



**M E M O R A N D U M**

**TO:** Board of Directors  
**FROM:** Brian Thompson, Government Affairs Administrator  
**DATE:** May 19, 2023  
**RE:** May 25, 2023, 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, May 25, 2023**  
**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](mailto:info@erwsd.org). In-person attendance is subject to public health protocols.

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

May 25, 2023

12:00 p.m.

Walter Kirch Conference Room

**AGENDA**

	<u><b>Attachment Link</b></u>
<b>1. Oaths of Office</b>	
1.1. Dick Cleveland	<a href="#">Action Item</a>
1.2. Sarah Smith Hymes	<a href="#">Action Item</a>
1.3. Bob Warner	<a href="#">Action Item</a>
<b>2. Introductions</b>	
<b>3. Organizational Items</b>	<a href="#">Informational</a>
3.1. Disclosures of Potential Conflicts of Interests – Kathryn Winn	<a href="#">Informational</a>
<b>4. Appointing Acting Officer</b>	
4.1. Secretary	<a href="#">Informational</a>
<b>5. Public Comment</b>	
<b>6. Action Items</b>	
6.1. Approval of minutes from Apr. 27, 2023, Regular Meeting	<a href="#">Action Item</a>
6.2. Approval of contract log	<a href="#">Action Item</a>
6.3. <b>Res. 2023-04:</b> Resolution Setting a Revised Regular Meeting Schedule – Brian Thompson	<a href="#">Action Item</a>
6.4. Designating Eagle Park Reservoir Company board representative	<a href="#">Action Item</a>
6.5. Consideration of staffing request – David Norris	<a href="#">Action Item</a>
<b>7. Information Reports</b>	
7.1. Development report	<a href="#">Informational</a>
7.2. Board committees	<a href="#">Informational</a>
7.3. April Authority meeting summary – draft	<a href="#">Informational</a>
<b>8. Board Member Input</b>	
<b>9. General Manager Report – Siri Roman</b>	
9.1. GM information items	
9.2. Business Administration report – David Norris	
9.2.1. Disconnection of service	<a href="#">Informational</a>
9.3. Operations report – Brad Zachman	<a href="#">Informational</a>
9.3.1. Regulation 93 update – Leah Cribari	<a href="#">Informational</a>

- 9.4. Engineering and Water Resources report – Jason Cowles Informational
  - 9.4.1. Work Session: Development Report
  - 9.4.2. Construction cost & market update – Jeff Schneider Informational
- 9.5. Communications and Public Affairs report – Diane Johnson Informational
  - 9.5.1. Election returns – Brian Thompson
- 10. Water Counsel Report – Kristin Moseley**
  - 10.1. Senate Bill 23-295 Informational
- 11. General Counsel Report – Kathryn Winn** Confidential
  - 11.1. Senate Bill 23-286
  - 11.2. Senate Bill 23-303
- 12. Executive Session**
  - 12.1. Motion to move into Executive Session pursuant to §24-6-402(4)(b) and (e), C.R.S., to receive legal advice and discuss matters in negotiation related to:
    - 12.1.1. Senate Bill 23-213 Confidential
    - 12.1.2. Colorado River Cooperative Agreement matters Confidential
    - 12.1.3. Diligence application on Independence Pass exchange
    - 12.1.4. Notice of Intent to Sue
- 13. Any Action as a Result of Executive Session**
- 14. Adjournment**









## MEMORANDUM

**TO:** Board of Directors  
**FROM:** Brian Thompson, Government Affairs Administrator  
**DATE:** May 18, 2023  
**RE:** Organizational Items

The District held its regular election on May 2. Special district elections are normally held biennially; however, elections were held in 2022 and 2023 to transition from even-year elections to odd-year elections, as required by § 1-13.5-111, C.R.S. The board considers several organizational items at the first meeting following a regular election. Below is a summary of these organizational items in light of this unique exception to the biennial election cycle.

### **Oaths of Office**

The first item on the May 25 agenda is administering oaths to newly elected directors Dick Cleveland, Sarah Smith Hymes, and Bob Warner. The term of these directors will be four years (directors elected in 2020 and 2022 served 3-year “full” terms; directors are elected to 4-year terms again starting with this year’s election).

### **Board Officers**

Under §8(e) of the District Bylaws, officers serve a term of two years. Current officers were elected in May 2022 and thus will continue to serve in their current position until May 2024. The board will consider the vacant office of Secretary at the May 25 meeting. Later this year, the board will consider bylaw amendments to account for the transition to odd-year special district elections that will include amending the term of officers to align with the transition to odd-year elections, e.g. a one-year term from 2024 to 2025 or a three-year term from 2024 to 2027.

### **Board Committees**

The District and Authority boards routinely update board committee assignments biennially at the first meeting following special district elections. Due to Authority board changes earlier this year, both boards reviewed and updated the committees and committee members at their respective Mar. 23 meeting. We propose to retain the committee assignments that the boards agreed upon in March. Directors may consider changes to committee assignments during Informational Reports (Agenda Item 7.2).

### **Disclosure of Potential Conflict of Interest**

The District’s general counsel recommends that directors complete a Disclosure of Potential Conflicts of Interest Questionnaire annually, even if you completed a Questionnaire in 2022. A memorandum from Kathryn Winn and a copy of the Questionnaire are included in your packet. Kathryn will discuss this more at the May 25 meeting. I will email directors the Questionnaire as a fillable PDF following the meeting.

**COLLINS | COLE  
FLYNN | WINN | ULMER**

May 17, 2023

**MEMORANDUM**

**ATTORNEY-CLIENT PRIVILEGED  
VIA EMAIL**

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

**FROM: Kathryn Winn**



**RE: Conflicts of Interest**

Following the District's election is a good time to remind both District and Authority Directors about the conflicts of interest laws and to consider whether any potential or actual conflicts of interest exists. Generally, a conflict arises anytime you would have a pecuniary interest in a transaction that may be coming before the Board, but it can also arise if you have a personal nonpecuniary interest that gives rise to conflicting loyalties between the District/Authority and some other entity, such as a Homeowners Association. What follows is a brief memo on the subject of conflicts of interest. If you would like a more detailed analysis, please let me know.

**DISCLOSURE**

Potential conflicts of interest must be disclosed. §24-18-110, C.R.S. supplements §18-8-308, C.R.S. (which requires disclosure of any pecuniary financial interest to avoid criminal conduct) and provides that a Director with a potential conflict of interest must disclose the nature of the interest prior to acting. The disclosure must be made in writing 72 hours in advance of the issue coming before the District/Authority, and orally at the time of acting.

The written disclosure must be made to the Secretary of State and the respective Board, listing the amount of the financial interest, the purpose and duration of the services rendered, and the compensation received for the services, or such other information as is necessary to describe the interest. You must also abstain from any discussion on the matter and abstain from voting, (unless your participation is required to constitute a quorum so that the Board can act).



## **STANDARDS OF CONDUCT-PROHIBITIONS**

Section 24-18-101, *et seq.*, C.R.S., sets forth standards of conduct for public officials. These standards of conduct are based upon your fiduciary duty to serve the District/Authority. As a Director, the statute prescribes that you cannot:

1. Disclose or use confidential information acquired in the course of your official duties in order to further your personal financial interests; or
2. Accept gifts of substantial value or of substantial economic benefit tantamount to a gift of substantial value which would tend to improperly influence a reasonable person in his public position to depart from the faithful and impartial discharge of his public duties of which he knows, or which a reasonable person should know, is primarily for the purpose of rewarding him for an official action he has taken or could take; or
3. Engage in a substantial financial transaction for your private business purposes with a person whom you inspect or supervise in the course of your official duties; or
4. Perform an official act directly and substantially affecting, to its economic benefit, a business or other undertaking in which you either have a substantial financial interest or are engaged as counsel, consultant, representative or agent; or
5. Be interested in any contract made in your official capacity or by any body, agency, or board of which you are a member or employee.
6. Further, a Director shall not be a purchaser at any sale or a vendor at any purchase, if such transaction is made by such Director in his official capacity.

