



MEMORANDUM

TO: Board of Directors
FROM: Brian Thompson, Government Affairs Supervisor
DATE: July 19, 2024
RE: July 25, 2024, Board Meeting

This memorandum shall serve as notice of a Regular Meeting of the Board of Directors of the Eagle River Water & Sanitation District:

**Thursday, July 25, 2024
12:00 p.m.**

This meeting will be held at:

Walter Kirch Room
Eagle River Water & Sanitation District Vail office
846 Forest Road
Vail, Colorado

The meeting can also be accessed on Microsoft Teams. Login information can be requested by sending an email at least 24 hours in advance to info@erwsd.org.

Input from members of the public is welcomed during the meeting's designated Public Comment period consistent with § 18-9-108, C.R.S. Speakers may address the Board on a first-recognized basis by the Chair. Public Comments are limited to three minutes per speaker on relevant matters not listed on the agenda.



BOARD OF DIRECTORS REGULAR MEETING

July 25, 2024

12:00 p.m.

Walter Kirch Conference Room

AGENDA

- | | <u>Attachment Link</u> |
|--|-------------------------------|
| 1. Introductions | |
| 2. Public Comment | |
| 3. Presentation by Eagle Valley Wildland (EVW) | Informational |
| 4. Board Member Compliance Training | Informational |
| 5. Action Items | |
| 5.1. Minutes from June 27, 2024, Special Meeting | Action Item |
| 5.2. Contract Log | Action Item |
| 5.3. J.Res. 2024-04: Joint Resolution Expressing Support for the Eagle River Community Water Plan | Action Item |
| 5.4. Opting out of additional PFAS class action settlements | Action Item |
| 6. Information Reports | |
| 6.1. Board committees | Informational |
| 6.2. May Authority meeting summary | Informational |
| 7. Board Member Input | |
| 8. General Manager Report – Siri Roman | |
| 8.1. GM information items | Informational |
| 8.2. Business Administration report – David Norris | |
| 8.2.1. Quarterly financials | Informational |
| 8.3. Operations report – Brad Zachman | Informational |
| 8.4. Backflow Prevention and Cross-Connection Control (BPCCC) program update | Informational |
| 8.5. Engineering and Water Resources report – Jason Cowles | Informational |
| 8.6. Communications and Public Affairs report – Diane Johnson | Informational |
| 8.6.1. 2025 regular election format | Informational |
| 9. Water Counsel Report – Kristin Moseley | |
| 10. General Counsel Report – Kathryn Winn | |
| 11. Executive Session | |
| 11.1. Receive legal advice regarding Bolts Lake and Battle North/Minturn Case Nos. 21CW3029 and 21CW3030, pursuant to §24-6-402(4)(b), C.R.S. | Confidential |

- 11.2. Receive legal advice and discuss the purchase of real property at Timber Ridge Village, pursuant to §24-6-402(4)(a) and (b), C.R.S. Confidential
- 11.3. Receive legal advice and determine positions relative to matters in negotiation regarding entity fee collection arrangements, pursuant to §24-6-402(4)(b) and (e), C.R.S. Confidential

12. Any Action as a Result of Executive Session

13. Adjournment



MEMORANDUM

TO: Board of Directors
FROM: Brian Thompson, Government Affairs Supervisor
DATE: July 19, 2024
RE: Board Presentation – Eagle Valley Wildland

At the July 25 board meetings, Hugh Fairfield-Smith will present on completed and ongoing projects by the Eagle Valley Wildland (EVW) program. Hugh is EVW's Fire Management Officer.

EVW is an intergovernmental partnership between Eagle River Fire Protection District, Greater Eagle Fire Protection District, Gypsum Fire Protection District, and Eagle County. Resulting from the recognition of Colorado's fire history and the presence of a growing wildfire threat within Eagle County, the EVW program was formed in August 2019. The program has continued to evolve and currently employs six full-time staff members dedicated to response, planning, mitigation, and community education. EVW manages fire management activities across 1,680 square miles of Wildland Urban Interface (WUI), rural communities, forests, and rangeland. To accomplish this, the program functions as a pool of subject matter experts to coordinate pre, during, and post-incident activities between the emergency response agencies, communities, and members of the public across its jurisdiction.

EVW oversees all the Wildland fire operations and mitigation in Eagle County through partnerships with metropolitan districts, homeowner and property owner associations, Towns, and other government organizations. ERWSD became a partner in 2024.

More information regarding EVW is available at www.eaglevalleywildland.org.

Following his presentation, Hugh will be available to answer questions. Dan Siebert will also be available to answer questions regarding ERWSD's fire mitigation efforts.



MEMORANDUM

TO: Boards of Directors
FROM: Brian Thompson, Government Affairs Supervisor
DATE: July 19, 2024
RE: Compliance training overview

One of our ongoing priorities is to recalibrate and maintain administrative processes related to the Boards of Directors. Over the past year, we updated the Boards' bylaws, evolved best practices, and adopted, sun-setted, or updated policies. The next phase is developing a regular routine of compliance training for board members, which is critical as we continue to grow as a modern utility that prioritizes accountability, integrity, and a positive workplace culture.

As discussed at the May board meetings, we will annually review conflicts of interest. In addition, we will provide training on other ethical principles in accordance with industry standards and best practices to help board members maintain high standards of governance and better carry out their board responsibilities.

Compliance training is commonplace across the spectrum of government entities. The Special District Association of Colorado (SDA) encourages special districts to include compliance training for board members as this training is essential for:

1. **Ensuring Legal Adherence:** Helps board members and staff understand and comply with relevant laws and regulations, reducing the risk of legal violations.
2. **Promoting Good Governance:** Enhances the ability of board members to govern effectively and ethically.
3. **Building Public Trust:** Ensures transparency and accountability, fostering trust within the community.

We are developing a board compliance training curriculum that aligns with standards and recommendations published by the SDA, the Society for Human Resource Management (SHRM), the Equal Employment Opportunity Commission (EEOC), the Special District Leadership Academy (SDLA), and other subject matter experts. Based on our research, we have identified the following proposed topics as important for regular review by the boards. We suggest breaking the training up by covering each topic at a separate meeting, which aligns with data that presenting information in small, digestible chunks enhances overall effectiveness, engagement, and retention.

Proposed Board Compliance Training Topics (

- **Preventing and Addressing Harassment**
- **Preventing and Addressing Discrimination**
- **Fiscal Accountability**

- **Board Member Fundamentals**
 - Open Records and Open Meetings
 - Community Engagement

At the July 25 board meetings, Tom Borawski, the District's People Operations Manager, will present on preventing and addressing harassment. The goal of this training is to provide clear examples of what constitutes harassment – intentional and unintentional – and best practices to avoid liabilities and maintain a positive culture. This training is intended to be informational, with 15 to 20 minutes allocated on the board meeting agenda. If a director wishes to ask a detailed question or discuss a personal situation, we can arrange a private meeting with the GM and/or counsel; or, if needed, legal advice can be provided in executive session at a future meeting.



2024 ERWSD CONTRACT LOG

| Contract No. | Date Executed | Project Name | Contractor | Contract Amt. | Project Mgr. | Account No. | Total Amount per Account | Contract Type | Status / Description | District Total | Authority Total |
|--------------|---------------|---|-------------------------------------|---------------|--------------|--|---|---------------------------|---|----------------|-----------------|
| 24.15.059 | Pending | Miscellaneous Services for Distribution and Collection | Schofield Excavation Inc. | \$75,000.00* | N. Nemcanin | 10.3.9.10.20.520 10.3.9.20.20.520 20.1.9.00.35.500 | \$25,000.00 \$25,000.00 \$25,000.00 | Master Services Agreement | Master Services Agreement for miscellaneous excavating services for ERWSD and UERWA. | \$50,000.00 | \$25,000.00 |
| 24.15.060 | 07/09/24 | Miscellaneous Concrete Rehabilitation | Structural Preservation Systems LLC | \$75,000.00 | J. Schneider | 10.3.2.10.13.114 10.3.2.10.03.447 | \$50,000.00 \$25,000.00 | Master Services Agreement | Master Services Agreement for miscellaneous structural concrete repairs - starting with emergency repairs at EWWTF Grit Channel and AWWTF West RAS gallery. | | |
| 24.15.061 | 07/12/24 | 101 Eagle Road Office Renovation | DM Cleaning & Property Mngmnt LLC | \$12,000.00 | D. Duerr | 10.1.2.10.05.056 | \$12,000.00 | Construction Contract | Paint OTS area, repair various offices and paint/repair elevator lobby area. | | |
| 24.15.062 | Pending | Avon Wastewater Treatment Facility Nutrient Upgrades - Door Egress Hardware | VLK, Inc. | \$11,898.60 | D. Duerr | 10.3.2.10.03.447 | \$11,898.60 | Services Agreement | Purchase and install Emergency Egress Hardware in the Avon Wastewater Treatment Facility. | | |
| 24.15.063 | Pending | Edwards WWTF Nutrient Upgrades | Garney Companies, Inc. | \$455,000.00 | J. Beirsto | 10.3.2.10.03.505 | \$455,000.00 | Services Agreement | Pre-construction CMAR services for the Edwards WWTF Nutrient Upgrades Project. | | |
| 24.15.064 | Pending | 101 Eagle Road Office Renovation | Source Office And Technology | \$17,703.84 | D. Duerr | 10.1.2.10.05.056 | \$17,703.84 | Services Agreement | Move Traer Creek office furniture to 101 Eagle Road office, including 17 standing desks, 3 meeting tables, and purchase of 20 new chairs. | | |
| 24.15.065 | Pending | 101 Eagle Road Office Renovation | M&T Renovations, LLC | \$14,685.00 | D. Duerr | 10.1.2.10.05.056 | \$14,685.00 | Construction Contract | Prep floors and apply epoxy flooring to OTS basement area, approximately 800 sq/ft. | | |



BOARD ACTION REQUEST

TO: Boards of Directors
FROM: Brian Thompson, Government Affairs Supervisor
DATE: July 19, 2024
RE: Joint Resolution Expressing Support for the Eagle River Community Water Plan

On July 17, 2024, the District and Authority boards held a joint work session to discuss the Eagle River Community Water Plan. Directors requested that the boards take formal action to express support for the Plan. A joint resolution is attached herein for the boards' consideration.

Suggested motion: I move to approve and adopt Joint Resolution 2024-04, Expressing Support for the Eagle River Community Water Plan, as presented.

Attachment:

- Joint Res. 2024-04: Joint Resolution Expressing Support for the Eagle River Community Water Plan

JOINT RESOLUTION NO. 2024-04

**EAGLE RIVER WATER & SANITATION DISTRICT AND
UPPER EAGLE REGIONAL WATER AUTHORITY**

**RESOLUTION EXPRESSING SUPPORT FOR
THE EAGLE RIVER COMMUNITY WATER PLAN**

WHEREAS, the Eagle River Water & Sanitation District (the “District”) and Upper Eagle Regional Water Authority (the “Authority”) are quasi-municipal corporations and political subdivisions of the State of Colorado that operate a functionally integrated water and wastewater system constituting the second largest municipal water provider on the western slope; and

WHEREAS, the Eagle River is a resource that supports ecosystem function and provides drinking water, recreational opportunities, and economic vitality to more than 50,000 people in Eagle County; and

WHEREAS, the District and Authority have participated since 2017 in the development of the Eagle River Community Water Plan (the “Plan”) and provided hydrologic modeling to support the planning effort; and

WHEREAS, the Plan is a long-range planning document that considers the past, present, and future of the Eagle River watershed and identifies opportunities to correct historical degradation and prevent and mitigate against non-desirable future conditions; and

WHEREAS, the Plan was developed with a wide-range of community stakeholder involvement to provide insight into the community’s watershed-level values and priorities that apply more broadly to the entire watershed; and

WHEREAS, the Plan is consistent with the mission of the District and Authority, as well as the goals and objectives of the communities in the Eagle River watershed for collaboratively addressing the region’s water future; and

WHEREAS, the Plan does not supersede or serve as a substitution for any local, state, or federal permitting processes or subvert any existing water rights, and any objective or action identified in the Plan will be considered within existing legal and regulatory frameworks; and

WHEREAS, the Boards of Directors of the District and Authority (the “Boards”) convened a joint work session on July 17, 2024, to discuss the Plan and support the use of the Plan to prioritize programs, projects, policies, and studies to meet the objectives identified in the Plan, in conjunction with relevant and adopted plans and other formal organizational priorities.

NOW, THEREFORE, be it resolved that the Boards of Directors of the Eagle River Water & Sanitation District and the Upper Eagle Regional Water Authority hereby express support for the Eagle River Community Water Plan.

ADOPTED AND APPROVED this 25th day of July, 2024.

EAGLE RIVER WATER & SANITATION DISTRICT

By: _____
Dick Cleveland, Chair

Attest:

Robert Warner, Jr., Secretary

UPPER EAGLE REGIONAL WATER AUTHORITY

By: _____
George Gregory, Chair

Attest:

Kim Bell Williams, Secretary



M E M O R A N D U M

TO: Board of Directors
FROM: Brian Thompson, Government Affairs Supervisor
DATE: July 19, 2024
RE: PFAS Class Action Settlement

Summary of subject: The District may opt out of the PFAS class action settlement in *City of Camden, et al., v. Tyco Fire Products LP*, No. 2:24-cv-02321-RMG (“Tyco Settlement”). The Tyco Settlement closely mirrors the structure and language of the 3M and DuPont settlements, of which the District opted out on Nov. 30, 2023, and contains many of the same issues. The settlement amount is smaller than the 3M and DuPont settlements. If the District does not opt out by the Sept. 23, 2024, deadline, it will automatically be entered into the settlement agreement.

Background and Discussion: On Nov. 30, 2023, the District and Authority boards discussed PFAS class action settlements by 3M and DuPont, and each board voted to opt out of these settlements. On June 7, 2024, the District received a Notice of Proposed Class Action Settlement and Court Approval Hearing regarding another class action defendant, Tyco Fire Products. On July 18, Bushong & Holleman, P.C. reported that the District falls within the Tyco Settlement Class, which is defined as all Public Water Systems which have PFAS detections at any level before May 15, 2024, and the Tyco Settlement “closely mirrors the structure and language of the 3M and DuPont settlements and contains many of the same issues. The release provision is largely identical to those in the 3M and DuPont settlement agreements, which we found to be overbroad and vague (Tyco Settlement § 11). The claims-over provision is similarly broad and functions basically as an indemnity.” The deadline to opt out of the Tyco Settlement is September 23, 2024.

Bushong & Holleman also stated “there’s not much benefit to staying in” the Tyco settlement due to the low potential payout (roughly \$18,880 total for both the District and Authority based on Tyco’s estimated allocation table). As discussed at the Nov. 30, 2023, joint board meeting, not opting out of a class action settlement would result in forfeiting future legal rights to compensation. Similar to the 3M and DuPont settlements, the compensation associated with staying in the settlement agreements is far outweighed by the potential impacts of PFAS on water and wastewater operations and the associated treatment costs. Therefore, the decision to opt out of Tyco makes sense given the decision to opt out of the 3M and DuPont settlements, as the relatively small payout under Tyco “is probably not worth the unknown future liabilities you take on if you chose to remain in the settlement class.”

