockrel & Cole
19 Catherine Hayes	29	Glenn Porzak, Porzak Browning & Bushong LLP
20 Leslie Isom	30	<u>Public</u>
21 Diane Johnson	31	Sarah Smith Hymes, town of Avon
22 Elena Jones	32	Michael Lindholm, Traer Creek Ltd.
23 John McCaulley		

33 DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST

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

36 Director Allender disclosed that he is the Director of Resort Planning for Vail Associates, Inc., which has significant land ownership and
37 business interests within the Authority. Also, he is appointed by Vail Associates, Inc. to serve as a Director of both the Eagle Park
38 Reservoir Company and the Clinton Ditch and Reservoir Company; he also serves on the Eagle River Water & Sanitation District Board
39 of Directors, which manages the Authority. Director Goulding disclosed that he serves on the Boards of the Eagle County Health Service
40 District and Vail Mountain Rescue, which have occasional dealings with the Authority. He also disclosed that he is employed by Chaffee
41 Construction Company, which has significant business interests within the Authority. Director Woodworth disclosed that he is employed
42 by the Eagle River Fire Protection District, which operates within the Authority's service area; he also serves on the Edwards
43 Metropolitan District Board.

44 CALL TO ORDER

45 Chairman Gregory called the meeting to order at 8:30 a.m.

46 ACTION ITEMS

47 **Consideration of Minutes** – The minutes of the Regular Meeting of February 26, 2015, were
48 considered. Upon motion duly made and seconded, it was unanimously

49 **RESOLVED** that the minutes of the February 26, 2015, Regular Meeting be accepted and
50 hereby are approved as presented.

51 **Appointment of Vice Chair** – The Board discussed the desire to appoint a vice chair. It was
52 clarified that per the bylaws, the secretary acts as chairman during the chairman's absence.

53 After discussion and upon motion duly made and seconded, it was unanimously

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1 **RESOLVED** that Director Dreyer be and hereby is appointed to serve as vice chair.
2 **Additional Water Demand Management Committee Member** – Director Woodworth
3 volunteered to serve as an additional member on the Water Demand Management Committee
4 with Director Allender.

5 **Presentation of Water System Impact Fee Study** – Mr. Cowles discussed his board action
6 request and related study, copies of which are attached hereto as **Exhibits A and B**,
7 respectively, and incorporated herein by this reference. Ms. Brooks gave a history of the
8 Authority’s plant investment fee (PIF) and the need for the study, which was undertaken by an
9 internal team beginning in 2014. The PIF is an impact fee intended to cover the cost of
10 connection to the Authority’s system and for that customer’s system capacity. Mr. Cowles
11 explained the methodology used and noted that while the fee has been periodically adjusted for
12 inflation, it has not been adjusted for the value of additional Authority capital investments,
13 which serve current and future customers. Mr. Cowles outlined the study’s specific
14 recommendations:

- 15 1. Increase the Authority’s PIF to \$9,041 per SFE;
- 16 2. Continue the tiered PIF structure and report annually to ensure the structure remains
17 effective;
- 18 3. Examine PIF periodically to account for added capital improvements;
- 19 4. Adjust the PIF annually to account for construction-related inflation per the Denver
20 Construction Cost Index; and
- 21 5. Change the term “plant investment fee” to “water system impact fee.”

22 **Public Hearing to Consider Rate Increase**

23 The Board opened a public hearing at 9:18 a.m. to consider increasing the plant investment fee
24 rate from \$4,500 per SFE to \$9,041 per SFE, based on the study undertaken by staff. Chairman
25 Gregory called for public comment and there was none. The public hearing was closed at 9:19
26 a.m. After discussion and upon motion duly made and seconded, it was unanimously

27 **RESOLVED** that the proposed Plant Investment Fee is recommended to be approved
28 by each participating member according to the following rate schedule:

Residential - Based on Square Feet			
Floor Area Tiers	Square Feet in Tier	Price Per ft ²	Tier Total
Tier 1	0 - 2,500	\$ 3.62	\$ 9,041
Tier 2	2,501 - 3,500	\$ 4.46	\$ 4,460
Tier 3	3,501 - 5,000	\$ 5.44	\$ 8,167
Tier 4	5,001+	\$ 6.97	Overage

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Commercial - Based on Meter Size						
¾" Meter (1.5 SFE)	1" Meter (2.6 SFE)	1½" Meter (5.8 SFE)	2" Meter (10.3 SFE)	3" Meter (23.0 SFE)	4" Meter (40.9 SFE)	6" Meter (92.1 SFE)
\$13,561	\$23,506	\$52,437	\$93,121	\$207,940	\$369,771	\$832,663

1 and **FURTHER RESOLVED** that the name Plant Investment Fee is hereby modified
2 to be called hereafter the “Water System Impact Fee.”

3 A signed copy of the Resolution Regarding Recalculation of the Plant Investment Fee and a
4 Changing the Terminology to “Water System Impact Fee” is attached hereto as **Exhibit C** and
5 incorporated herein by this reference.

6 **Traer Creek Tank Resolution** – Mr. Fessenden updated on the Traer Creek Tank, which is
7 online and functioning well within the water system. He presented a board action request and
8 related resolution, copies of which are attached hereto as **Exhibits D** and **E**, respectively, and
9 incorporated herein by this reference. Mr. Fessenden confirmed there are adequate warranty
10 bonds to cover the remaining warranty items, including surface cracks on top of the tank.

11 After discussion and upon motion duly made and seconded, it was unanimously

12 **RESOLVED** that the Resolution Regarding Construction Acceptance of the Traer
13 Creek Water Storage Tank be and hereby is approved as presented. Director
14 Goulding abstained.

15 **REPORT BY WATER COUNSEL**

16 **Federal Water Right Directives** – Mr. Porzak discussed the three federal water rights
17 directives introduced by the Forest Service. He noted the groundwater directive was
18 withdrawn due to many negative comments. He expects the Forest Service to reintroduce a
19 revised version of the water right permit clause directive in May or June.

20 **Federal Legislation (Water Right Protection Act)** – Mr. Porzak said Representative Tipton
21 and Senator Barrasso intend to introduce the Water Rights Protection Act, which would
22 protect water rights, including those of the ski industry, municipal providers, agricultural
23 providers, and all other state rights. After discussion and upon motion duly made and
24 seconded, it was unanimously

25 **RESOLVED** that the Board hereby does support the Water Rights Protection Act as
26 modified to remove the reference to Forest Service ownership of groundwater that
27 lies beneath the national forest.

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1 **State Legislation (Senate Bill 64)** – Mr. Porzak gave background on similar legislation last
2 year, which was killed in the Senate. The bill passed in the Senate this year but was killed in
3 the House State Affairs committee. Mr. Porzak noted multiple Representatives who voted
4 against the bill have since expressed regret; the bill could be reintroduced as a late bill. Sen.
5 Sonnenberg is willing to take the bill through the Senate again, but wants confirmation that it
6 will pass in the House. Mr. Porzak will continue to monitor the situation.

7 **Colorado River Compact Water Bank** – Mr. Porzak discussed the possibility of a Western
8 Slope water bank using historic consumptive use credits; this could protect against a future
9 compact call and could potentially involve a variety of East and West Slope parties. A March
10 3 meeting was held with Colorado River Water Conservation District representatives,
11 including President Jon Stavney, to further discuss this concept. Mr. Porzak will schedule a
12 meeting with Jim Lochhead of Denver Water on the matter.

13 **Avon Comments on the Authority Agreement** – Mr. Porzak discussed recent changes to
14 the Authority Agreement proposed by the town of Avon, a copy of which is attached hereto
15 as **Exhibit F** and incorporated herein by this reference. He noted there were no substantive
16 changes. Mr. Collins prepared the full text of the Agreement incorporating the comments and
17 urged the members to pass it. After discussion and upon motion duly made and seconded, it
18 was unanimously

19 **RESOLVED** that the Authority Agreement be and hereby is approved as presented,
20 contingent upon review and approval by the Beaver Creek Metropolitan District; and
21 **FURTHER RESOLVED** that the Directors will recommend approval to their
22 respective Boards.