Violation of any of the above prescriptions is deemed to be a conflict per se.

## **GUIDELINE PRINCIPLES**

In addition, the following principles are intended as guides to conduct; they do not constitute violations of the public trust or employment in local government unless circumstances would otherwise so indicate:

1. A Director should not acquire or hold an interest in any business or undertaking which they have reason to believe may be directly and substantially affected to their economic benefit by official action to be taken by the District/Authority Board.
2. A Director should not, within six (6) months following the termination of their office, obtain employment in which he will take direct advantage, unavailable to others, of matters with which they were directly involved during his term of office. These matters include rules (other than rules of general application) which they actively helped to formulate and applications, claims, or contested cases in the consideration of which they were an active participant.
3. A Director should not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when he has a substantial financial interest in a competing firm or undertaking.

**QUESTIONNAIRE**

Enclosed is a questionnaire regarding potential conflict. If you believe there is any possibility of a conflict, please complete the questionnaire and remit it to our office for review. If we find you have a potential conflict that should be reported, we will draft a disclosure letter for you. If you prefer to handle this yourself, let us know.

I hope this is helpful. Please let me know if you have any questions.

Enclosure

**CONFLICT OF INTEREST QUESTIONNAIRE**

**Name:** \_\_\_\_\_

**District/Authority:** \_\_\_\_\_

1. Are you an owner of, or do you have any financial interest in any company which:
  - (a) does business with the District/Authority;
  - (b) does business with any entity that does business with the District/Authority; or
  - (c) does business or provides goods or services similar to those conducted or provided by the District/Authority or any entity that does business with the District/Authority?

If so, please identify such company; specify your interest or relationship; and summarize the relative amount of the company's activity with the District/Authority:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Are you a creditor of any such company? If so, please specify the approximate amount and/or nature of such credit:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Are you a director, officer, employee, agent or consultant of any such company? If so, please specify the nature of your involvement and the approximate pecuniary or other valuable benefit which you derive from such involvement:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Have you entered into a contract, purchase agreement, pecuniary transaction, or transaction for valuable consideration with the District/Authority and which is currently in effect? If so, please specify such contract, agreement or transaction, indicating the name of the document, date, nature of the transaction, and the value of such benefit (in the alternative, provide us with a copy of such document):

\_\_\_\_\_  
\_\_\_\_\_

- 
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5. Has any business in which you have a financial interest entered into a contract, purchase agreement, pecuniary transaction, or transaction for valuable consideration with the District/Authority and which is currently in effect? If so, please specify such contract, agreement or transaction, indicating the name of the document, date, nature of the transaction, and the value of such benefit (in the alternative, provide us with a copy of such document), and, if not already disclosed herein, your involvement and ownership interest in any such business:

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6. Do you intend to in the future enter into a contract, purchase agreement, pecuniary transaction, or transaction for valuable consideration with the District/Authority? If so, please specify such contract, agreement or transaction, describing the proposed transaction, and the value of such benefit:

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7. Does any business in which you have a financial interest intend to enter into a contract, purchase agreement, pecuniary transaction, or transaction for valuable consideration with the District/Authority? If so, please specify such contract, agreement or transaction, describing the proposed transaction, and the value of such benefit and, if not already disclosed herein, your involvement and ownership interest in any such business:

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8. Are you an elected or appointed official to the board of any other local government or other entity that does business with the District/Authority? If so, please specify your position and the local government or entity.

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Date: \_\_\_\_\_ Signature: \_\_\_\_\_



### Board Action Request

**TO:** Board of Directors  
**FROM:** Brian Thompson, Government Affairs Administrator  
**DATE:** May 25, 2023  
**RE:** Appointing an Acting Officer – Secretary

**Summary of Subject:** The office of Secretary has become vacant. The board may appoint a director to serve as Secretary for the remainder of the current officer term.

**Discussion and Background:** As described in the Organizational Items memorandum (Agenda Item 2), officers are elected by the board to two-year terms; however, there are unique circumstances this year due to the statutory requirement that special districts hold regular elections in 2022 and 2023. George Gregory was elected as Secretary in May 2022 and thus his officer term ends in May 2024. However, George was term-limited and has transitioned off the board. The office of Secretary is now vacant.

The appointment of officers is governed by §8(e) of the District Bylaws, which states “the Board may, from time to time, appoint an acting officer in the absence of any individual officer.” We recommend the board vote at today’s meeting to appoint a Secretary for the remainder of the current officer term, which expires in May 2024.

The duties of the Secretary are prescribed in §8(j) of the District Bylaws:

In the absence of the Chair, the Secretary shall preside at all meetings. The Secretary (or designee) shall be responsible for the records of the District; may act as Secretary at meetings of the Board and record all votes; shall be responsible for composing a record of the proceedings of the Board in a visual text format that may be transmitted electronically and kept for that purpose, which shall be an official record of the Board; and shall perform all duties incident to that office. The Secretary shall be the designated election official of the District, unless otherwise determined by the Board, and the custodian of the seal of District. The Secretary shall have the authority to affix such seal to and attest all contracts and instruments authorized to be executed by the Board.

Most of these duties have been designated to District staff. The two primary functions of the Secretary are: 1) presiding at board meetings in the absence of the Chair; and 2) signing board resolutions, contracts, agreements, and other documents on behalf of the District.

**Alternatives:** The board may leave the office of Secretary vacant until the May 2024 officer election.

**Legal Issues:** None.

**Budget Implication:** None.

**Recommendation:** Nominate a director to serve as Secretary until officer elections in May 2024.

**Suggested Resolution and Motion:** I nominate \_\_\_\_\_ to serve as Secretary for the remainder of the current officer term.

**Attached supporting documentation:** none.

**EAGLE RIVER WATER AND SANITATION DISTRICT 2023 CONTRACT LOG**

<b>Contract No.</b>	<b>Date Executed</b>	<b>Change Order Signed On</b>	<b>Project Name</b>	<b>Contractor</b>	<b>Contract Amt</b>	<b>Project Mgr.</b>	<b>Account No.</b>	<b>Status / Description</b>
23.15.011	05/16/23		North Frontage Road Waterline Improvement Project	360 Civil, Inc.	\$633,295.00	W. Spring	10.3.2.20.09.024	Construction of a new waterline extension that will connect into the existing waterlines and includes new fire hydrants and repaving the asphalt roadway.
23.15.041	Pending		Avon WWTF Water Heater Replacement	Robinson Plumbing & Heating of Squaw Creek, Inc.	\$11,663.95	M. Cushman	10.3.9.10.20.500	Drain and remove old tank, set new tank and connect piping. Replace water logged expansion tank. Recycle old tank.
23.15.042	Pending		Generator Services	Cummins Inc.	\$34,421.03	B Zachman	Various	Generator service for District facilities, OTS trailer-mounted generators, Fenno Wellhouse, and Stillwater Lift Station
23.15.043	Pending		Vail Admin Building VRF System Performance Review	BG Buildingworks, Inc.	\$5,000.00	J. Beairsto	10.1.2.00.05.142	Engineering consulting services to review reported heating and cooling performance issues with the VRF system installed at the Vail Administration Building.
23.15.044	Pending		Edwards WWTF Annual HVAC Service	Tolin Mechanical Systems Company, LLC	\$28,092.00	B Zachman	Various	Annual maintenance and service of HVAC and odor control equipment for Edwards WWTF.