Based on previous board discussion and the analysis that the Tyco Settlement is materially similar to the 3M and DuPont settlements, we felt comfortable bringing this before the board in open session at the July 25 board meeting. To maximize District time and resources, the board may expand its authorization to provide direction to opt out of future similar PFAS class action settlements, unless there is a material change in the terms or a greater potential payout than was available for 3M and DuPont, or other concerns. The board would continue to be informed of all relevant class action settlement notices and would retain the ability to authorize direction for settlements that are materially different.

A suggested motion is provided below, which has been reviewed by counsel. Also attached is a copy of Steve Bushong’s Nov. 30, 2023, public memo outlining issues related to the 3M and DuPont settlements

and the “pros and cons” of staying in the class action settlements (also applicable to the Tyco Settlement). If the boards prefer, this action can be tabled until the Aug. 22 board meetings to receive further information from Bushong & Holleman.

Suggested motion: I move to direct Bushong & Holleman, PC, to take such actions as necessary for the District to opt out of all PFAS class action settlements that contain, in the opinion of Bushong & Holleman, similar structures, language, and issues as the 3M and DuPont settlements, of which the District opted out on Nov. 30, 2023. This authorization may be revoked or modified by the Board at any time.

Attached Supporting Documentation: Memorandum from Steve Bushong to the District and Authority Boards, Nov. 30, 2023

Bushong & Holleman PC

A t t o r n e y s • a t • L a w

1525 Spruce Street, Suite 200, Boulder, Colorado 80302

TO: Board of Directors for the Eagle River Water & Sanitation and the Upper Eagle Regional Water Authority.

FROM: Steve Bushong

DATE: November 27, 2023

RE: Decision regarding PFAS Class Action Settlements

As you are aware, there are two pending class action settlements involving the presence of PFAS in Public Water Systems (“PWS”). Unless they opt out by the deadlines (December 4 and 11), ERWSD and UERWA will be subject to those settlement agreements if the settlements are ultimately approved by the Court.

The decision to stay in or opt out of the settlement agreements is complicated by broad and sometimes vague language in the agreements as described below. Some of the issues that arise under the settlement agreements were raised in objections filed by ERWSD and UERWA. Special Counsel obtained an order from the Court clarifying that the filing of objections would not preclude opting out. However, those objections are unlikely to be resolved prior to the opt-out deadlines. The purpose of this Memorandum is to provide a high-level summary of the pros and cons of staying in or opting out of the class action settlement agreements to facilitate a decision.

Scope of the Issue. We don’t fully understand the scope of the PFAS contamination issue. There are 1000s of chemicals that fall within this class of chemicals, but only 29 are currently required to be monitored. UERWA has detected PFAS in 4 out of 5 sources and ERWSD has detected PFAS in 1 out of 6 of its sources. All PFAS detections are less than the current 4 parts per trillion (“ppt”) maximum contaminant level for a PWS. However, EPA states that the goal is 0 ppt. Activated carbon is currently the treatment being used for PFAS. Treatment costs for public water systems will be significant – as will monitoring costs. In the event effluent limits are ever adopted for PFAS, the costs to wastewater treatment providers will also be significant. Given that PFAS has been in use starting in the 1950s, does not biodegrade, and may cause adverse health effects at very low levels, PFAS will be an ongoing issue for PWS for a long time.

Pros of Staying in Class Action Settlement Agreements. The clearest pros of staying in the settlement agreements are as follows:

- Some compensation will be received. It is not possible to calculate the exact amounts of compensation, but estimates are that UERWA would receive about \$400,000 and ERWSD about \$80,000 for the *known* contamination in their water sources. There’s also potential for future compensation for later PFAS detections and monitoring.

- No need to incur costly and difficult litigation.
- It is unknown whether any compensation can be achieved after opting out for the following principle reasons:
 - Uncertainty of litigation.
 - PWS that opts out will likely go to the “end of the line” behind PFAS cases already pending for personal injury and private well owners/small water providers.
 - It is unclear whether the current defendants (3M and DuPont) will survive all the PFAS litigation. 3M is about 70% and Dupont about 5% of the PFAS market share.

Cons of Staying in the Class Action Settlements. The clearest cons of staying in the settlement agreements are as follows:

- The release in the settlement agreements is very broad. Any existing or future claim related to PFAS in a public water system is released against defendants, regardless of any regulatory changes that may occur, and the definition of PFAS appears to capture most if not all PFAS compounds. The release is “as broad, expansive, and inclusive as possible” and would include, for example, personal injury claims.
- The release includes an exclusion for wastewater claims, but only so long as the “facility is separate from and not related in any way to the Class Member’s Public Water System.” One could read that language as not excluding a wastewater facility from the release if it receives wastewater from a public water system, but that would seem to defeat the very purpose of the exclusion.
- By staying in the settlement, ERWSD and UERWA would become a “Releasing Party,” which is broadly and vaguely defined to be releasing not only your claims, but by example, those of any entity or person “acting in privity with or acting on behalf of or in concert with” you or your PWS, or that is “legally responsible for funding” you or your PWS. The definition of Releasing Party is to “be as broad, expansive, and inclusive as possible.” Thus, other parties or individuals could be bound by ERWSD’s and UERWA’s decisions.
- An indemnity clause was replaced with new provisions due to earlier objections, but the new provisions could still require indemnification under some circumstances. Specifically, although the new provision is designed to preclude certain future PFAS litigation, if nonetheless such litigation involving a Class Member’s PFAS in its PWS were to result in a PFAS award against 3M or DuPont, the Class Member may be required to reduce its compensation “by whatever amount is necessary, or take other action as is sufficient, to fully extinguish” the claim against 3M or DuPont.

- 3M is the significantly larger settlement, but payments by 3M are made over time. There is the risk that 3M declares bankruptcy before paying out the full amount.
- The compensation associated with staying in the settlement agreements will not cover costs associated with PFAS for very long and the compensation to PWS from the defendants is capped.

Complication for ERWSD and UERWA Decision. Although ERWSD and UERWA both own and operate their own water treatment facilities and will thus incur their own PFAS costs, they are very interrelated entities. For example, CDPHE treats the two entities as one for purposes of regulatory compliance programs and ERWSD treats wastewater from UERWA customers. That raises a question. If one opts out and the other stays in, will the release agreed to by the party staying in be inferred upon the party opting out for the reasons described above.

Recommendations. The above circumstances make this a very entity-specific determination. I am generally of the opinion that the question comes down to weighing the known compensation and potential for future compensation under the settlements against the potential risks of the broad language in the settlements. Thus, the smaller the known compensation the less value exists in staying in the settlements. However, I have clients with zero known compensation that are staying in the settlement agreements, and I suspect there are some PWS with large compensation that may opt out.



BOARD COMMITTEES

DISTRICT

| | |
|-----------------------------------|---|
| <i>Audit/Budget</i> | Dick Cleveland Steve Coyer *Sarah Smith Hymes |
| <i>Employee Housing</i> | Steve Coyer Rick Pylman *Robert Warner, Jr. |
| <i>Retirement Plans</i> | Robert Warner, Jr. Siri Roman David Norris *Dick Cleveland |
| <i>Organizational Development</i> | Robert Warner, Jr. Dick Cleveland *Timm Paxson |
| <i>Water Quality</i> | Sarah Smith Hymes Timm Paxson *Steve Coyer |

AUTHORITY

| | |
|---------------------|--|
| <i>Audit/Budget</i> | Geoff Dreyer George Gregory *Joanna Kerwin |
|---------------------|--|

JOINT

| | |
|------------------------------|---|
| <i>Rules and Regulations</i> | Kim Bell Williams (A) Robert Warner, Jr. (D) *George Gregory (A) *Rick Pylman (D) |
| <i>Water Conservation</i> | Kevin Hillgren (A) Tamra Underwood (A) Kate Burchenal (D) Steve Coyer (D) *Geoff Dreyer (A) *Sarah Smith Hymes (D) |

(A) = Authority, (D) = District

**Backup committee member
(serves in the absence of a primary member)*



**UPPER EAGLE REGIONAL
WATER AUTHORITY**

GOVERNED BY:

The Metropolitan
Districts of:
Arrowhead
Beaver Creek
Berry Creek
EagleVail
Edwards

The Town of Avon

MEMORANDUM

TO: Board of Directors
FROM: Brian Thompson, Government Affairs Supervisor
DATE: June 21, 2024
RE: Summary of Authority's May 23, 2024, Board Meeting

The following is a summary of items discussed at the Authority's May 23, 2024, board meeting. Directors present and acting were Chair George Gregory, Secretary Kim Bell Williams, Treasurer Geoff Dreyer, Joanna Kerwin, and Tamra Underwood.

| | |
|---|--|
| Extending Board Officer Terms | Board officer terms were extended to May 2025 to realign with regular special district elections. |
| EPRC Board Representative | George Gregory was appointed as the Authority's representative to the Eagle Park Reservoir Company (EPRC) Board of Directors for the EPRC 2025 fiscal year. |
| Conflicts of Interest | Kathryn Winn provided an annual review of conflicts of interest and encouraged directors to update their Potential Conflicts of Interest Questionnaires. |
| 2025 Rate Restructure Analysis | The board supported incorporating updated methodologies on <i>Commercial</i> , <i>Municipal</i> , <i>Multi-Family</i> and <i>Mixed-Use</i> account types into 2025 rate structures. These changes will align base charges, use rates, and impact fees to meter size on these accounts, rather than to Single Family Equivalent (SFE) units as currently used. This restructuring will improve the equity and consistency of these rates. |
| Policy Updates | A draft Digital Accessibility Policy and proposals to sunset the Policy for Use-Based Tap Fee Calculation and amend the Tap Fee Policy for Public Use Facilities were presented. The board will consider action on these updates at the June 27 meeting. |
| Shoshone Water Right Preservation Campaign | The board approved a financial commitment in the amount of 62% of a \$1 million joint contribution with ERWSD to support the purchase of the Shoshone water right, subject to future budget appropriations, the Colorado River District fulfilling its purchase contingencies, and ERWSD committing to the remaining 38%. |
| Quarterly Financial Report | Jim Cannava said first-quarter financials are tracking to budget and operating revenues are favorable despite a decrease in consumption. |
| Bolts Lake Update | Jason Cowles said the Bolts Lake program manager, Black & Veatch, is developing a project schedule, a Request for Proposals (RFP) for the Final Design Team, and a purpose and need statement for permitting. |
| Legislative Update | Diane Johnson said she testified in opposition to HB24-1463, Restrictions on Tap Fees; the bill was subsequently heavily amended. |



MEMORANDUM

TO: Boards of Directors
FROM: Siri Roman, General Manager
DATE: July 17, 2024
RE: General Manager Report

Water Affordability & Regulatory Flexibility

On July 9, the district hosted senior leaders from the Colorado Department of Public Health and Environment (CDPHE) to discuss regulations, discharge permit compliance schedules, unique challenges, competing priorities, and the increasing financial implications to rate payers. We toured the Vail wastewater treatment facility, showing the challenges of operating a treatment facility in the center of a resort town (due to variable flows and loads), the constricted site, and the difficulty and high costs to complete process upgrades given the site layout. We also highlighted nutrient complexity in the headwaters, the existing high quality effluent water quality, and the gold medal fishery that starts below the treatment facility outfall.

CDPHE staff provided guidance on possible Environmental Protection Agency (EPA) regulatory tools that would consider priorities and the significant financial burden being placed on small communities including developing an [integrated plan](#), assessing [financial capability](#), nutrient trading, and modifying discharge permit compliance schedules. District staff is evaluating these resources as we continue to work on a 20-year financial and capital plan.



**Fiscal Year 2024
Quarterly Financial Report
For the 2nd Quarter Ending June 30, 2024**

1. Quarterly Financial Report Cover Memo
2. Net Income & Budget Comparisons
3. Revenue Comparisons
4. Bond & Cash Balances
5. Housing Report



To: Board of Directors
From: Jim Cannava, Finance Manager
Date: July 17, 2024
Re: Quarterly Financial Reports – Q2 2024

The 2nd Quarter 2024 financial reports are attached. Wastewater & water operating revenues are 5.2% favorable to budget due to increased consumption year-over-year. Combined operating expenses are 3.3% favorable to budget despite significant overages due to emergency distributions system repairs.

We are estimating the need for a \$23M bond issue by year-end to fund projects over the next three years. The estimate 2025 rate impact will be \$13 per SFE per month. The expected timing of the bond issuance is late 2024 to be included in the 2025 rate packages.