23 **New Public Trust Initiative** – Mr. Porzak discussed a new public trust initiative, the
24 language for which has been approved by the Title Board. He noted this version is more
25 sweeping than past initiatives. Ms. Brooks said the proponents need over 97,000 signatures to
26 get on the November ballot. The Colorado Water Congress is working to provide tools for
27 local water providers to communicate with their constituents about the initiatives and their
28 consequences.

29 **McCoy Springs Development** – Mr. Porzak discussed the proposed development and noted
30 a new agreement with the owners, Vail Associates and Vail Arrowhead Inc., is needed. Mr.

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1 Porzak will review the water rights to ensure there is enough storage water dedicated for the
2 development.

3 **REPORT BY GENERAL COUNSEL**

4 **Traer Creek Update** – Mr. Collins suggested the Authority manage any similar tank
5 projects in the future to avoid some of the issues that were evident during the Traer Creek
6 tank construction project.

7 **Tap Fee Update** – Mr. Collins said all Authority members terminated their tap fees, with the
8 exception of the town of Avon and the Arrowhead Mountain development.

9 **REPORT BY GENERAL MANAGER**

10 **Water Supply Planning Efforts** – Ms. Brooks updated the Board on efforts to engage the
11 county and towns in water supply planning efforts to ensure integration between their land
12 use approval and the Authority’s development approval process. Ms. Brooks suggested
13 sending more robust responses to referral letters regarding developments’ potential impacts
14 on streamflows, water quality, nutrient loading, and that land use agencies heavily influence
15 how their applicants ultimately use water. The Board supported this effort.

16 **Streamflow Modeling** – Ms. Brooks said the Colorado River Basin Roundtable wants to
17 create a streamflow model to determine the basin’s non-consumptive needs and evaluate the
18 impacts of future projects and Trans-Basin Diversions. Ms. Brooks serves on a roundtable
19 committee to investigate a model’s scope and benefits. She cautioned the committee that the
20 existence of multiple models would cause problems and recommended that the roundtable
21 support the state’s model, and as a separate effort, develop a geographical data base to
22 compile qualitative information such as riparian health and water quality impacts. She also
23 suggested that the District and Authority share the framework of their model, currently under
24 development, with the state so that all are working with the same information.

25 **Mountain Star Update** – Ms. Brooks discussed a recent meeting with Mountain Star
26 representatives. Negotiations are ongoing between Mountain Star and the town of Avon
27 regarding tank funding. Chairman Gregory noted he and Ms. Brooks were clear that the
28 Authority had participated significantly to this point, and it is now up to Mountain Star and
29 the town to fund the tank.

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1 **REPORT BY DIRECTOR OF OPERATIONS**

2 Mr. Fessenden presented the Operations Report, a copy of which is attached hereto as **Exhibit G** and
3 incorporated herein by this reference.

4 **Stormwater/Urban Runoff Group (URG) Update** – Mr. Fessenden gave an update on
5 URG efforts. Mr. Fessenden noted that discussions with the Colorado Department of
6 Transportation (CDOT) revealed increased use of magnesium chloride during winter storms,
7 which is the result of pressure from CDOT Operations to reduce travel times and keep roads
8 open. He also noted efforts to monitor and control sediment in the East Vail area of I-70 to
9 improve water quality in the area; a project to improve facilities near the Basin of Last Resort
10 on Vail Pass is being considered. He noted recent efforts by the town of Vail to identify
11 projects to improve water quality in Gore Creek, and town of Avon's interest in becoming
12 more involved in storm water and general water quality efforts as noted in their recently
13 released Strategic Plan.