## BOARD ACTION REQUEST

**TO:** Board of Directors  
**FROM:** Brian Thompson, Government Affairs Administrator  
**DATE:** May 19, 2023  
**RE:** Res. 2023-04: Resolution Setting a Revised Regular Meeting Schedule

**Summary of Subject:** Regular meetings are currently scheduled for Nov. 17 and Dec. 21. There are several organizational priorities that consume significant time at the end of the year. The District would be well-served by eliminating these two meetings and replacing with one regular meeting on Dec. 7. The board can conduct all necessary business in one meeting and staff can focus on these end-of-year priorities. Resolution 2023-04 would set a revised meeting schedule incorporating this change.

**Discussion and Background:** The board must approve the District's regular meeting schedule. The 2023 schedule was included in Resolution: 2023-01: Designating Location to Post Notice, which was approved by the board on Jan. 26, 2023. This schedule included regular meetings on the third Thursday of November and December (Nov. 17 and Dec. 21). Holding two meetings so close to the end of the year and the Thanksgiving and Christmas holidays is challenging for staff, especially as senior staff is wrapping up year-end goals, aligning on strategy and vision, developing department-specific 2024 workplans, and starting employee annual evaluations.

We propose revising the 2023 regular meeting schedule to eliminate the Nov. 17 and Dec. 21 meetings and add a meeting on Thursday, Dec. 7, at 12:00 p.m. The revised schedule, as prescribed in Exhibit A of Resolution 2023-04, will be properly noticed.

**Alternatives:** Keep the regular meeting schedule as is, with meetings on Nov. 17 and Dec. 21.

**Legal Issues:** None.

**Budget Implication:** None

**Recommendation:** Approve the resolution with the revised 2023 regular meeting schedule.

**Suggested Resolution and Motion:** I move to approve Resolution No. 2023-04: Setting a Revised Regular Meeting Schedule, with its attached Exhibit A of the revised schedule, as presented

**Attached Supporting Documentation:** Resolution 2023-04: Setting a Revised Regular Meeting Schedule, with its attached Exhibit A.

**EAGLE RIVER WATER & SANITATION DISTRICT**  
**RESOLUTION NO. 2023-04**  
**A RESOLUTION SETTING A REVISED REGULAR MEETING SECHEDULE**

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

**WHEREAS**, the District’s Board of Directors (“Board”) is responsible for the management, control, and supervision of all of the business and affairs of the District; and

**WHEREAS**, the Board set a schedule of regular meeting dates to attend to the business affairs of the Board as Exhibit A of Resolution 2023-01, which was approved and adopted by the Board on January 26, 2023; and

**WHEREAS**, the Board has determined it is appropriate to revise the schedule of regular meetings for the remainder of 2023 by resolution.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Eagle River Water and Sanitation District as follows:

1. **Regular Meetings.** Regular meetings of the Board of Directors of the District shall be held for the remainder of 2023 at the dates and times prescribed in the Revised Regular Meeting Schedule, attached hereto as Exhibit A and incorporated herein by this reference. All regular meetings shall be held at the District’s offices located at 846 Forest Road, Vail, Colorado, and shall be open to the public, or at such other physical or virtual location as designated by the Board.

2. **Severability.** If any part, section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining provisions.

3. **Effective Date.** This Resolution shall take effect and be enforced immediately upon its approval by the Board of Directors of the District.

EAGLE RIVER WATER AND SANITATION  
DISTRICT

By \_\_\_\_\_  
Dick Cleveland, Chair

ATTEST:

\_\_\_\_\_  
Secretary



# Revised 2023 Board Meeting Schedules

Eagle River Water & Sanitation District Administrative Offices  
846 Forest Road, Vail, CO 81657  
Walter Kirch Conference Room

## Upper Eagle Regional Water Authority

Board of Directors

meets at 8:30 a.m. on the fourth Thursday of each month,  
unless otherwise noted

## UERWA and ERWSD

Boards of Directors

meets at 11:00 a.m. on the fourth Thursday of January through March  
(additional joint meetings may be scheduled)

## Eagle River Water & Sanitation District

Board of Directors

meets at 12:00 p.m. on the fourth Thursday of each month,  
unless otherwise noted

Date	UERWA Time	Joint Time	ERWSD Time
January 26	8:30 a.m.	11:00 a.m.	1:00 p.m.
February 23	8:30 a.m.	11:00 a.m.	1:00 p.m.
March 23	8:30 a.m.	11:00 a.m.	1:00 p.m.
April 27	8:30 a.m.		12:00 p.m.
May 25	8:30 a.m.		12:00 p.m.
June 22	8:30 a.m.		12:00 p.m.
July 27	8:30 a.m.		12:00 p.m.
August 24	8:30 a.m.		12:00 p.m.
September 28	8:30 a.m.		12:00 p.m.
October 26	8:30 a.m.	.	12:00 p.m.
December 7†	8:30 a.m.		12:00 p.m.

† Meeting scheduled for first Thursday



**M E M O R A N D U M**

**TO:** Board of Directors  
**FROM:** Brian Thompson, Government Affairs Administrator  
**DATE:** May 25, 2023  
**RE:** Designating a representative to the Eagle Park Reservoir Company board of directors

**Summary of Subject:** The District must designate a representative to serve on the board of directors of the Eagle Park Reservoir Company (EPRC) in advance of the EPRC annual shareholders meeting.

**Discussion and Background:** Eagle Park Reservoir Company (EPRC) is a non-profit corporation of which the District is a shareholder of not less than 1,000 shares of Class A common stock. As such, the District is entitled to designate one representative to serve on the EPRC board of directors. The EPRC board is charged with managing the business and affairs of the corporation as prescribed in the Amended and Restated Bylaws of the Eagle Park Reservoir Company ("EPRC Bylaws").

Pursuant to Section 3.2 of the EPRC Bylaws, shareholders must designate their representative at each annual EPRC shareholder meeting, which occurs in June to align with the start of EPRC's fiscal year. Furthermore, EPRC directors "must be a shareholder (or representative of a shareholder) of the corporation."

Although not explicitly required in the bylaws of either the District or EPRC, the chair has traditionally represented the District in order to provide leadership continuity. With the exception of one year, the chair served as the EPRC representative from FY 2001 through FY 2018. More recently, ERWSD's representative was Glenn Porzak (FY 2019-FY 2021), followed by Steve Coyer (FY 2022-present).

**Alternatives:** None. The board must designate a representative.

**Legal Issues:** None.

**Budget Implication:** None.

**Recommendation:** Nominate a board member to serve as the representative to the Eagle Park Reservoir Company board of directors.

**Suggested Resolution and Motion:** I nominate \_\_\_\_\_ as the District representative to the Eagle Park Reservoir Company board of directors.

**Attached supporting documentation:** none.



## BOARD ACTION REQUEST

**TO:** Board of Directors  
**FROM:** David Norris, Director of Business Administration  
**DATE:** May 18, 2023  
**RE:** Staffing Request

### Summary:

At the April 27 board meeting, the HR team presented employee turnover statistics for the District. Brad Zachman, Director of Operations, noted that Water and Wastewater operations are highly vulnerable to staff turnover and particularly to the loss of frontline operations staff. The organizational structures and staffing levels for these teams were originally established based on the minimum levels needed to cover the shift and on-call needs of the treatment facilities. This minimalistic staffing approach does not include the redundancy needed to offset persistent positional vacancies. The high level of staff turnover, therefore, has presented a cascading series of challenges for both departments that are exacerbated by the relatively long training period required for entry level Water and Wastewater operators.