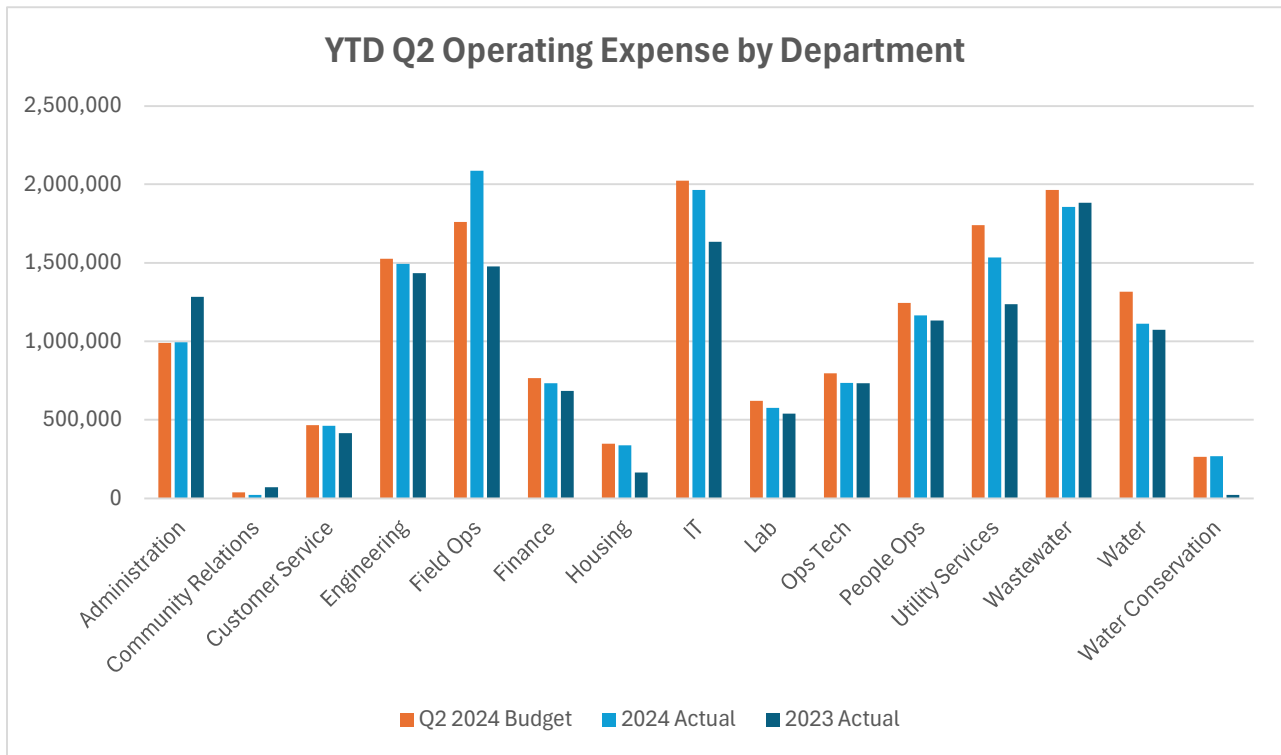
Net Income & Budget Comparisons

| WASTEWATER | | | | |
|----------------------------------|----------------------|---------------------|---------------------|--------------------|
| Operating | Annual Budget | Q2 2024 | Variance | Q2 2023 |
| Revenue | \$25,402,996 | \$14,095,190 | \$11,307,805 | \$12,704,607 |
| Expense | \$24,293,194 | \$12,027,828 | \$12,265,365 | \$11,032,433 |
| Net Income | \$1,109,802 | \$2,067,362 | \$957,560 | \$1,672,174 |
| Non-Operating | Annual Budget | Q2 2024 | Variance | Q2 2023 |
| Revenue | \$11,122,165 | \$6,875,962 | \$4,246,203 | \$5,473,390 |
| Expense | \$12,275,340 | \$4,112,132 | \$8,163,208 | \$4,573,512 |
| Net Income | (\$1,153,176) | \$2,763,830 | \$3,917,006 | \$899,878 |
| Net Income | (\$43,374) | \$4,831,192 | \$4,874,566 | \$2,572,051 |
| Unrestricted Fund Balance | Annual Budget | Q2 2024 | YE 2023 | |
| Beginning Balance | \$31,880,001 | \$31,880,001 | \$20,139,802 | |
| Net Income/Restrictions Adj | (\$43,374) | \$4,831,192 | \$11,740,199 | |
| Ending Balance | \$31,836,627 | \$36,711,193 | \$31,880,001 | |

| Water | | | | |
|----------------------------------|----------------------|--------------------|--------------------|--------------------|
| Operating | Annual Budget | Q2 2024 | Variance | Q2 2023 |
| Revenue | \$7,635,002 | \$3,877,666 | \$3,757,336 | \$3,401,792 |
| Expense | \$7,029,442 | \$3,493,714 | \$3,535,728 | \$3,011,274 |
| Net Income | \$605,561 | \$383,952 | \$221,608 | \$390,518 |
| Non-Operating | Annual Budget | Q2 2024 | Variance | Q2 2023 |
| Revenue | \$3,235,940 | \$2,269,681 | \$966,259 | \$2,296,303 |
| Expense | \$3,480,024 | \$879,570 | \$2,600,454 | \$645,696 |
| Net Income | (\$244,084) | \$1,390,111 | \$1,634,195 | \$1,650,607 |
| Net Income | \$361,476 | \$1,774,063 | \$1,412,587 | \$2,041,125 |
| Unrestricted Fund Balance | Annual Budget | Q2 2024 | YE 2023 | |
| Beginning Balance | \$6,454,988 | \$6,454,988 | \$3,999,201 | |
| Net Income/Restrictions Adj | 361,476 | 1,774,063 | 2,455,787 | |
| Ending Balance | \$6,816,464 | \$8,229,051 | \$6,454,988 | |

Combined YTD Expenses

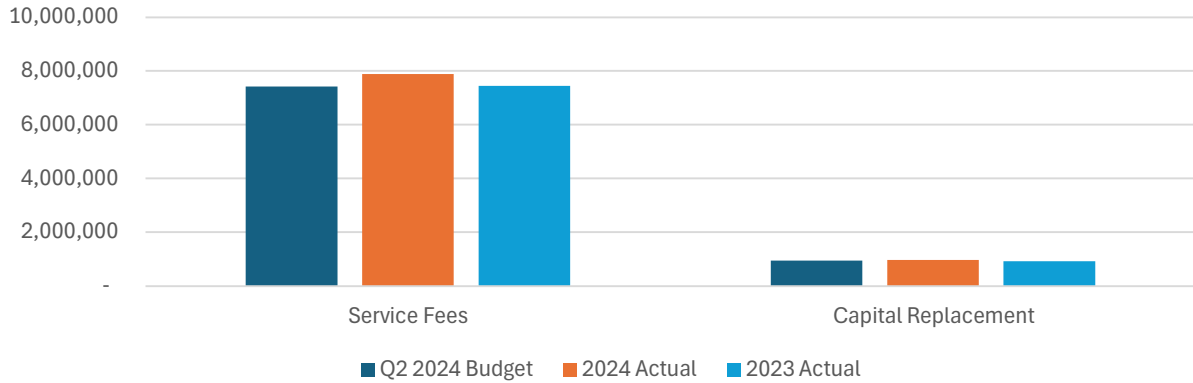
| Expense Type | 2024 Revised Budget | 2024 Actual | (Over) Under | % Remaining | 2023 Actual | YOY Var |
|---------------|---------------------|---------------------|---------------------|-------------|---------------------|------------|
| Operating | \$30,867,302 | \$15,345,611 | \$15,521,690 | 50% | \$13,786,240 | 11% |
| Housing | \$455,334 | \$175,931 | \$279,403 | 61% | \$257,467 | -32% |
| Debt Service | \$10,327,691 | \$3,003,063 | \$7,324,628 | 71% | \$3,380,203 | -11% |
| Capital & CRP | \$6,103,147 | \$1,988,639 | \$4,114,508 | 67% | \$1,839,005 | 8% |
| Bond Project | \$12,436,327 | \$2,316,497 | \$10,119,830 | 81% | \$4,745,621 | -51% |
| Total | \$60,189,800 | \$22,829,742 | \$37,360,058 | 62% | \$24,008,535 | -5% |



- Field Operations is over budget due to emergency distribution system repairs.
 - Distribution repairs have exceeded the annual budget by \$80K.
 - The three-year average distribution repair expense in the second half of the year is \$219K.
 - We will monitor year-end projections to determine if the budget will require a restatement to accommodate the emergency repairs.

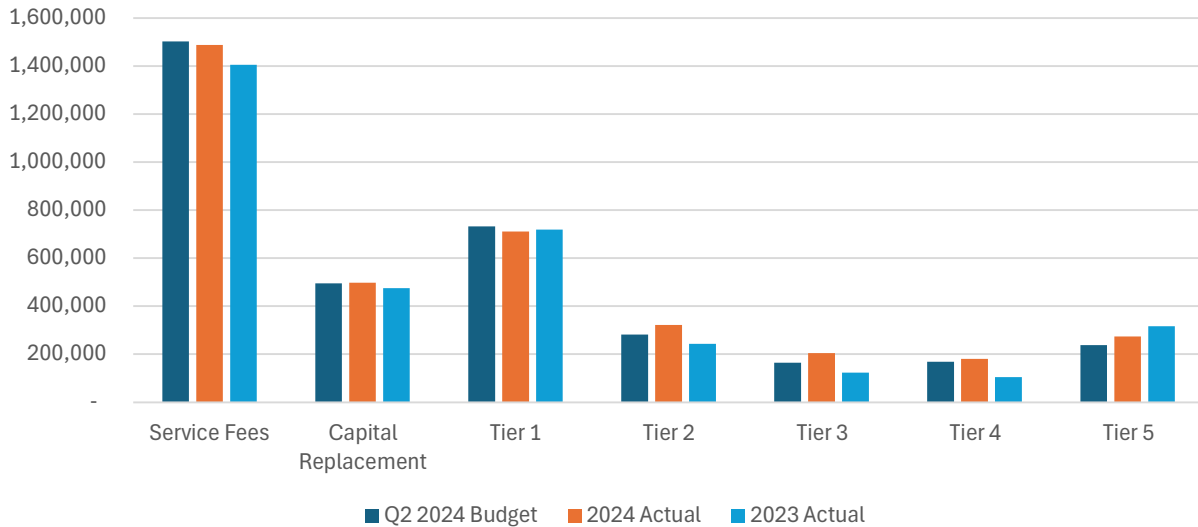
Revenue Comparison

YTD Q2 2024 Wastewater Revenues



- Wastewater Base Service revenues are 6.1% greater than budget due to greater water use over 5 kgal than expected and SFE growth. CRP revenues are 1.7% greater than the budget due to SFE growth.

YTD Q2 2024 Water Revenues



- Water Base Service revenues and tiered use revenues are 6.75% greater than budget primarily due to 5.7% greater consumption year-over-year.
- CRP & Base Fees are on budget.



Bond & Cash Balances

WASTEWATER

| WW Bond Funds | Annual Budget | Q2 2024 | YE 2023 |
|---------------------|---------------------|--------------------|---------------------|
| Beginning Balance | \$23,590,915 | \$23,590,915 | (\$8,016,457) |
| Bond Proceeds | \$0 | \$0 | \$47,328,671 |
| Expense | \$12,050,255 | \$13,706,541 | \$15,721,299 |
| Bond Balance | \$11,540,660 | \$9,884,374 | \$23,590,915 |

| WW Bond Projects | Budget | Expense | Remaining Budget |
|--|---------------------|------------------|------------------|
| EWWTf Nutrient Upgrades | 4,000,000 | 491,733 | 3,508,267 |
| VWWTf Master Plan Capital Improvements | 3,669,726 | 694,535 | 2,975,192 |
| AWWTf Nutrient Upgrades | 250,000 | 42,110 | 207,890 |
| 2022 WW Master Plan Update | 177,984 | 73,520 | 104,463 |
| Dowd Junction Collection System Improve. | 1,749,645 | 751,115 | 998,530 |
| Cascade Sewer Main Project | 700,000 | - | 700,000 |
| Minturn Siphon Project | 515,184 | - | 515,184 |
| Gore Valley Trail @ Dowd Jct. Repair | 312,243 | - | 312,243 |
| Land and Facility Acquisitions | 675,473 | 19,535 | 655,938 |
| Total | \$12,050,255 | 2,072,548 | 9,977,706 |

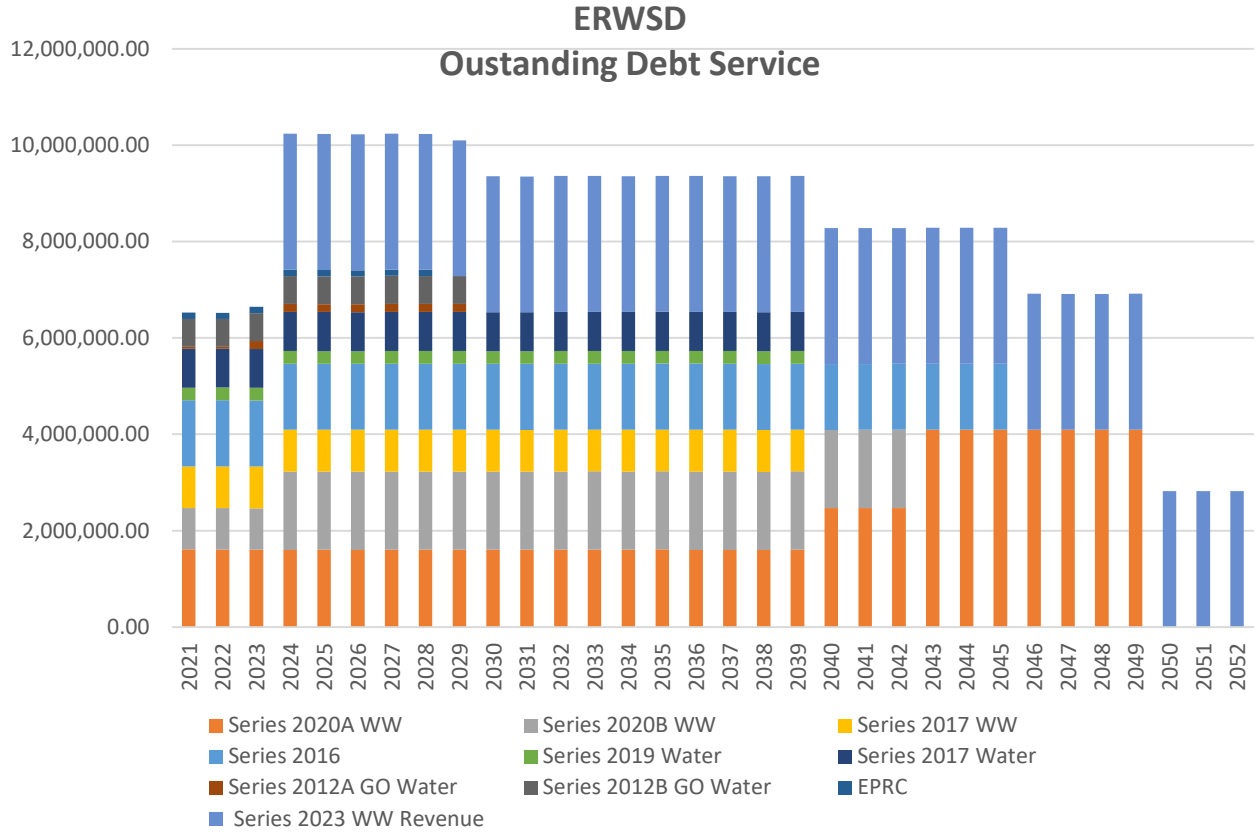
WATER

| Bond Funds | Annual Budget | Q2 2024 | YE 2023 |
|---------------------|----------------------|----------------------|----------------------|
| Beginning Balance | (\$1,237,554) | (\$1,237,554) | (\$163,082) |
| Expense | \$1,061,545 | \$318,293 | \$1,074,472 |
| Bond Balance | (\$2,299,099) | (\$1,555,847) | (\$1,237,554) |

| Project | Budget | Expense | Remaining Budget |
|-----------------------------|------------------|----------------|------------------|
| Bolts Lake Reservoir | 535,627 | 193,968 | 341,658 |
| N. Frontage Road Water Main | 525,918 | 124,324 | 401,594 |
| Total | 1,061,545 | 318,293 | 743,252 |

- Preliminary water project estimates require a \$23M bond issue by year-end with an estimated rate impact of \$13 per SFE per month.