14 **Eagle River MOU Update** – Mr. Fessenden discussed ongoing review of joint project
15 possibilities with the Eagle River MOU work group. Staff received input from consultants
16 Tom Williamsen and Bob Weaver regarding the potential projects, including review of in-
17 basin reservoir sites. Mr. Fessenden said the MOU work group has divided the agreed-upon
18 projects to maximize the efforts and expertise of those involved.

19 **Construction Costs** – Mr. Fessenden said construction costs have increased considerably in
20 the past year, locally and statewide. He expects this trend to continue.

21 **Water Line Break Benchmarking** – Mr. Fessenden noted a line break benchmark presented
22 at the February meeting was inaccurate and presented a graph with the correct figures, a copy
23 of which is attached hereto as **Exhibit H** and incorporated herein by this reference. The
24 Authority is actually within the American Waterworks Association's (AWWA)
25 recommended standard of breaks per 100 miles of pipe. The previous reported number had
26 included breaks in customer service lines, which are not considered in the AWWA standard.

27 **REPORT BY DIRECTOR OF FINANCE**

28 New Finance Director James Wilkins was introduced; he is taking over for Becky Bultemeier, who is
29 retiring after 28 years of service. Mr. Wilkins noted water sales are tracking close to projected
30 numbers and said he would be meeting with consultant Amy Bernstein shortly to get up to speed on
31 financial modeling, in addition to continuing his internal onboarding program.

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1 **REPORT BY COMMUNICATIONS AND PUBLIC AFFAIRS MANAGER**

2 Ms. Johnson presented her report, a copy of which is attached hereto as **Exhibit I** and incorporated
3 herein by this reference.

4 **Statewide basin Roundtable summit** – Ms. Johnson reported on the March 12 Summit,
5 which included representatives from throughout the state to discuss the Colorado Water Plan.
6 Discussion focused on funding, permitting, legislation, agriculture, and the seven points of
7 the “conceptual framework.”

8 **Colorado Water Plan Update** – Ms. Johnson said Eagle River region stakeholders met
9 March 2 and prioritized projects included in the Colorado Basin Roundtable’s Basin
10 Implementation Plan. The Eagle River MOU is a top priority for the region; protecting the
11 Shoshone hydroelectric plant call is the top priority basin-wide. The final draft of the BIP is
12 due to the Colorado Water Conservation Board April 17.

13 **EXECUTIVE SESSION**

14 Mr. Porzak requested the Board enter Executive Session to receive legal advice pursuant to §24-6-
15 402(4)(b) and (e) C.R.S. He asked that no electronic record be made, as the discussion would be entirely
16 privileged attorney-client communications. Upon motion duly made and seconded, it was unanimously

17 **RESOLVED** to enter executive session at 10:16 a.m. to discuss attorney-client
18 privileged issues concerning the Shoshone Acquisition, pursuant to §24-6-402(4)(b) and
19 (e) C.R.S. with no electronic record created as Mr. Porzak opined the contents of the
20 discussion would contain privileged attorney-client communications.*

21 The regular meeting resumed at 11:05 a.m.

22 **Shoshone Acquisition Funding** – The Board discussed funding for a potential Shoshone Power
23 Plant acquisition. Upon motion duly made and seconded, it was unanimously

24 **RESOLVED** to increase the amount of funding for the Shoshone Acquisition to a
25 maximum of \$13,334 and authorize Mr. Porzak to sign the cost-sharing agreement on
26 behalf of the Authority.

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1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 11:06 a.m.

3 Respectfully submitted,

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5 _____
6 Secretary to the Meeting

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

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12 _____
13 **Arrowhead Metropolitan District**

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17 **Town of Avon**

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21 **Beaver Creek Metropolitan District**

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25 **Berry Creek Metropolitan District**

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29 **EagleVail Metropolitan District**

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33 **Edwards Metropolitan District**

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36 *The undersigned attorney for the applicable Executive Session affirms that the portion of the discussion in
37 Executive Session not recorded constituted privileged attorney-client communications.

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40 _____
41 **Glenn Porzak, Water Counsel**