The purpose of this board action request is to request an additional operator position for both the Water and Wastewater departments. These positions will provide necessary organizational redundancy and will be used to establish an operator trainee program. The intent of the operator trainee position will be to strategically prepare entry level employees to immediately fulfill the role of a shift operator in the event of staff turnover.

### Background:

Every organization faces turnover and capacity metrics as it relates to their specific industries. The Water and Wastewater teams are operating at a low-capacity threshold, which increases risk and potential of continued turnover, burnout, injuries, etc.

As displayed below, the Water department is currently operating at an 80% capacity and the Wastewater team is operating at 76.5%. Considering the size of these teams, small percentage changes in capacity create cascading effects, especially with the 24/7 nature of the work. Both departments are trending towards a greater turnover rate than historical averages.

Department	2023 Capacity	2023 Turnover (to date)	Historical Turnover (Past 6 Years)
Water	80%	11%	15%
Wastewater	76.5%	12%	13%

The reason for the off-cycle request is because historically the candidate pool is stronger this time of year compared to January when the new positions are typically posted. Also, staff is currently interviewing for numerous open positions and may be able to hire from the current candidate pool.

**Budget Impacts:**

<b>Position</b>	<b>Total Costs 2023</b>	<b>Total Annualized Costs</b>
Water Operator	\$40,740	\$81,480
Wastewater Operator	\$40,740	\$81,480
	<b>\$81,480*</b>	<b>\$162,960</b>

(\*\$81,480 from available resources)

**Legal Issues:**




N/A

**Board Actions Requested:**

Approval of 2.0 additional FTE.

**Attachments:**

N/A

ERWSD New Development Report									
May 2023									
		Type of Use	SFEs Proposed	Location	Existing Service Commitment?	Augmentation Requirement	Development Approval Process Step:	Construction Approval Process Step:	
	534 E Lionshead Circle - Elevation	Residential	12	Vail	No	0.49	2. Water Analysis	0. Conceptual	
	500 E Lionshead Circle - Legacy	Residential	20	Vail	No	0.29	5. Water Service Agreement	2. Plan Approval	
	Alura (Miradoro)	Residential	10	Vail	No	0.83	1. Connection Application	2. Plan Approval	
	Belden Place (1200 Block Main St)	Residential	41	Minturn	Yes		N/A	2 Plan Approval	
	Booth Heights	Residential	61	Vail	No	TBD	1. Connection Application	0. Conceptual	
	Highline (Double Tree Expansion)	Residential	43.65	Vail	No	0.79	6. Ability to Serve Letter	1. Plan Review	
	Middle Creek Lot 4,5	Mixed Use	64	Vail	No	TBD	0. Conceptual	0. Conceptual	
	Midtown Village PUD	Res + Com	42 + Com	Minturn	Yes		1. Connection Application	1. Plan Review	
	North Minturn PUD	Residential	36	Minturn	Yes		N/A	0. Conceptual	
	The Residences at Main Vail	Residential	72	Vail	No	0.81	6. Ability to Serve Letter	2. Plan Approval	
	Vail Marriott Residence Inn	Mixed Use	75	Vail	Yes		N/A	2. Plan Approval	
	Wolcott PUD	Mixed Use	360 + Com	Wolcott	No	TBD	0. Conceptual	0. Conceptual	
	<b>Projects Completing Warranty Period</b>								
	3010 Basingdale (Phase II), 841/851 Main St Minturn, Red Sandstone Parking Garage, VVMC Phase II-East Wing								
	<b>Construction Approval Process Steps:</b>	0. Conceptual		1. Plan Review	2. Plan Approval	3. Acceptance	4. Warranty Period	5. Final Acceptance	
	<b>Development Approval Process Steps:</b>	1. Connection Application	2. Water Demand Worksheet Analysis	3. Conditional Capacity to Serve Letter	4. Water Rights Allocation	5. Water Service Agreement	6. Ability to Serve Letter		

**UERWA New Development Report**

**May 2023**



	Type of Use	SFEs Proposed	Location	Existing Service Commitment?	Augmentation Requirement	Development Approval Process Step:	Construction Approval Process Step:	
	140 W Beaver Creek Blvd (Extended Stay)	Residential	97.5	Avon	Yes		N/A	0. Conceptual
	Avon Dual Brand Hotel(Traer Tract J)	Commercial	85.05	Traer	Yes		6. Ability to Serve Letter	2. Plan Approval
	CMC Student Housing (Phase I & II)	Residential	72	Edwards	Yes		6. Ability to Serve Letter	2. Plan Approval
	CVC Clubhouse Residences	Residential	9	Edwards	No	1.12	6. Ability to Serve Letter	2. Plan Approval
	ECO School District Housing	Residential	37	Edwards	Yes		6. Ability to Serve Letter	2. Plan Approval
	Edwards River Park PUD	Mixed Use	440+com	Edwards	No	70.2	3. Cond. Capacity	0. Conceptual
	Fox Hollow Amended PUD	Mixed Use	108	Edwards	No	14	6. Ability to Serve Letter	2. Plan Approval
	Frontgate (CO World Resorts)	Mixed Use	84	Avon	No	2.6	6. Ability to Serve Letter	2. Plan Approval
	Kudel Parcel	Residential	4	Edwards	No	2.4	6. Ability to Serve Letter	2. Plan Approval
	Margaux PUD	Residential	32	Edwards	No	3.56	3. Cond. Capacity	0. Conceptual
	Maverik Gas Station	Commercial	2.6	Traer	Yes		6. Ability to Serve Letter	2. Plan Approval
	McGrady Acres	Residential	24	Avon	Yes		6. Ability to Serve Letter	2. Plan Approval
	Mountain Hive	Residential	110.5	Edwards	No	14.1	2. Water Analysis	0. Conceptual
	NorthStar PUD Amendment	Commercial	TBD	Edwards	No	3.7	6. Ability to Serve Letter	2. Plan Approval
	Prime West	Residential	241	Traer	Yes		1. Connection Application	0. Conceptual
	Riverfront Lot 1	Residential	53	Avon	Yes		N/A	2. Plan Approval
	Riverwalk PUD Amendment	Residential	18	Edwards	No	1.8	6. Ability to Serve Letter	N/A
	Stolport Restaurant (Traer Tract J)	Commercial	TBD	Traer	Yes		6. Ability to Serve Letter	1. Plan Review
	Swift Gulch	Residential	42	Avon	Yes		1. Connection Application	0. Conceptual
	Tract Y- Metcalf Road	Residential	53	Avon	Yes		1. Connection Application	1. Plan Review
	Vogelman Parcel (Carwash)	Mixed Use	1.5	Edwards	No	1.1-2.6	2. Water Analysis	1. Plan Review
	Warner Building 2 Conversion	Residential	13.25	Eagle-Vail	No	0.07	3. Cond. Capacity	N/A
	West End PUD Amendment	Residential	275	Edwards	Yes		3. Cond. Capacity	1. Plan Review
	<b>Projects Completing Warranty Period</b>							
	185 Elk Tract, Piedmont Apartments, Riverfront Village, Stillwater							
	<b>Process</b>	<b>Construction Approval Process Steps:</b>	0. Conceptual	1. Plan Review	2. Plan Approval	3. Acceptance	4. Warranty Period	5. Final Acceptance
<b>Development Approval Process Steps:</b>		1. Connection Application	2. Water Demand Worksheet Analysis	3. Conditional Capacity to Serve Letter	4. Water Rights Allocation	5. Water Service Agreement	6. Ability to Serve Letter	



## BOARD COMMITTEES

### DISTRICT

<i>Audit/Budget</i>	Dick Cleveland Steve Coyer
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<i>Employee Housing</i>	Steve Coyer Dick Cleveland
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<i>Retirement Plans</i>	Bob Warner Siri Roman David Norris
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<i>Organizational Development</i>	Bob Warner Dick Cleveland
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### JOINT

<i>Rules and Regulations</i>	Kim Bell Williams (A) Bob Warner (D)
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<i>Water Conservation</i>	Mike Trueblood (A) Tamra Underwood (A) Kate Burchenal (D) Steve Coyer (D)
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(A) = Authority, (D) = District

### AUTHORITY

<i>Audit/Budget</i>	Geoff Dreyer George Gregory
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**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 Administrator  
**DATE:** May 15, 2023  
**RE:** Summary of Authority’s Apr. 27, 2023, Board Meeting

The following is a summary of items discussed at the Authority’s Apr. 27, 2023, board meeting.