Debt & Cash/Investments



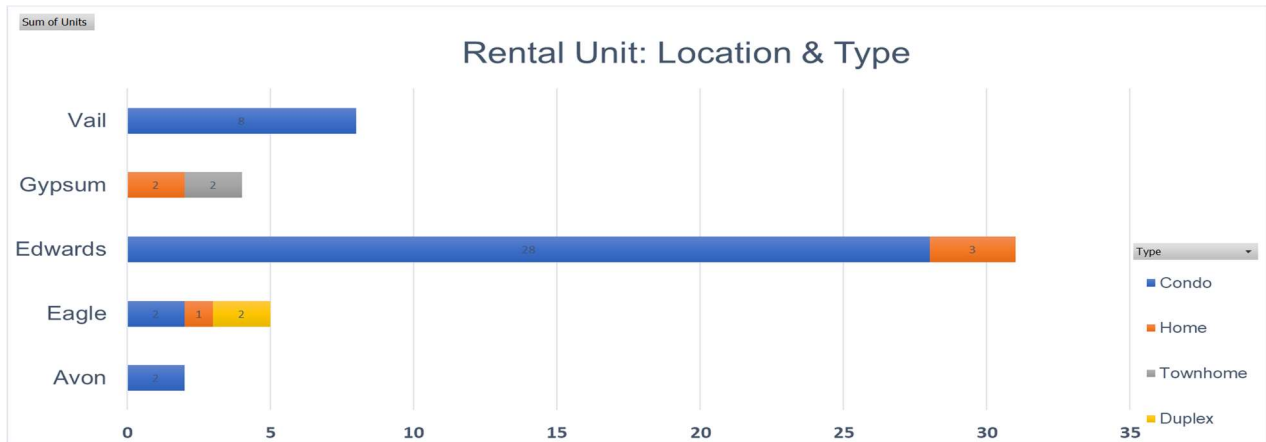
- Wastewater Debt Service Outstanding: \$218,354,046
- Water Debt Service Outstanding: \$22,154,300
- Total Outstanding Debt Service: \$240,508,346

| ERWSD WW & W | 2024 | 2023 | 2022 | 2021 |
|-----------------------|--------------|---------------|--------------|--------------|
| Combined Cash Balance | \$63,311,729 | \$ 59,950,193 | \$26,705,049 | \$49,529,239 |



Housing Report

| Location | Total Units | Revenue | Expense | Net Income |
|---------------------|-------------|------------------|------------------|------------------|
| 424 3rd Str | 2 | \$0 | \$71,828 | (\$71,828) |
| Buckhorn Lots | 1 | \$0 | \$127 | (\$127) |
| Cattail | 8 | \$60,572 | \$28,532 | \$32,040 |
| Crazy Horse | 2 | \$20,009 | \$6,968 | \$13,041 |
| Eagle Master Leases | 2 | \$19,744 | \$16,870 | \$2,874 |
| Liftview | 2 | \$14,868 | \$7,361 | \$7,507 |
| Nighthawk | 2 | \$15,290 | \$4,037 | \$11,252 |
| Ryshot | 1 | \$12,460 | \$291 | \$12,169 |
| Stillwater | 21 | \$183,519 | \$22,347 | \$161,171 |
| Stratton Flats | 2 | \$24,018 | \$1,570 | \$22,448 |
| Vail | 8 | \$69,708 | \$17,912 | \$51,796 |
| Total | 51 | \$420,187 | \$177,844 | \$242,343 |

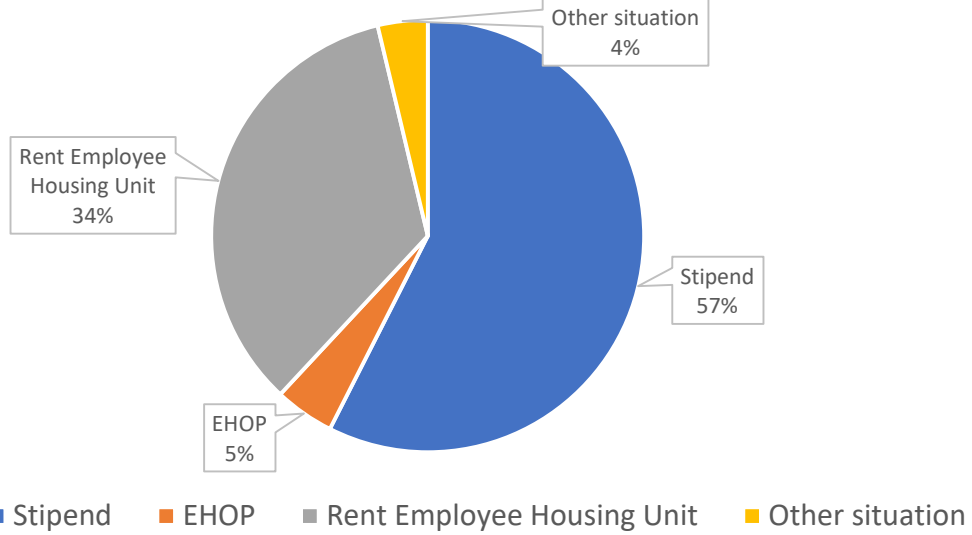


| Housing Fund | Annual Budget | Q2 2024 | YE 2023 |
|-------------------|-------------------|--------------------|-------------|
| Beginning Balance | \$382,910 | \$382,910 | (\$151,367) |
| Unit Sales | \$138,270 | | \$249,385 |
| Revenue | \$929,855 | \$420,187 | \$771,092 |
| Expense | \$630,334 | \$328,691* | \$486,200 |
| Ending Balance | \$820,701 | \$474,407 | \$382,910 |
| Target | \$875,256 | \$875,256 | |
| Variance | (\$54,555) | (\$400,849) | |

*Includes housing capital replacement and operating expenses

- The annual budget is projecting the ending balance to be 55K below the target. This is better than expected due to the sale of the Buckhorn lots.

Housing Program Benefit Distribution



- 134 employees are currently participating in the housing program.
- Other situations include employees sharing units and employee purchased units.

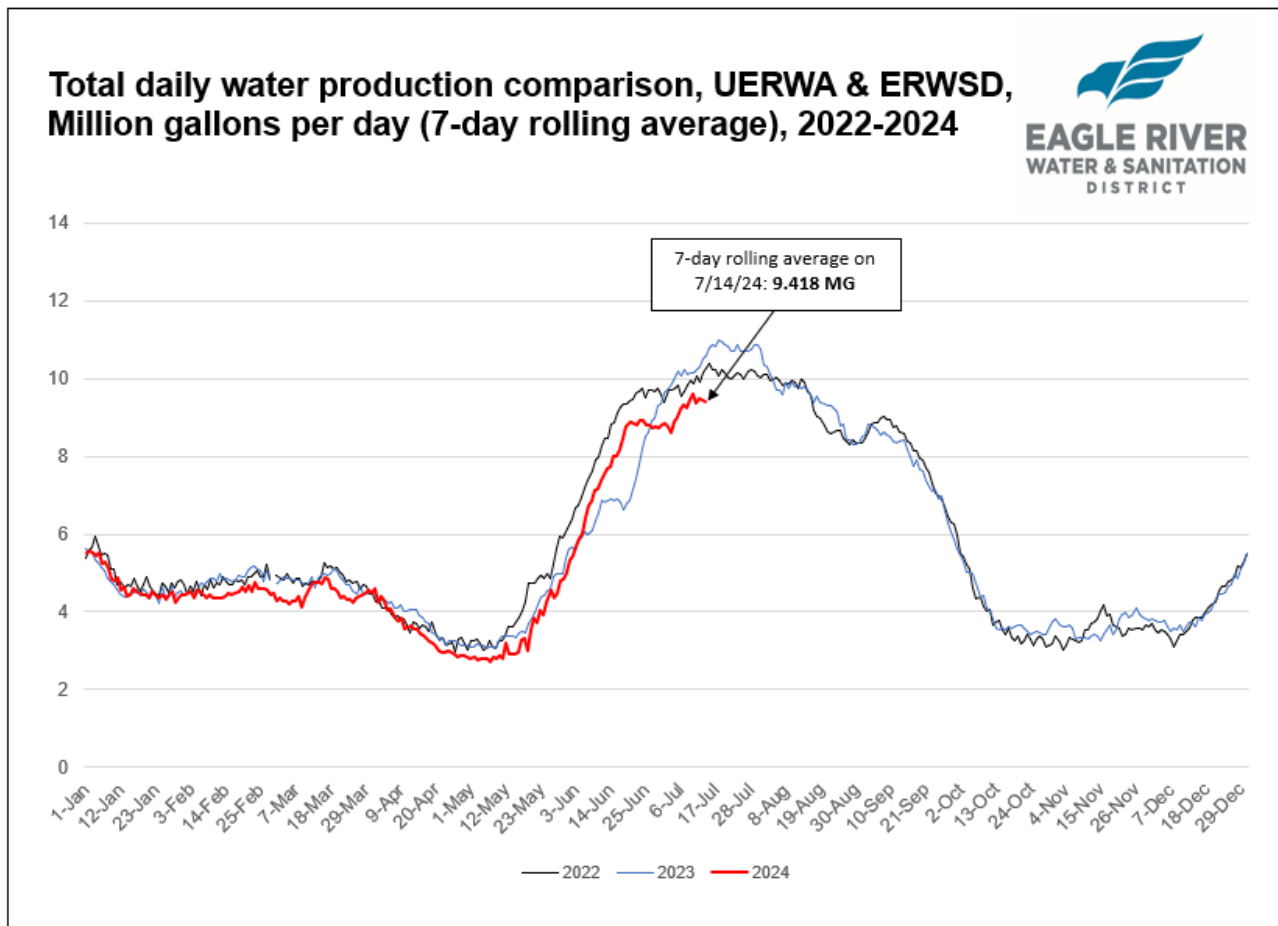


OPERATIONS MONTHLY REPORT JULY 2024

WATER

Kailey Rosema

The system-wide water production comparison was updated through Jul. 14. System production is normal for this time of year.



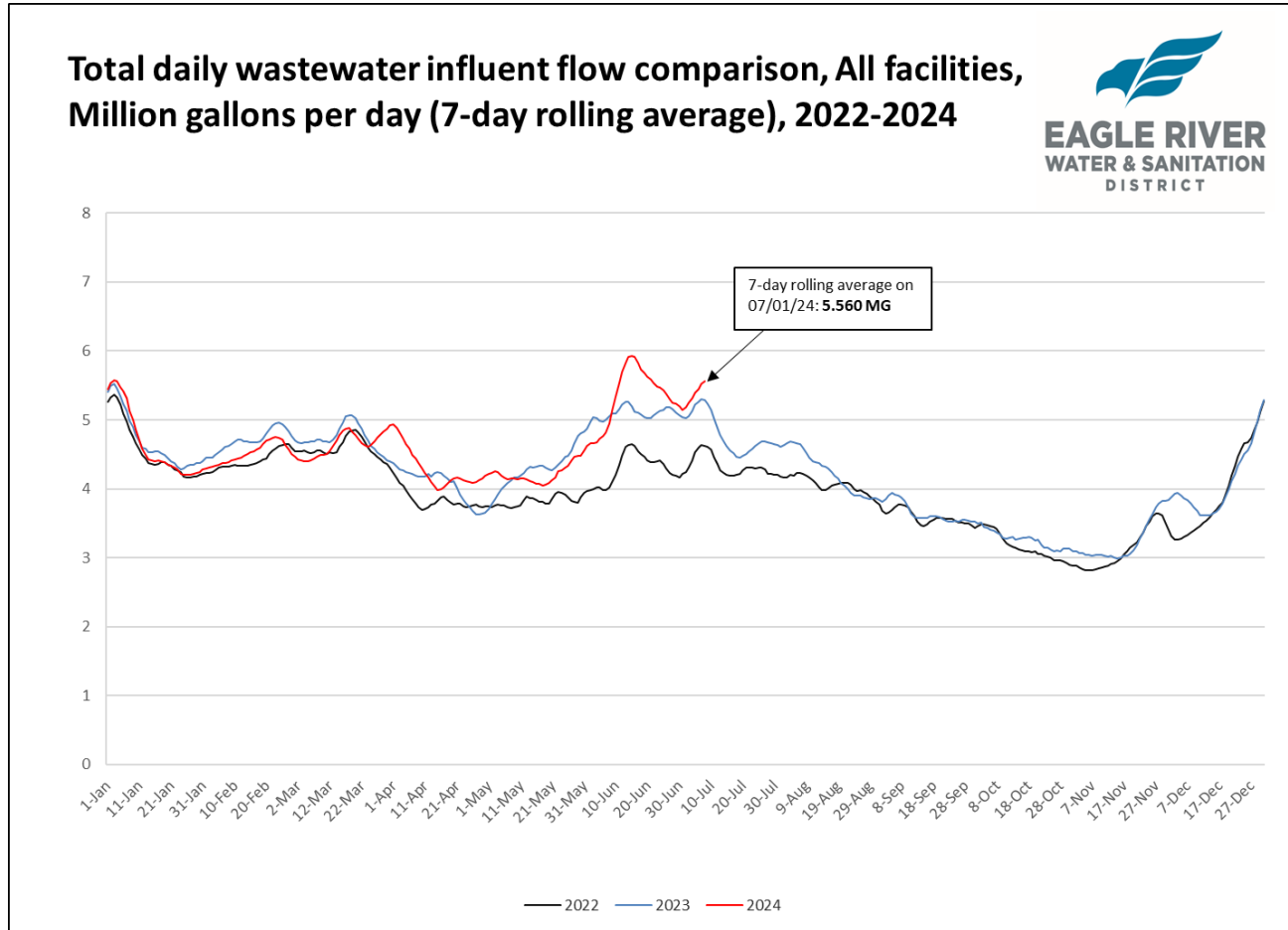
Vail Well R7 remains out of service until a casing repair can be made. On Jun. 19, a swage repair was attempted inside the casing. The swage repair slowed, but did not fully stop, the groundwater infiltration observed at approximately 10 feet below ground surface. As the next step, the soil around the exterior of the casing will be excavated to allow the damage to be visually inspected.

Clean Water. Quality Life.™

WASTEWATER

Chris Giesting

Wastewater flow has decreased after the seasonal spikes observed during spring runoff and the Fourth of July holiday. Flow is normal for this time of year.



FIELD OPERATIONS

Niko Nemcanin

On Jun. 19 Field Operations staff assisted with a water service repair near the Beaver Creek Golf Course. The water service was inadvertently damaged by a contractor that was doing work at the golf course. The inactive service was removed and abandoned.



Beaver Creek Golf Course water service repair (excavation and pipe damage left; repair right)

On Jun. 28, Field Operations staff repaired a water main leak near Beaver Creek Golf Course. The damaged pipe was removed and replaced.



Beaver Creek Golf Course water main repair (excavation left; repaired pipe right)

UTILITY SERVICES

Shane Swartwout

BPCCC Program

June and July are the peak months for irrigation assembly testing. The BPCCC staff is actively working with customers to ensure the Jul. 31 irrigation testing deadline is met. Last month, a total of 419 backflow assemblies were tested.