Directors present and acting were Chair George Gregory, Treasurer Geoff Dreyer, Kevin Hillgren, Mike Trueblood, and Tamra Underwood. Secretary Kim Bell Williams was absent and excused.

**No-Fault Damages Program** The board approved an amended and restated joint resolution clarifying that the No-Fault Damages Program applies only to residential structures and not to driveways, landscaping, or easements.

**Augmentation Water for Eagle County Airport project** The board approved the temporary use of 23.75 acre feet of Eagle Park Reservoir water previously conveyed by Eagle County to the Authority, which has yet to be committed, to provide augmentation water for a construction project at Eagle County Airport.

**Vail snowmaking leak** Siri Roman reported on a leak in a Vail Resorts (VR) snowmaking line and said VR is not required to sample the discharge because algacide has not been applied to Vail’s snowmaking pond since 2021.

**Senate Bill 23-213, Land Use Bill** Siri Roman and Kristin Moseley provided updates on SB 23-213. District staff and consultants submitted a Fiscal Note Response Form and letters to Senator Dylan Roberts, which were influential during the committee hearing. Director Underwood acknowledged the District and Authority for being the only water service providers to testify at the committee hearing and for working with the Colorado Association Ski Towns on proposed amendments.

**Quarterly financials** Jim Cannava said first quarter operating expenses are on track with FY 2023 budget.

**Merging Water Systems for Regulatory Compliance** Brad Zachman said the District and Authority’s individual public water systems (PWSs) have been merged for regulatory compliance purposes as of Apr. 1. The combined PWS is identified as “Eagle River Water & Sanitation District” (ERWSD) and the District and Authority are listed as co-owners. ERWSD is now the second largest community water system on the western slope and twenty-fifth largest system in Colorado with the third most facilities.

**Sustainability statistics & progress** Kira Koppel reviewed 2022 sustainability achievements and data. Highlights include reductions in natural gas and electricity use. The District received the Actively Green and Colorado Green Business Network certifications, and the Edwards Wastewater Treatment Facility was awarded the Rocky Mountain Water Environment Association’s Sustainability Award.

**Senate Bill 23-150** Diane Johnson said Governor Polis signed SB-150 requiring labeling on non-flushable wipes. The District worked on research, outreach, and committee testimony that were critical to getting this law enacted.



**Water Rights  
Appraisal**

Kristin Moseley reviewed the updated water rights appraisal, which is part of the annual financial audit, and is based on current cash in lieu rates. The total value greatly increased due to the cash-in-lieu rate increase associated with the estimated costs to design, permit, and construct Bolts Lake.

**Senate Bill 23-295**

The board discussed the proposed Colorado River Drought Task Force and directed counsel to express the Authority's position in favor of SB23-295.



## MEMORANDUM

**TO:** Boards of Directors  
**FROM:** David Norris, Director of Business Administration  
**DATE:** May 25, 2023  
**RE:** Disconnection of Service

Per Rules & Regulations 5.11.1, after 30 days of non-payment of fees assessed to a customer account, the District shall assess finance charges at the maximum rate allowed by statute on the unpaid balance. Notices will be mailed and emailed (if applicable) to the customer. If after 15 days from the delinquent notice the fees remain unpaid the District shall post a disconnection door hanger on the customer's property. If payment is not received in full within 24 hours from the posted notice, the District shall have the right to discontinue service and a disconnection fee will be assessed on account.

The Customer Service and Utility Services teams have established a new procedure for disconnection of service due to non-payment, as the District has not historically put into practice this section of the rules and regulations consistently. After the billing process has run for each respective month, the teams will assess delinquent accounts and issue Notice 1 (10 days past due), Notice 2 (20 days past due) and Notice 3 (30 days past due) notices to customers. Customers that are at least 90 days past due the Customer Service will email and call the customer(s) to inform them of the intent to disconnect due to delinquent account status. Once the scheduling for disconnection has occurred with the teams, the customer is informed that within 24 hours the Disconnection of Service door hanger will be placed on their property. Once the door hanger is placed on the property the customer has 5 business days to pay the balance in full. If the balance remains unpaid after 5 business days, the disconnection of service will occur on the specified date and fees will be added to the account. Prior to disconnection the teams notify the Fire Department, dispatch, and Field Operations to ensure health & safety, payment in full and after-hours calls are covered. Reconnection of service will not be made until balance is paid in full.

As of May 2023, the total of past due account was \$245,000 which represents over 3.23% of the revenue. The District (22) and Authority (54) have 76 accounts that are 90+ days past due totaling over \$53,000. The teams are focused on those accounts in these categories first while working backwards to 30+ days past due.