Fats, Oils, and Grease (FOG) Program

District staff conducted site visits at multiple Eagle County School District facilities to introduce the FOG program. The school district has eight school cafeterias that are in the compliance pool. The team also initiated site visits at other food service establishments (FSE) across the service area to introduce the new FOG regulations.

Fleet and Facilities

This year, the Fleet and Facilities team expanded its responsibilities to include grounds maintenance at major District facilities. The team is currently focused on tree removal, fire mitigation, mulching, gardening, and weed control at the water and wastewater treatment plants.

CAPITAL IMPROVEMENT PROGRAM (CIP)

Jeff Schneider

WATER PROJECTS**Cordillera West 1 Water Storage Tank Rehabilitation**

Kevin Nelson

General Project Scope: The Cordillera West 1 Water Storage Tank is a 400,000-gallon, above-ground, steel tank. The project scope involves sandblasting and recoating the tank surfaces, installing a cathodic protection system, and various improvements to the vent, hatch, and overflow/drain systems.

Project Update: CDPHE construction approval was received. The scope of work has been finalized and a construction phasing plan is under development. The project will be advertised for bid on Jul. 19. The rehabilitation work is expected to begin in September, after the peak irrigation season.

North Frontage Road Watermain Improvements

Kevin Nelson

General Project Scope: This project involves construction of approximately 475 linear feet of 10-inch diameter water main from just east of the culvert crossing at Middle Creek, up the hillside to Mountain Bell Road, and to the top of the Middle Creek Village complex.

Project Update: Pipe installation is complete and the new main has been placed into service. The project is expected to be complete in mid-July.

Arrowhead Transmission Main

Mark Mantua

General Project Scope: This project includes replacement of approximately 2,200 linear feet of 16-inch diameter water main from the base of Arrowhead Mountain to Arrowhead Tank 1. The existing pipe is badly corroded. The project also includes installation of a new valve control vault that will help optimize tank filling and balance tank levels in the low-pressure zone.

Project Update: The contractor mobilized to the jobsite and construction work has started. Investigative potholing, excavation, and HDPE pipe fusing activities are ongoing. The first tie-in to the existing distribution system is scheduled for the week of Jul. 15.

Wildridge BPS, PRV, and Tank Improvements

Carter Keller

General Project Scope: This project addresses high priority recommendations from the 2020 Distribution System Master Plan and involves improvements to the pumping, storage, and pressure regulating facilities in the Wildridge service area. The scope includes mechanical, electrical, structural, architectural, and electrical improvements at multiple sites, including installation of an on-site emergency generator at Wildridge Booster Pump Station (BPS) 1.

Project Update: A new tank drain, overflow piping, connections, valves, and appurtenances are currently being installed at the Avon Tank 1/Wildridge BPS 1 site. The project team is currently working with the Town of Avon to procure permits for the remaining work locations.



Installation of new overflow pipe at Avon Tank 1

Water Production and Treatment Masterplan

Jenna Beairsto

General Project Scope: The masterplan will be a wholistic look at all production and treatment facilities system-wide including treatment plants and wells. The goal is to identify future capital project priorities. The project will include a detailed condition assessment of existing assets and will evaluate treatment and production threats from climate change, low stream flows, wildfires, etc.

Project Update: The project team and CDPHE are continuing to evaluate each of the District's water production facilities as part of the disinfection outreach verification effort (DOVE). A DOVE site inspection was completed at the Berry Creek Wellhouse on Jul. 12. A draft Record of Approved Waterworks (RAW) was developed by CDPHE for the Avon Drinking Water Facility (ADWF) and is under internal review by District staff. The team is currently researching and compiling design specifications for each unit process at ADWF for inclusion in the master plan summary report.

Avon Drinking Water Facility (ADWF) PLC Upgrades

Jenna Beairsto

General Project Scope: This project includes replacement of the programmable logic controllers (PLCs) at ADWF. Additionally, a new server room will be constructed within the facility. All existing programming and PLC logic will be reverse-engineered and updated to meet current District standards.

Project Update: The project team is continuing work to resolve a design-related error pertaining to an undersized HVAC cooling system for the new server room. Work to implement a temporary solution—which will make use of an existing cooling unit located in the adjacent room—will begin in late July. The project engineer is currently designing permanent improvements that will be constructed later this year.

WASTEWATER PROJECTS

Vail Wastewater Treatment Facility (VWW) Master Plan Improvements

Mark Mantua

General Project Scope: A condition assessment of the VWW was conducted as part of the 2017 wastewater masterplan. The assessment identified several critical upgrades that are required to keep the facility in reliable and operable condition. The scope of this project includes installation of a new, larger diesel generator, structural repairs in the aeration basin, equalization, and clarifier rooms, replacement of the aging ultraviolet (UV) system, and construction and installation of an external facility bypass.

Project Update: The new standby generator was delivered on Jun. 19 and installation is underway. The project team is continuing to coordinate with a specialized environmental consultant to remove and dispose of asbestos fiberboard that was discovered during construction earlier this year. Major invasive and demolition work within the facility has been temporarily halted until the asbestos mitigation work is complete.

Edwards Wastewater Treatment Facility (EWW) Nutrient Upgrade

Jenna Beairsto
Madeleine Harris

General Project Scope: The EWW must be upgraded to meet Regulation 85 nutrient limits for final total inorganic nitrogen (TIN) and total phosphorus (TP). Expected improvements include renovation of the preliminary treatment equipment, primary bypass improvements, aeration basin modifications and expansion, blower replacements, chemical feed and storage improvements, return and waste activated sludge (RAS/WAS) pump replacements, centrate storage improvements, and HVAC and electrical upgrades. This project will also resolve existing hydraulic process constraints and address condition assessment needs identified in the Wastewater Master Plan. The project must be completed by the CDPHE compliance deadline of Jan 1, 2029.

Project Update: The project team selected a Construction Manager-at-Risk (CMAR) contractor. A preliminary design report has been drafted by the design engineer and is under internal review. The project team has begun coordinating with Eagle County to discuss permitting requirements for the project. Additional drilling to support the ongoing geotechnical investigation at EWW is scheduled for the week of Jul. 15.

ADMINISTRATION PROJECTS

101 Eagle Road Office Improvements

Dan Duerr

General Project Scope: The project scope includes improvements to the roof, office space finishes, IT server room, and various mechanical, electrical, and plumbing (MEP) components, as well as the design and construction of a large conference room.

Project Update: The new roof installation is complete. The final design plans were completed and submitted to the HOA for review. The plans will be submitted to Eagle County once approved by the HOA.



MEMORANDUM

TO: Boards of Directors
FROM: Shane Swartwout, Utility Services Manager
DATE: July 17, 2024
RE: BPCCC Program Update – Impacts of HB24-1344

This memo provides context on [HB24-1344, Sunset Plumbing Board](#), and its implications on the Backflow Prevention and Cross Connection Control (BPCCC) program, specifically regarding device testing.

Overview of HB24-1344 and Implications to the Public Water Systems

HB 24-1344, enacted on June 3, 2024, and effective starting July 1, 2024, introduced several changes to the Plumbing Practice Act. One of the most significant amendments added to the bill during the legislative process now permits only licensed plumbers to install, inspect, test, repair, and remove backflow prevention devices. Previously, certified cross-connection control technicians could perform these tasks without a plumbing license.

Below is the marked-up text of this change:

CRS 12-155-118 (4) amendment:

Persons who are engaged in the business of INSTALLING, REMOVING, inspecting, testing, and repairing backflow prevention devices ~~shall be~~ ARE NOT exempt from licensure under this article 155, except when the persons engage in the installation and removal of the devices ARE INSTALLING OR TESTING A STAND-ALONE FIRE SUPPRESSION SPRINKLER SYSTEM.

This change was designed to ensure a higher standard of expertise and safety, but it has created major concerns about lack of availability and increased costs for customers who now need to hire licensed plumbers. Most (~90%) of the current contractors who test backflow devices within the ERWSD public water system do not hold the required plumbing license, which means they would need to obtain this new license to continue their work. This transition may create a temporary shortage of qualified testers and impact the District's ability to meet testing schedules, including end-of-year regulatory compliance.

In addition, District staff are certified testers, but do not hold the required plumbing license. The process of obtaining a plumbing license involves significant time and financial investment. District staff would need to undergo additional training and certification programs, which may require resources and adjustments to current operational plans.

The Colorado Department of Public Health and Environment (CDPHE) has expressed concerns regarding the new plumbing license requirement. Their primary concerns include:

- The potential reduction in the number of qualified testers available, which could lead to delays in backflow prevention device testing and compromise water safety.
- The implementation timeline for the new requirement may not provide sufficient time for current testers to obtain the necessary licenses, leading to a gap in compliance.
- The financial and logistical burden this requirement places on water purveyors, testers, and the community which could strain resources and impact service.

This change was not included in the [sunset report](#) prepared by the Department of Regulatory Agencies (DORA), and public water systems (PWSs) across the state were caught off guard.

Recent Events in Response to HB24-1344

In response, DORA and CDPHE issued a joint message on July 2. This joint message raised concerns “that an immediate disruption to the previous alignment of the statutory/regulatory framework surrounding backflow prevention devices attached to public water utilities is not in the best interest of public health and water utility compliance.” CDHPE and DORA also provided the following guidance to PWSs:

[W]e suggest that public water systems continue current business processes to protect public health with their backflow prevention programs under the Colorado Primary Drinking Water Regulations.”

Due to these concerns, the Colorado State Plumbing Board (SPB) held an emergency meeting on July 10 to “consider to what extent backflow devices are subject to Colorado Department of Public Health and Environment (CDPHE) regulations and are not subject to the Plumbing Practice Act.” During this emergency meeting, the Colorado State Plumbing Board passed the following policy (Policy 1.3):

Pursuant to sections 12-155-103(8)(b) and 12-155-118(6), C.R.S., installations, extensions, improvements, remodeling, additions, and alterations in water and sewer systems that might otherwise fall into the definition of plumbing are explicitly exempted from regulation by the Board if they are either (1) owned or acquired by counties, cities, towns, or water and sewer districts or (2) performed by contractors employed by counties, cities, towns, or water and sewer districts that connect to the plumbing system within a property line, but outside of the five-foot from the foundation threshold to the property line established in section 12-155-103(8)(a), C.R.S. Therefore, the Board finds that the installation, removal, inspecting, testing, and repairing of backflow prevention devices in these circumstances do not fall within the definition of plumbing, are not regulated by the Board, and do not require a license as set forth in section 12-155-118(4), C.R.S.

CDPHE also issued a letter to Colorado State Plumbing Board on July 10, stating that:

Because backflow prevention devices are essential to ensuring that public drinking water remains safe from contamination, CDPHE requests that the Colorado State Plumbing Board use its statutory discretion and not issue disciplinary actions until such time as the implementation process for this bill has been fully completed. CDPHE understands that the law will not fully be implemented until early 2025. This timing also allows the General Assembly the ability to hear from all stakeholders and reconsider this issue and its implications for public health during the 2025 session.”

On July 17, SPB held a second emergency meeting and passed an additional policy clarifying that this new licensure requirement will not be enforced until the implementation process for the bill has been fully completed in April 2025.

Summary

At this time, the Colorado State Board of Plumbing has passed a policy stating that the board will not issue disciplinary action or enforce the new CRS 12-155-118 (4) amendment that requires a plumbing license for any persons who are engaged in the business of installing, removing, inspecting, testing, and repairing backflow prevention devices until the implementation process has been fully completed which they anticipate happening in April 2025. This will allow certified testers the ability to continue testing backflow prevention devices without a plumbing license. Water systems can accept test reports from certified testers and continue with their regular business practices under the Colorado Primary Drinking Water Regulations.

We hope for a fair and timely resolution to this issue. Staff and counsel will be available to answer questions at the July 25 board meeting.



MEMORANDUM

TO: District and Authority Boards of Directors
FROM: Jason Cowles, P.E. and Justin Hildreth, P.E.
DATE: July 17, 2024
RE: Engineering & Water Resources Report

Development Report

An updated copy of the Development Report is attached. There are no additions to the report this month that affect the unallocated water projections for the Authority. In the District, we received an application for the proposed Cornerstone Development that has been added to the report. The applicant is proposing a 33-unit mixed use condominium building in the Cascade Village Special Development District that is located immediately north of the Cascade ski lift.

Bolts Lake Redevelopment Update

Our team meets with the Black and Veatch bimonthly to ensure alignment and progress toward our goals. We are developing an updated project schedule including the duration of major tasks and permitting milestones. We are planning on presenting this to the Board at the August meeting. We were scheduled to present at the July meeting but deferred it to the August meeting because of scheduling conflicts. Here is a summary of our immediate key objectives and actions:

1. Permitting Plan Development:
 - a. Our primary focus is to develop a comprehensive permitting plan, including efficiently navigating the NEPA process. We will present the permitting plan to the Boards at the August meeting.
 - b. The Program Manager and District Staff have completed the Project Charter, Communication Plan, Document Control Plan, and Risk Management Plan.
 - c. Meanwhile, Black & Veatch have subcontracted with Pinyon Environmental to perform field studies for biological, ecological, and cultural resources.
2. Request for Proposals (RFP) for Final Design Team
 - a. The selected team will advance the preliminary design to approximately 30%, a crucial milestone before applying for the NEPA permit. If the design team completes the design satisfactorily, we intend to offer the firm subsequent tasks to complete the design if their work product is excellent.
 - b. We released the RFP on July 1 and a preproposal meeting and site tour occurred on July 10. Six firms attended the meeting including AECOM, W.W. Wheeler, Roaring Fork Engineering, and McMillon Engineering. Proposals are due on August 2. We intend to select a firm and have them under contract by the end of September.

3. United States Bureau of Reclamation (USBR) Feasibility Study
 - a. The USBR requires applicants to the Small Storage Projects funding program to prepare a feasibility study that is approved by USBR staff before applicants can apply for funding. We submitted a feasibility study in January. USBR promptly reviewed our submission and requested additional information including an economic and financial analysis. SLP Economics, LLC completed the analysis in June.
 - b. We re-submitted the updated feasibility study to the USBR on July 15 for review and approval, well before the August 15 submittal deadline. We are on track to apply for funding during the next application cycle which starts on November 15 pending approval of the feasibility study.