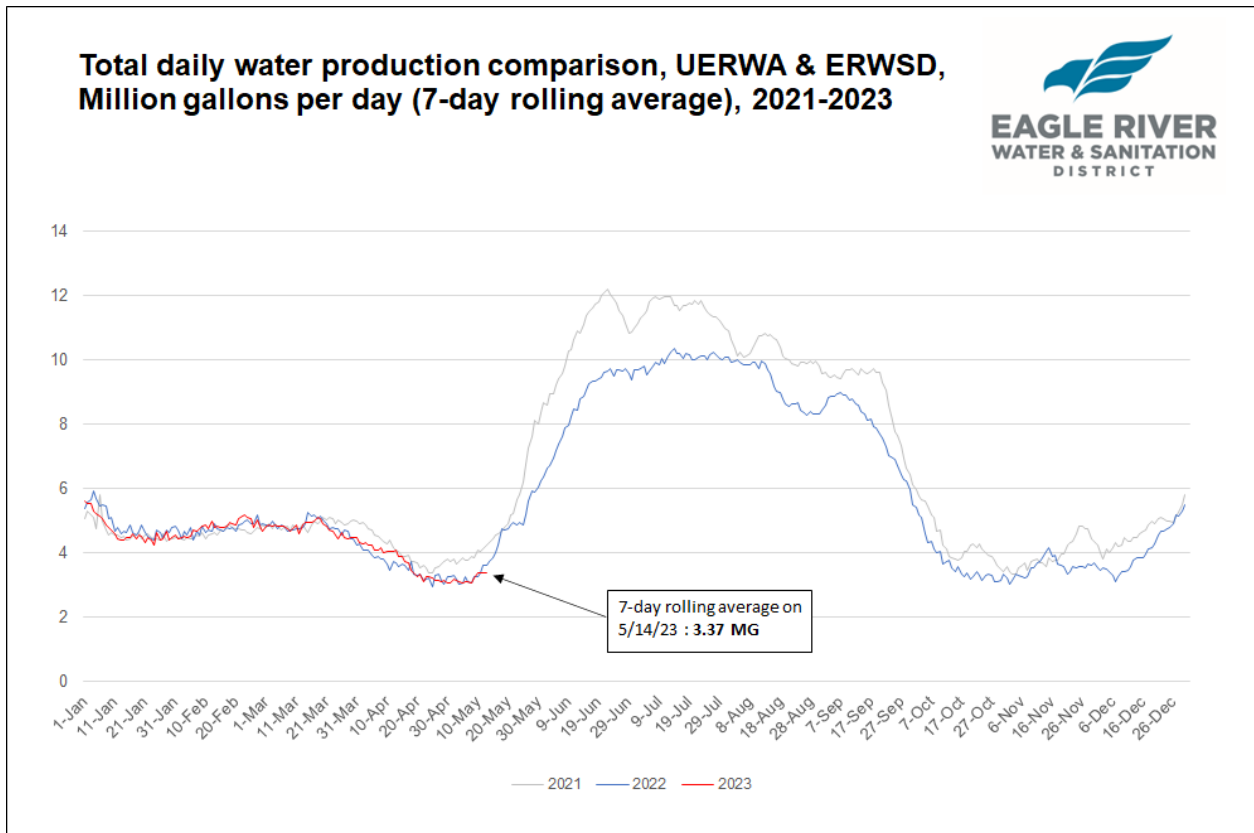


### OPERATIONS MONTHLY REPORT May 2023

## WATER

Brad Zachman

The system-wide water production comparison was updated through May 14. System demand dropped to seasonal lows in early May. Water operators are currently performing maintenance and startup checkouts at all production facilities in preparation for the upcoming Memorial Day holiday weekend, which is typically when outdoor irrigation demands begin.



Water Operations and CIP staff are currently coordinating a variety of non-routine maintenance projects at the Edwards Drinking Water Facility (EDWF) and the Berry Creek Wellhouse. The work at EDWF includes installation of a new streaming current analyzer and sample line that will help operators better control the coagulation process, repair of leaking air/vacuum release valves, replacement of a drain line on the chemical clean-in-place (CIP) process, replacement of distribution pump check valves, installation of a new chlorine injection quill assembly, repair of a pump motor, and installation of a new air compressor. The work at Berry Creek Wellhouse includes installation of a redundant sodium hypochlorite (i.e., chlorine) dosing system.

**Clean Water. Quality Life.™**

LABORATORY & WATER QUALITY

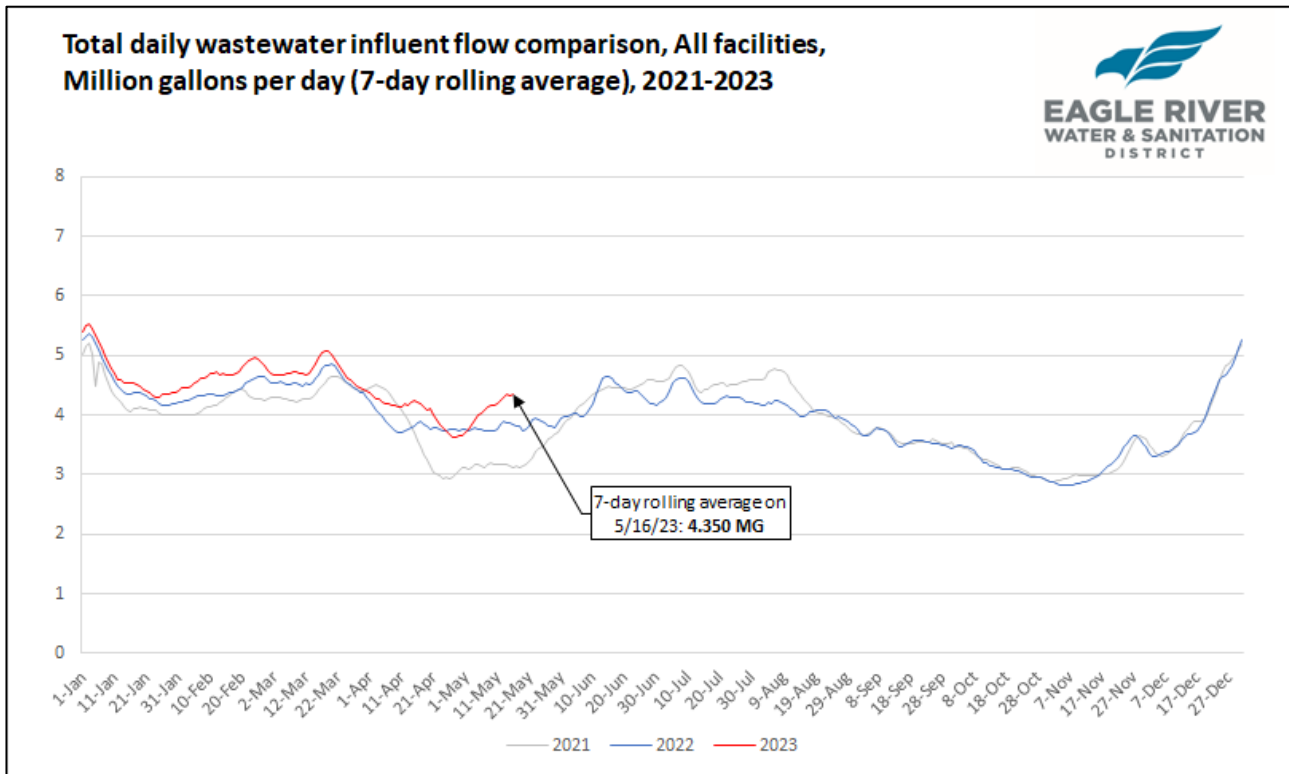
Leah Cribari

On May 8, a Water Quality Control Commission (WQCC) rulemaking hearing occurred for Colorado’s Regulation 93, which includes proposed changes to Colorado’s Section 303(d) List of Impaired Waters and Monitoring and Evaluation List. The District’s legal counsel, staff, and consultants attended the Rulemaking Hearing (RMH). A memo that summarizes the WQCC decisions is provided in the board packet.

WASTEWATER

Brad Zachman

Cumulative influent wastewater flow reached seasonal lows in early May after the end of the ski season. Flow has trended up slightly over recent weeks, which is reflective of a normal increase in inflow and infiltration (I&I) during spring runoff.



Wastewater operations and CIP staff are coordinating several large maintenance projects at the Edwards Wastewater Treatment Facility (EWW). The work includes media replacement in the autothermal thermophilic aerobic digestion (ATAD) odor control biofilters, rerouting the non-potable water pipe used to convey cooling water to the ATAD process, replacement of process control valves, electrical improvements at the headworks facility, and replacement of several security doors at the facility.

The wastewater master plan project team held a workshop on May 10 to identify and discuss system-wide treatment strategies that will be further evaluated to achieve compliance with forthcoming Regulations 85 and 31.

**FIELD OPERATIONS**

Niko Nemcanin

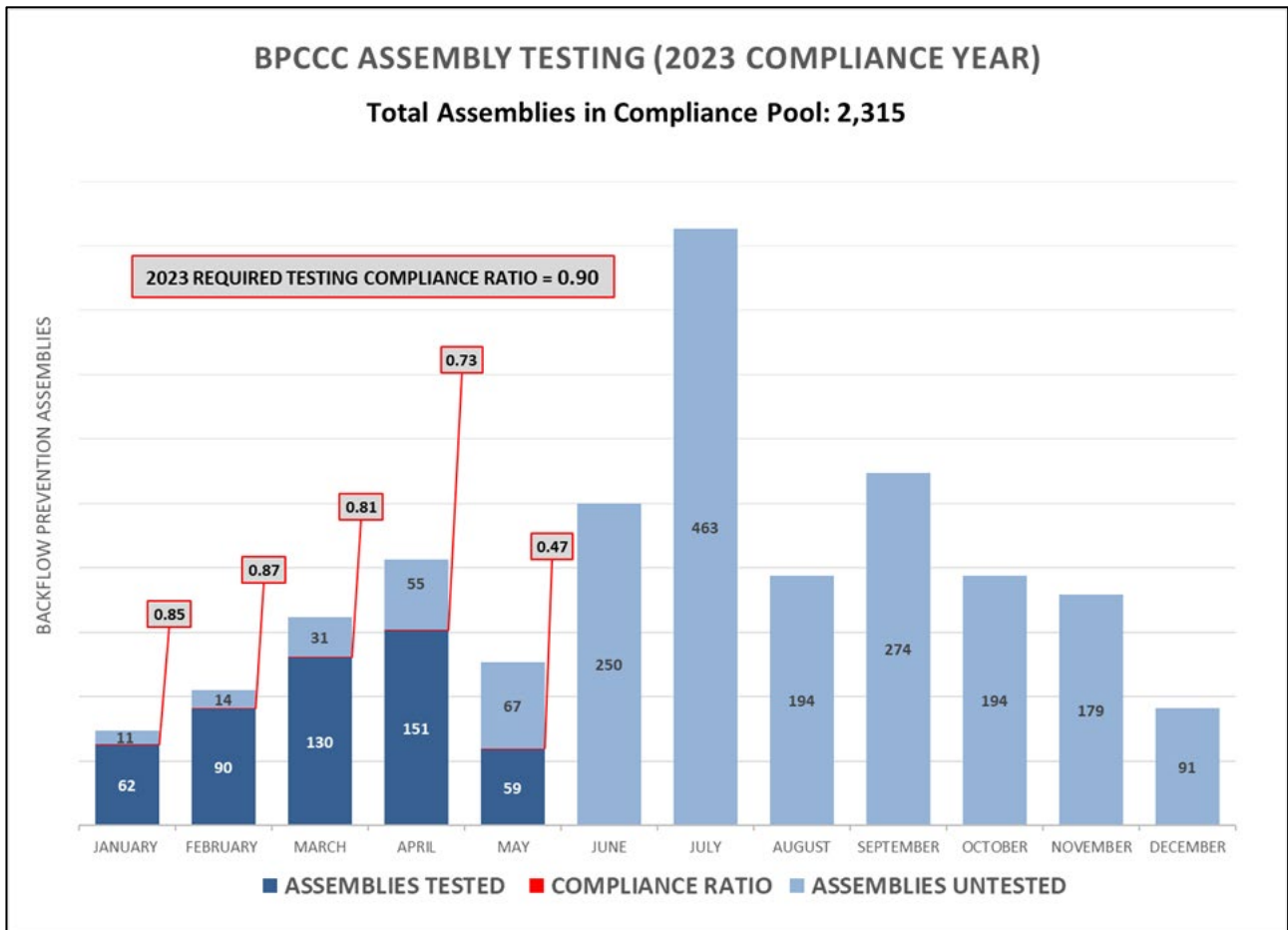
Annual summer maintenance programs are underway. Field Operations staff has initiated fire hydrant flushing, system valve maintenance, and booster pump station maintenance. Collection system jetting and closed-circuit television (CCTV) inspections have also started.

**UTILITY SERVICES**

Shane Swartwout

**BPCCC Program**

BPCCC team members are contacting irrigation customers to verify that backflow prevention assemblies are tested during seasonal irrigation system startups. The team’s goal is to ensure that all irrigation assemblies are tested during the summer season. Irrigation assemblies make up 33% of the compliance pool.



**Meter Services**

Meter services staff members are currently working with the advanced metering infrastructure (AMI) manufacturer to perform a network propagation study. The goal of the study is to improve AMI network redundancy by troubleshooting network coverage gaps. The meter services team is also continuing with AMI meter upgrades in the Authority system. A progress summary is provided below.

Report Date:	5/16/2023		
<b>AMI SYSTEM STATUS</b>	<b>ERWSD</b>	<b>UERWA</b>	<b>TOTAL</b>
(1) Total No. of Meters	3196	6834	10030
(2) No. of AMI Meters	3194	5971	9165
(3) System Percentage of AMI Meters	99%	87%	94%
Meters Remaining to Reach 100% AMI	2	895	897
<i>Meter Services – Advanced Metering Infrastructure (AMI) Status (Updated 5-16-2023)</i>			

**ENGINEERING**

Jeff Schneider

**WATER PROJECTS**

**Fenno Wellhouse and Raw Water Conveyance**

Jeff Schneider/Carter Keller

General Project Scope: The project includes a complete replacement of a treatment facility in Cordillera that treats water from seven groundwater wells. The previous facility did not meet electrical code, had safety concerns, and was generally at the end of its useful life. The new treatment facility was completed in 2022. The current focus of this project is to assess and rehabilitate the aging wells and raw water conveyance pipe that serve the new facility.

Project Update: The new pump and motor for Well F6 have been ordered and will be installed once the equipment arrives. The remaining four Fenno wells will be inspected later this year.

**Avon Drinking Water Facility (ADWF) PLC Upgrades**

Jenna Beirsto

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 new server room structure and walls have been completed. Electrical work and fire suppression system installation will begin at the end of May. A second control philosophy workshop was held on Apr. 16 for the influent pumps, during which the PLC programming and

SCADA screens were tested by the project team. Factory acceptance testing (FAT), which includes simulating PLC programming prior to installation, occurred on May 16.



*Construction of the new networking and server room*

### **Water Production and Treatment Masterplan**

Jenna Beirsto

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: A system-specific risk assessment tool was completed and presented to the project team. A workshop is scheduled for May 22 to review proposed capital improvements projects. The initial chapters of the master plan summary report are under development.

### **Arrowhead Transmission Main and Valve Vault**

Mark Mantua

General Project Scope: This project includes replacement of approximately 2,200 linear feet of 16-inch diameter water main from roughly 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 construction plans have been finalized. The Location and Extents Application (LEA) with the Eagle County Planning Commission was approved on May 17. The project team is working to secure easements from Vail Resorts, but there have been some complications that may delay the project schedule. The team is prepared to advertise the project once the easement agreements are finalized.

**North Frontage Road Watermain Improvements**

Woodson Spring

General Project Scope: This project involves construction of approximately 700 linear feet of 10-inch diameter water main from the Residences at Main Gore (near the main Vail roundabout) to the culvert crossing at Middle Creek.

Project Update: A notice-to-proceed was issued on May 16. Contractor mobilization is scheduled for early August.

**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 1.

Project Update: Construction bids for the project were opened on May 5. Two general contractors submitted bids for the project and both were over budget. The lowest bidder was 27% higher than the final engineer's estimate. The project team is currently evaluating cost reduction options.

**WASTEWATER PROJECTS**

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**Avon Wastewater Treatment Facility (AWW) Nutrient Upgrades** Jeff Schneider/Jenna Beairsto

General Project Scope: The AWW requires upgrades to meet Regulation 85, which requires a reduction of the concentrations of nitrogen and phosphorus in the effluent. The scope of this project includes: addition of 0.6 million gallons of aeration basin capacity, installation of a new secondary clarifier, structural modifications to the existing aeration basins to remove the existing double-tees and replace with a building structure, installation of a new odor control study and system, and other improvements throughout the facility. This project also includes improvements identified in a 2017 condition assessment in process areas throughout the facility.