Attachments:

1. Authority Unallocated In-Basin Supply, July 2024
2. ERWSD and UERWA New Development Reports, July 2024

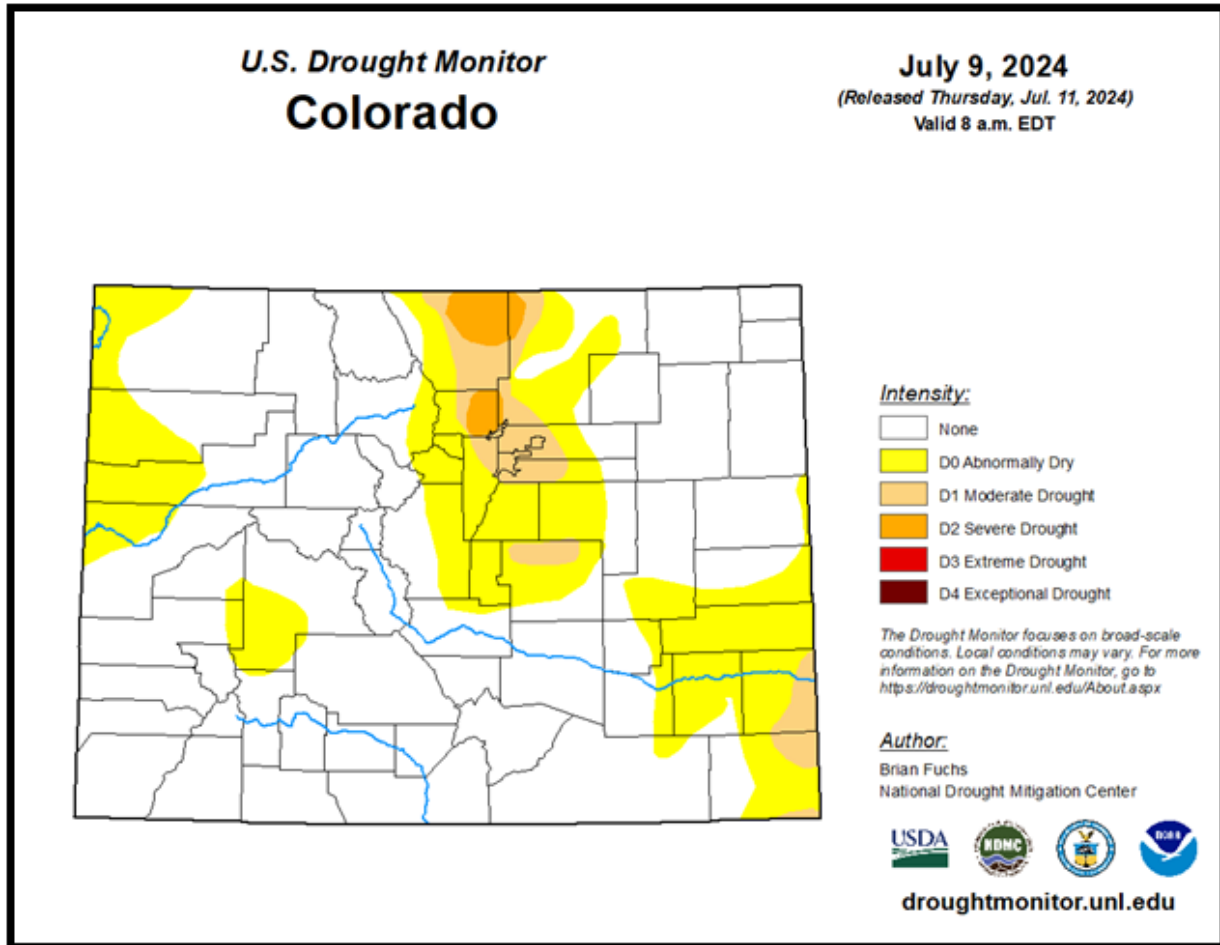
Water Resources Report

Justin Hildreth

Drought Conditions

On July 9, 2024, the U.S. Drought Monitor prepared by the National Drought Mitigation Center (NDMC) classified the upper Colorado River basin including Eagle County as not experiencing drought conditions. The NDMC increased the drought classification for the northern front range from abnormally dry to severe drought and removed the four corners region classification from being in a drought condition.

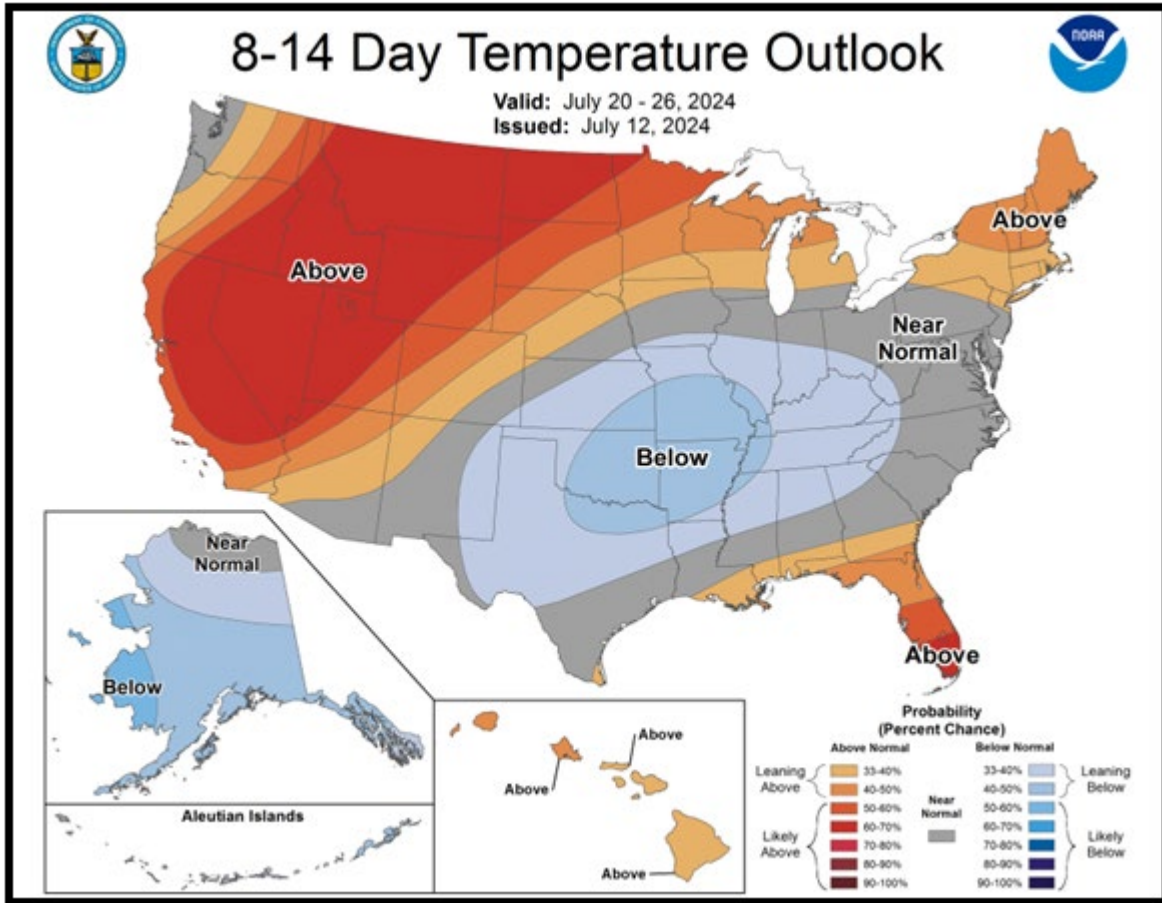
Figure 1: U.S. Drought Monitor – Colorado. July 9, 2024 (National Drought Mitigation Center)



Temperature and Precipitation Forecasts

Figures 2 and 3 show the current National Weather Service 8-14 day temperature and precipitation outlooks. The 2-week outlook for Colorado indicates that the temperatures will be likely above normal, and precipitation is leaning near normal to likely above normal. The seasonal 3-month temperature and precipitation outlooks, which are less accurate, indicate temperatures are likely above normal and precipitation equally chanced above or below normal.

Figure 2: 8-14 Day Temperature Outlook – July 12, 2024 (NOAA/National Weather Service Climate Prediction Center)



Precipitation Conditions

Figures 4 and 5 display the cumulative precipitation for the 2024 water year at the Vail Mountain and Fremont Pass SNOTEL sites as of July 12. The Vail site’s cumulative precipitation is 27.1”, 92% of the 30-year median for this date. The Fremont Pass station’s cumulative precipitation is 26.6”, 116% of the 30-year median for this date.

Figure 4: Precipitation Accumulation at Vail Mountain SNOTEL station, July 12, 2024 (USDA)

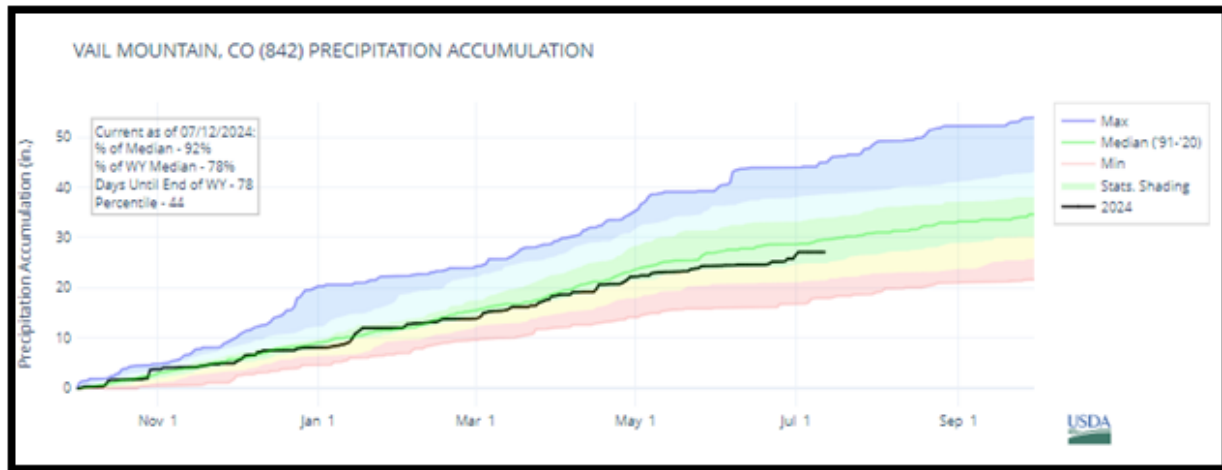
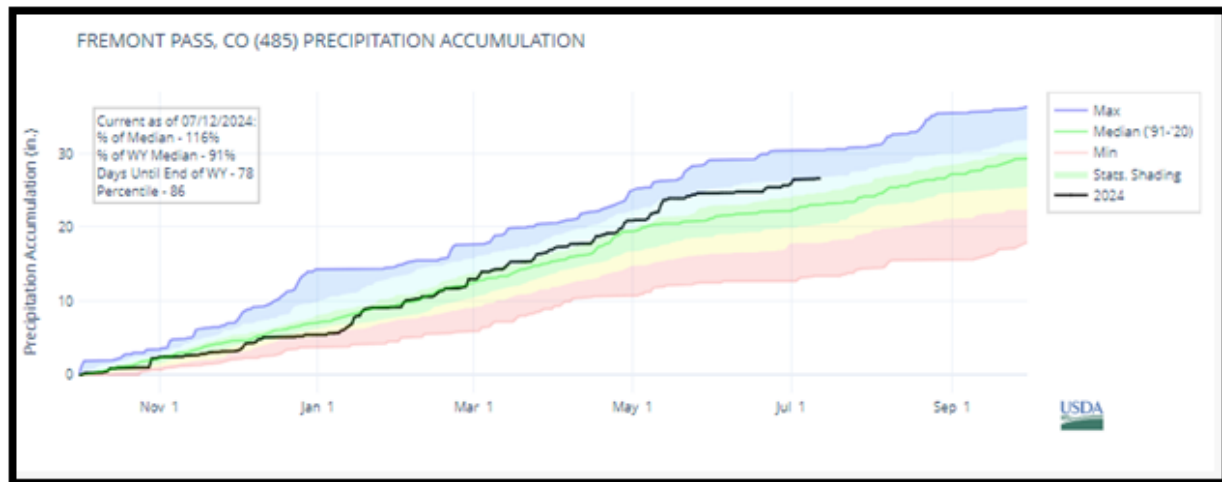


Figure 5: Precipitation Accumulation at Fremont Pass SNOTEL station, July 12, 2024 (USDA)



Streamflow

Figures 6, 7, and 8 include the Colorado Basin River Forecast Center (CBRFC) hydrographs for Gore Creek above Red Sandstone Creek, Eagle River at Avon, and Colorado River at Dotsero respectively. As expected for this time of year, the streamflows are trending down, but remain above the median because of the normal snowfall and cool, wet spring. The Colorado River at Dotsero gage is 2377 cfs, just below the median flow of 2550 cfs.

Figure 6: Forecast Hydrograph, Gore Creek above Confluence with Red Sandstone Creek (CBRFC)

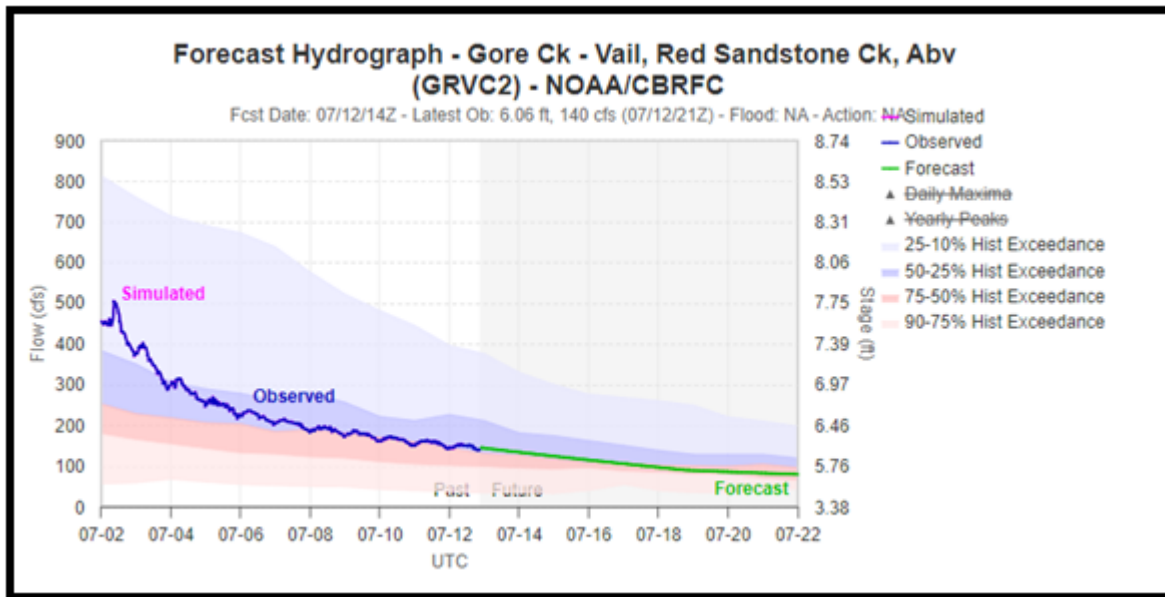


Figure 7: Forecast Hydrograph, Eagle River at Avon (CBRFC)

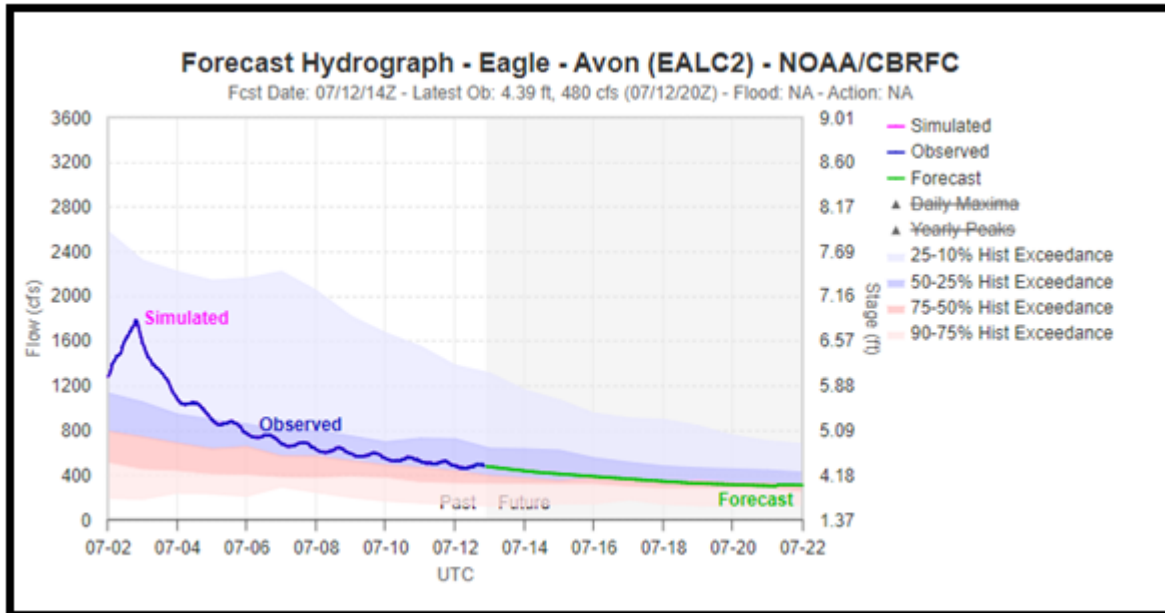
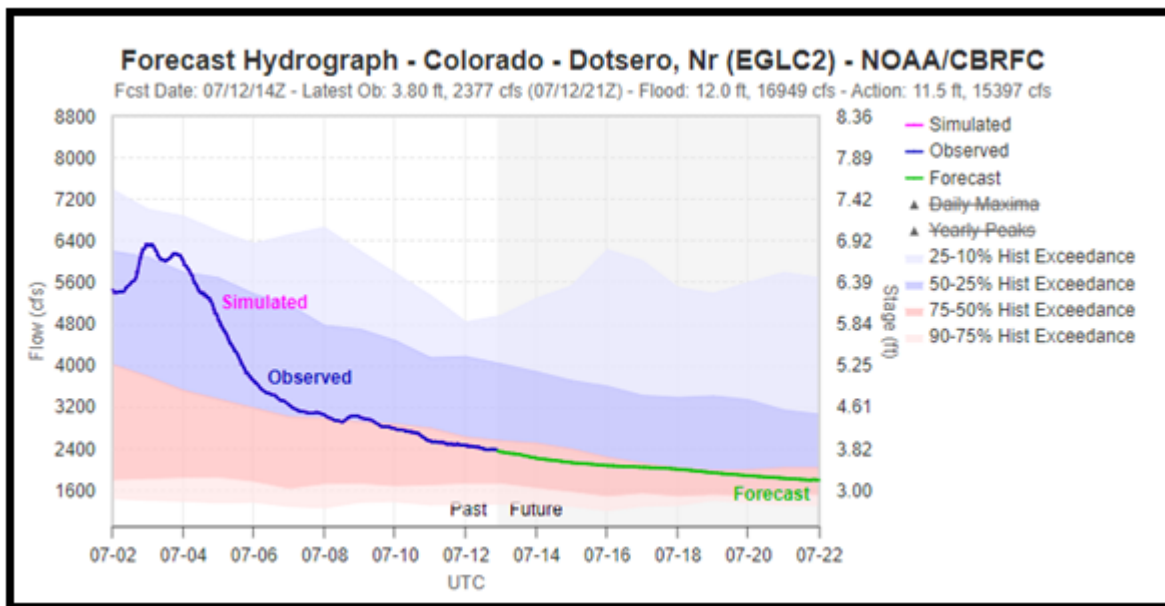


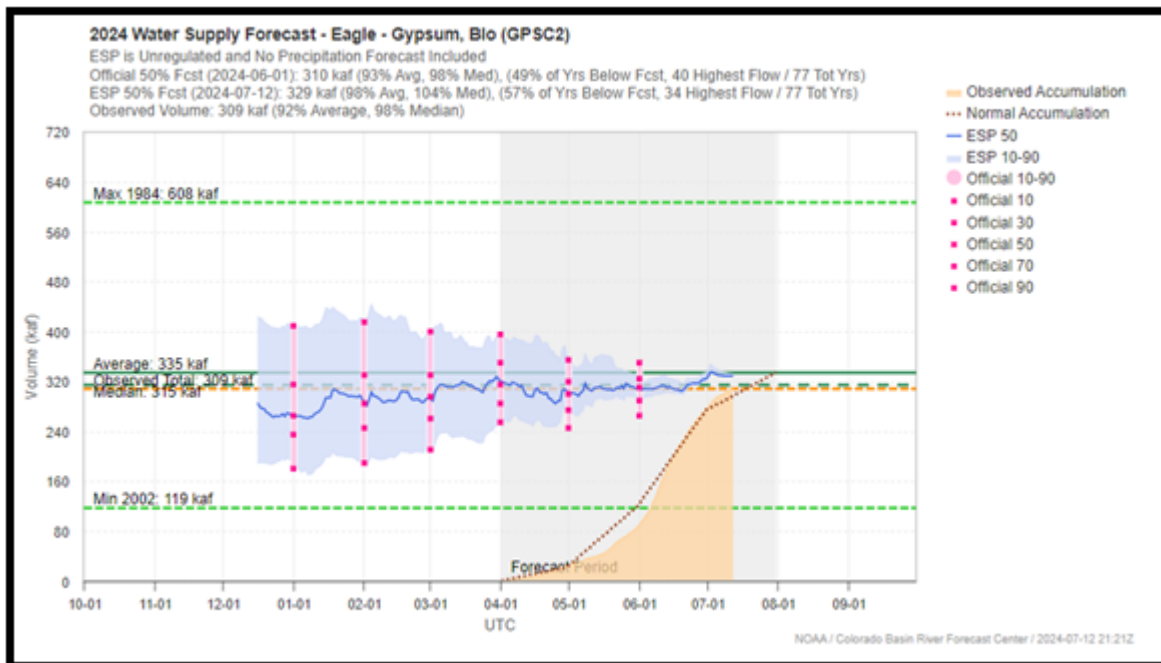
Figure 8: Forecast Hydrograph, Colorado River at Dotsero



Water Supply Forecasts

Figure 9 represents the CBRFC forecast of the 2024 water supply for the Eagle River at Gypsum not accounting for out-of-basin diversions and future precipitation. The average yearly water supply is 335,000 acre-feet, and the median yearly water supply is 315,000 acre-feet. The current observed accumulation is 309,000 acre-feet and the forecasted runoff is 310,000 acre-feet, 98% of the median.

Figure 9: CBRFC 2024 Water Supply Forecast, Eagle River at Gypsum



Reservoir Volumes

Table 1 summarizes the reservoir storage accounts and indicates that the reservoir storage accounts are nearly full. The District and Authority relinquished their 2024 Green Mountain Reservoir water to the USBR for the maintenance of flows on the upper Colorado River under the Shoshone Outage Protocol. These accounts were refilled in June in accordance with USBR procedures.

Table 1: District and Authority storage accounts for July 1, 2024 (Helton and Williamsen).

July 1, 2024 Volumes in Storage (acre-feet) and Percentages of Full:

| Reservoir | ERWSD | | UERWA | | Total | |
|----------------|--------|------|--------|------|---------|------|
| Green Mountain | 934 | 100% | 548 | 100% | 1482 | 100% |
| Black Lakes | 425 | 100% | 300 | 100% | 425 | 100% |
| Eagle Park | 405.54 | 99% | 731.8 | 97% | 1137.34 | 98% |
| Homestake Res | 250 | 100% | 256.50 | 100% | 506.50 | 100% |
| Wolford Mtn | 500 | 100% | 699.77 | 98% | 1210.80 | 100% |

*Homestake Year is currently set as July 1 to June 30.

Lake Powell

The U.S. Bureau of Reclamation data for Lake Powell (Figure 10) indicates the reservoir levels have increased 20 feet since April. The USBR models predict Lake Powell's water level will lower 25 feet in the next 10 months because of releases and evaporation. The water year 2024 forecast of Lake Powell inflow is 8.13 MAF, 85% of the average (Figure 11).

Figure 10: Lake Powell End of Month Elevations (U.S. Bureau of Reclamation)

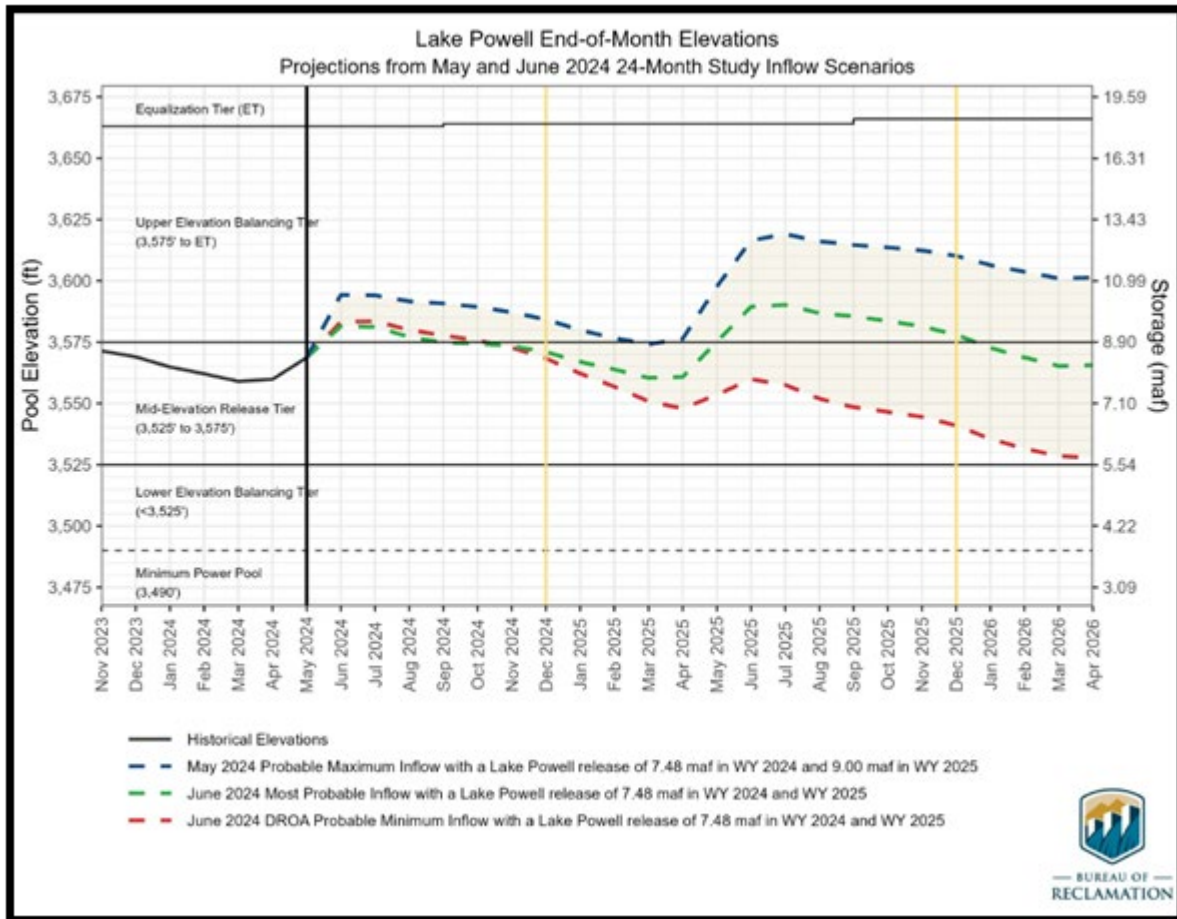
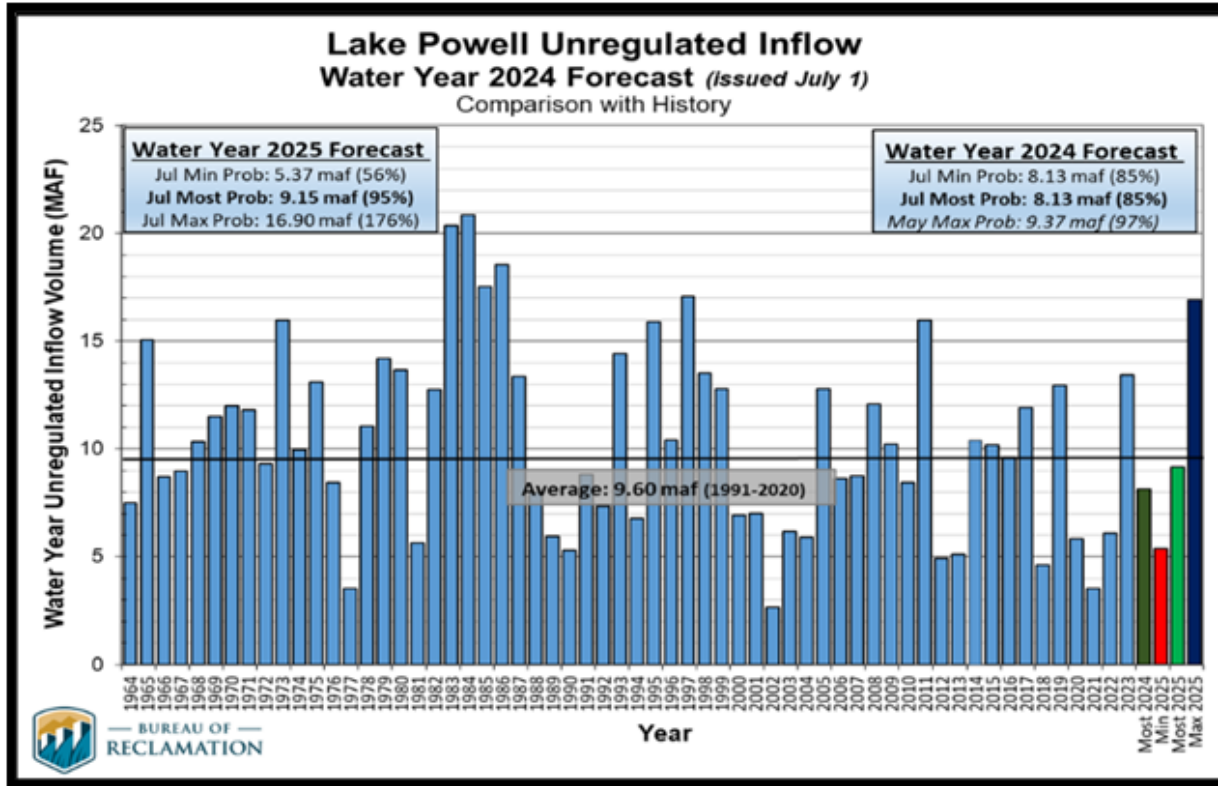


Figure 11: Lake Powell Unregulated Inflow Water Year 2024-2025 Forecast (U.S. Bureau of Reclamation)



Authority Unallocated In-Basin Storage Supply

Updated: 07/17/2024 by JEC

| | In-basin Reservoir Storage, acft Affordable Housing Reserve ² | In-basin Reservoir Storage, acft Unrestricted ³ |
|--|---|--|
| Available Unallocated In-Basin Storage¹ | 87.40 | 75.00 |
| Dedication Requirements for New Projects | | |
| State Land Board (Avon) | 16.00 | -- |
| Eagle-Vail Presbyterian Church Employee Housing (Eagle County) | -- | 0.17 |
| Eagle County Freedom Park Project (Berry Creek) | 3.28 | |
| Cairns Townhomes (Edwards) | -- | 1.08 |
| Total Pending Dedications | 19.28 | 1.25 |
| Remaining Unallocated In-Basin Storage | 68.12 | 73.75 |

Notes:

1) Available Unallocated In-Basin Storage based on modeling for February 2023 Water Rights Report using Buildout Demands with Conservation and 95th Percentile Dry Year Hydrology under Median Climate Change Scenario. Pending developments that were included in the buildout demands include the West End PUD, the Edwards River Park PUD, the Margaux PUD, and the Warner Building Redevelopment.

2) Affordable Housing Reserve In-basin Reservoir Storage is Eagle Park water transferred to UERWA by Eagle County for water rights dedication requirements of housing projects subject to the terms of the Eagle Park Reservoir Stock Agreement between the Authority and Eagle County. Projects utilizing this water are subject to approval by the Authority and Eagle County.

3) Unrestricted In-basin Reservoir Storage includes 25 acft option purchased from ERWSD and 50 acft lease from the Colorado River Water Conservation District.

4) Water dedication requirements and sources are based on best available information and are subject to change.



UERWA New Development Report, July 2024

| Project Location | Type of Use | Water Source | SFEs Proposed | Augmentation Requirement (acre-feet) | Application Initiation Date | Development Approval Process Step: | Construction Approval Process Step: | |
|--|---------------------------|-------------------------------------|---------------------------|--------------------------------------|---|--|-------------------------------------|----------------------------|
| CMC Student Housing Building 3 | Residential | Unallocated | 36 | 3.17 | May 7, 2024 | 1. Connection Application | 1. Plan Review | |
| State Land Board Parcels Unincorporated ECO | Mixed | Eagle County Agreement | 700 Units + 60,000 SF Com | 16 | August 7, 2023 | 2. Water Analysis | 0. Conceptual | |
| Eagle River Presbyterian Church Housing Unincorporated ECO | Residential | Unallocated | 2 | 0.17 | June 20, 2023 | 3. Cond. Capacity Expires October 24, 2024 | 1. Plan Review | |
| West Riverview (formerly Cairns) Edwards | Residential | Unallocated | 9 | 1.08 | June 7, 2023 | 3. Cond. Capacity Expires May 13, 2025 | 0. Conceptual | |
| Eagle County - Freedom Park Project Edwards | Mixed | Eagle County Agreement | 20 + Com | 3.28 | May 22, 2023 | 3. Cond. Capacity Expires January 12, 2025 | 1. Plan Approval | |
| North Road Project Traer Creek | Access Road | N/A | N/A | N/A | May 10, 2023 | N/A | 3. Under Construction | |
| Margaux PUD Edwards | Residential | Unallocated | 32 | 3.56 | October 11, 2021 | 3. Cond. Capacity Expires October 9, 2024 | 0. Conceptual | |
| Edwards River Park PUD Edwards | Mixed | Unallocated | 440 | 60.85 | December 2, 2016 | 3. Cond. Capacity Expires February 2025 | 1. Plan Review | |
| Projects not requiring or that have completed Water Rights Dedication | | | | | | | | |
| Prime West Apartments | Residential | Traer Creek Water Service Agreement | 242 | | May 13, 2024 | 5. Ability to Serve Letter | 1. Plan Review | |
| 130 W BC BLVD Hotel Avon | Residential | Avon SFE Guarantee | 80 | | March 20, 2024 | N/A | 0. Conceptual | |
| Gracious Savior Lutheran Church and Eagle County School District Housing Project | Residential | Edwards Metro District Water Rights | 6 | | November 22, 2023 | 5. Ability to Serve Letter | N/A | |
| Vail Valley Foundation Childcare Center Traer Creek | Mixed | Traer Creek Water Service Agreement | TBD | | October 13, 2023 | 1. Connection Application | 0. Conceptual | |
| Slopeside Housing Avon | Residential | Avon SFE Guarantee | TBD | | October 5, 2023 | 1. Connection Application | 0. Conceptual | |
| 140 W BC BLVD Hotel Avon | Residential | Avon SFE Guarantee | 79 | | May 16, 2023 | N/A | 1. Plan Review | |
| Tract Y - Metcalf Road Avon | Residential | Avon SFE Guarantee | 53 | | February 16, 2023 | 5. Ability to Serve Letter | 3. Under Construction | |
| McGrady Acres Avon | Residential | Avon SFE Guarantee | 24 | | August 5, 2021 | 5. Ability to Serve Letter | 3. Under Construction | |
| Warner Building 2 Conversion Eagle-Vail | Residential | Unallocated | 13.6 | 0.07 | March 16, 2018 | 5. Ability to Serve Letter | N/A | |
| West End PUD Amendment Edwards | Residential | Unallocated | 275 | 34.25 | February 27, 2019 | 3. Cond. Capacity Reissued Nov. 15, 2023 | 1. Plan Review | |
| Projects that have recieved Construction Acceptance | | | | | | | | |
| CMC Student Housing , ECO School District Housing, Frontgate, Maverik Gas Station, NorthStar PUD, Piedmont Apartments, Avon Dual Brand Hotel Traer Creek - Tract J, Fox Hollow PUD | | | | | | | | |
| Development Approval Process Steps: | 1. Connection Application | | | 2. Water Demand Worksheet Analysis | 3. Conditional Capacity to Serve Letter | 4. Water Rights Allocation & Service Agreement | | 5. Ability to Serve Letter |
| Infrastructure Acceptance Process Steps: | 0. Conceptual | | | 1. Plan Review | 2. Plan Approval | 3. Under Construction | | 4. Construction Acceptance |



ERWSD New Development Report, July 2024

| Project Location | Type of Use | SFEs Proposed | Augmentation Requirement (acre-feet) | Application Initiation Date | Development Approval Process Step: | Construction Approval Process Step: |
|--|---------------------------|------------------------------------|---|--|--|-------------------------------------|
| Cornerstone Project Vail | Mixed | 33 + Com | 0.66 | July 11, 2024 | 1. Connection Application | 0. Conceptual |
| Timber Ridge II Redevelopment Vail | Residential | 294 ~ (195.4 net increase) | 2.2 | July 25, 2023 | 3. Conditional Capacity to Serve Letter | 2. Plan Approval |
| Maloit Park ECO School District Housing Minturn | Residential | 138 (122 net increase) | N/A | July 21, 2023 | N/A | 1. Plan Review |
| Midtown Village PUD Minturn | Mixed | 42 + Com | N/A | October 13, 2022 | N/A | 1. Plan Review |
| North Minturn PUD Minturn | Residential | 36 | N/A | October 10, 2022 | N/A | 3. Under Construction |
| Middle Creek Lot 4,5 Vail | Mixed | 268 | 4.2 | June 28, 2022 | 3. Conditional Capacity to Serve Letter | 1. Plan Review |
| Wolcott PUD Wolcott | Mixed | 360 + Com | TBD | May 11, 2022 | 0. Conceptual | 0. Conceptual |
| Belden Place (1200 Block Main St) Minturn | Residential | 39 | N/A | December 23, 2020 | N/A | 2. Plan Approval |
| Highline (Double Tree Expansion) Vail | Residential | 43.65 | 0.79 | July 11, 2019 | 5. Ability to Serve Letter | 2. Plan Approval |
| 500 E Lionshead Circle - Legacy Vail | Residential | 20 | 0.29 | August 29, 2018 | 4. Water Rights Allocation & Service Agreement | 3. Under Construction |
| Alura (Miradoro) Vail | Residential | 10 | 0.405 | May 29, 2018 | 4. Water Rights Allocation & Service Agreement | 3. Under Construction |
| 534 E Lionshead Circle - Elevation Vail | Residential | 12 | 0.31 | May 14, 2018 | 1. Connection Application | 0. Conceptual |
| Projects that have recieved Construction Acceptance | | | | | | |
| VVMC Phase II-East Wing, Vail Marriot Residence Inn, Residences at Main Vail | | | | | | |
| Development Approval Process Steps: | 1. Connection Application | 2. Water Demand Worksheet Analysis | 3. Conditional Capacity to Serve Letter | 4. Water Rights Allocation & Service Agreement | 5. Ability to Serve Letter | |
| Infrastructure Acceptance Process Steps: | 0. Conceptual | 1. Plan Review | 2. Plan Approval | 3. Under Construction | 4. Final Acceptance | |



MEMORANDUM

TO: Boards of Directors
FROM: Diane Johnson, Communications & Public Affairs Manager
DATE: July 25, 2024
RE: Communications and Public Affairs Report

Avon Wastewater Treatment Facility Open House – July 24

Community members are invited to an open house at the Avon wastewater treatment facility to celebrate the Nutrient Upgrade Project. Welcome, acknowledgements and remarks, and breakfast burritos will **begin at 10 a.m.** with facility tours until 11:30 a.m. This \$57 million capital project upgraded the wastewater treatment process to meet more stringent effluent nutrient regulations. It was completed in fall 2023 and continues to improve water quality in the Eagle River every day. Anyone who would like to attend should register using this [brief online registration form](#).

Special District Grant Accessibility Act – S.4673

The Special District Association of Colorado (SDA) has been working with the National Special Districts Coalition (NSDC) on legislation to establish a first-ever, formal definition of “special district” in federal law. The Special District Grant Accessibility Act was approved with wide bipartisan support by the full House on May 6, 2024. The Senate version of the bill, S.4673, was referred to the Committee on Homeland Security and Government Affairs on July 11.

The impact of the Special District Grant Accessibility Act on special districts is significant as it mandates federal recognition of these entities as “local governments” for the purpose of federal financial assistance determinations. This change will allow special districts to be eligible for federal funding opportunities limited to recognized local governments and ensure that special districts and the communities they serve have access to all appropriate and relevant federal funding streams.

On July 17, the SDA, on behalf of NSDC, sent an email to its membership asking special districts to join the nationwide coalition supporting the Special District Grant Accessibility Act. Brian will provide an oral update on this legislation at the July 25 board meetings and ask for direction from the District board about joining the NSDC coalition.

District in the news:

1. Jul. 15, Vail Daily: [ERWSD to investigate sewer line after discovering invading tree roots](#)
2. Jul. 7, Vail Daily: [How to prepare for the upcoming potentially dry summer in Eagle County](#)
3. Jun. 26, Vail Daily: [3 new sections of the Eagle Valley Trail are now open](#)

Attachments (or hyperlinks):

1. Jul. 17, Summit Daily: [Silverthorne to join a class action lawsuit for ‘forever chemical’ contamination after officials grant approval](#)
2. Jul. 17, Colorado Sun: [Colorado River officials vote to explore water conservation “credits” to protect against worst drought years](#)
3. Jul. 15, KUNC: [These three words from 1922 are at the heart of the latest Colorado River clash](#)
4. Jul. 12, Aspen Journalism: [Ranchers and city share water with the environment](#)



MEMORANDUM

TO: Board of Directors
FROM: Brian Thompson, Government Affairs Supervisor
DATE: July 19, 2024
RE: 2025 Regular District Election

Pursuant to the Colorado Local Government Election Code (“LGEC”), §1-13.5-111, C.R.S., the next regular special district election will be held on May 6, 2025. The District will hold an election to fill director seats for Director Districts 1, 3, 5, and 7. If the only issue on the ballot is electing directors, the District can hold either a mail ballot election or a polling place election. As staff is currently developing the 2025 budget, it will be helpful to receive direction from the board on which election format is preferred.

We recommend holding a polling place election, which includes an option for eligible electors to request a mailed absentee ballot in accordance with the LGEC. The District also held polling place elections in 2022 and 2023. The primary reason for this recommendation is the required costs (both in staff time and direct expenses) for holding a mail ballot election are significantly higher than a polling place election, and the likely impact on voter turnout for a director-only election would not justify the additional burden on ratepayers.

A mail ballot election incurs greater costs for two reasons. First, ballots must be mailed to all eligible electors, which include residents of the District and nonresident eligible electors – who are owners of real property in the District (and spouses of property owners) registered to vote in Colorado. The most time-consuming part of this process is determining nonresident eligible electors because this requires manually reviewing each entry on the County Assessor’s property owner list to purge:

1. Properties owned by District residents to ensure no duplicate ballots are sent
2. Properties not held in a personal name, such as a trust or business entity
3. Property owners who are not registered to vote in Colorado, which also requires cross-referencing each individual with the Secretary of State’s registered voter website.

Prior to the 2023 regular special district election, Marchetti & Weaver estimated that it would cost \$1.50 of time *per potential elector* to create an eligible elector list for a mail ballot election. Based on this formula, it would have cost the District approximately \$39,000 to prepare the nonresident elector list for the 2023 election if it had been held by mail ballot. In comparison, the polling place election required \$5,000 in staff time because this process was only required for those electors who requested absentee ballots or voted at a polling place on election day, rather than all property owners.

Secondly, a mail ballot election requires additional direct expenses to print and mail ballots to all eligible electors. Marchetti & Weaver also estimated that it costs approximately \$2.35 *per ballot* in printing and postage. Based on this formula, printing and postage costs for the 2023 election would have exceeded \$50,000 if it had been held by mail ballot. Because it was a polling place election, these costs were less than \$4,000.

In summary, if the 2023 election had been held as mail ballot election, the required costs in staff time and printing/postage would have cost at least an additional \$80,000 compared to what we spent for the polling place election. As we plan for the 2025 election, we again suggest that the District hold a polling place election, with absentee ballots mailed upon request.