Project Update: Aeration Basin 1 was taken out of service on Apr. 25 to inspect submerged piping and to perform sandblasting and coating of the submerged valves. The roofing subcontractor mobilized to the site on May 8 and began installing new roofing materials on the blower and secondary clarifier buildings. The painting crews completed coating installation on Secondary Clarifier 2 and are currently working to address warranty coating repairs on the submerged valves in the aeration basins. The retaining wall along the south property boundary and bike path is complete and the perimeter fence installation is nearly complete. Exterior civil work continues, including installation of a sand/oil separator, installation of a concrete curb and gutter, final site grading, and preparation for asphalt paving. The bike path paving work was completed on May 15 and the entire site will be paved beginning on May 22.





*Restored recreation path, retaining wall, and fence*



*Gasket seal installation on recoated secondary clarifier*



*Sand/oil separator backfill, access manholes, and vent system*

### **Dowd Junction Collection System Improvements**

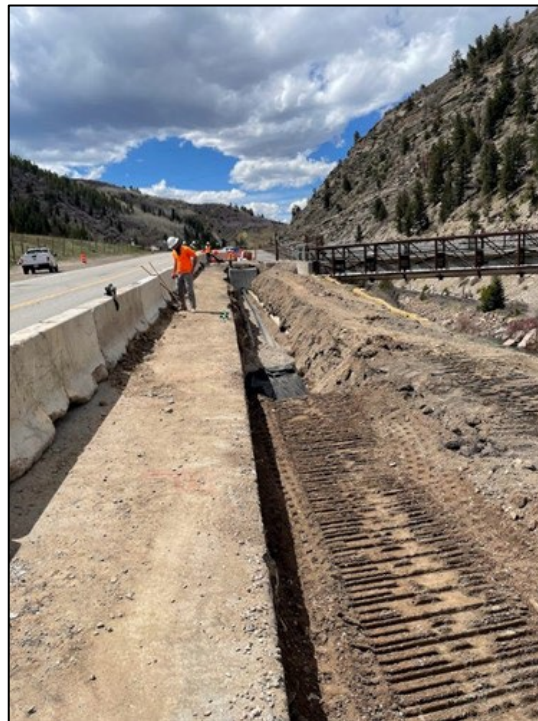
Jenna Bearsto

General Project Scope: The project consists of four major infrastructure improvements: the aerial interceptor crossing at Dowd Junction; Lift Station 4, which conveys all of Minturn's wastewater; the aerial interceptor crossing at the Minturn Road bridge; and the force main downstream of Lift Station 4. The new infrastructure will be sized to accommodate future growth in the service area, most notably the Minturn area.

Project Update: The final leak test on the new wet well was completed, the below-grade control wiring was installed, and the excavation was backfilled. The above-grade dry-well slab is currently being prepared and placement is scheduled for the week of May 15. The termination vault was installed at the end of the new force main over the existing gravity sewer line. The force main pipes were installed from the termination vault to the first clean out location. Construction the force main cleanouts is ongoing.



*Forming the slab-on-grade for the new lift station dry well*



*Force main termination vault, pipe installation, and backfill*

## **Avon Lab Improvements**

Carter Keller

General Project Scope: The overall objective of this project is to install a new inductively coupled plasma mass spectrometer (ICP-MS) in the lab at the Avon Wastewater Facility. The new instrument will enable District staff to perform metals analyses in-house. Lab and architectural modifications will be completed, including installation of a new gas cabinet, duct chase, and fume

hood. Additionally, the makeup air unit (MAU) that serves the lab and the HVAC system for the lab and lab offices will be replaced.

Project Update: All rooftop equipment is installed, and the roofing contractor is currently working to replace the old roof membrane. During construction of the new roof, water unexpectedly leaked into administrative areas. The roofing contractor is currently working to address the problem and has teamed with a restoration subcontractor to assess and mitigate damage inside the building.

### **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 old aeration basin diffusers were demolished and the new diffusers are currently being installed. The contractor continues work to install the sanitary sewer bypass pipe southeast side of the facility. District operators completed an initial wastewater bypass test to verify collection system capacity. A second follow-up test is scheduled later this month. The contractor began removal and repair of the existing expansion joint on the parking deck. Demolition and replacement of the office entry front plaza is scheduled to begin in late-May.



*Installation of the sanitary sewer bypass line*

**GENERAL CAPITAL**

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**Vail Administration Bathroom Renovations**

Jenna Beairsto

General Project Scope: The District will be renovating all six of the restrooms at the Vail Administration Building. The project focuses on replacing existing fixtures with high efficiency, low-flow devices. The work will be phased to keep restrooms open for people working out of the facilities.

Project Update: The contractor completed demolition of the second story and first story north bathrooms. The existing fixtures were removed. Electrical relocations are underway. Tile installation is underway. Drain and shower pan improvements are underway for the first story restrooms.



*Tile installation in the north first floor restroom*



## MEMORANDUM

**TO:** District and Authority Board Members  
**FROM:** Leah Cribari, Laboratory and Regulatory Compliance Supervisor  
**DATE:** May 12, 2023  
**RE:** 2023 Regulation #93 Rulemaking Hearing

Regulation #93, Colorado's Section 303(d) List of Impaired Waters and Monitoring and Evaluation List, Rulemaking Hearing (RMH) occurred on May 8. The Water Quality Control Division (WQCD) had proposed the following listings for Eagle River.

- Listing Segment 5a\_B for dissolved cadmium
- De-listing Segment 5a\_C for dissolved iron
- De-listing Segment 5b\_A for dissolved zinc
- Listing Segment 9c for temperature

The District supported the listing for Segment 5a\_B for cadmium, but opposed the other listing and de-listings. Prior to the hearing, the WQCD agreed with the District for all Segment 5 proposals.

The temperature listing on Segment 9c was the last item to go before the Water Quality Control Commission (WQCC). During the hearing, the District, town of Eagle, town of Gypsum, Colorado Parks and Wildlife, WQCD, and EPA testified on the topic. The WQCC ruled that Eagle River Segment 9c from a point immediately below the confluence with Rube Creek to the confluence with the Colorado River will be listed on the 303(d) list for temperature due to temperatures being over the standard for two years out of four.

### BACKGROUND

The District has been monitoring and studying stream temperatures in the Eagle River basin since 2007 at up to 25 sites in the mainstems of Gore Creek, the Eagle River, and their tributaries. Since 2008, the District has been evaluating temperature standards, implementation and permitting issues, and has participated in multiple workgroups looking for ways to address stream compliance assessment.

Chronic and acute standards are used to assess stream compliance which numeric limits depend on stream classifications. The chronic standard is calculated based off the weekly average temperature (WAT) which is the average of daily average temperatures over a seven-day consecutive period, with a minimum of three data points spaced equally through each day. The acute standard is calculated based off the daily maximum (DM) temperature which means the highest two-hour average water temperature recorded during a given 24-hour period.

In the past, the District worked with the Division to set site-specific (SS) chronic temperature standards for Eagle River Segments 8, 9a, and 9b. These SS chronic temperature standards were adopted by the

Commission at the 2014 Regulation No. 33 RMH. The SS standards were developed based on six years of stream temperature data and over 25 years of fish data collected at multiple sites throughout the Eagle River watershed. ERWSD completed a Use Attainability Analysis that showed stream temperatures in the Eagle River segments are primarily driven by air temperatures and low flows, and that while anthropogenic inputs occur, impacts from these sources are very small relative to the physical controlling factors.

Over the past 10 years, the method of assessing stream temperature compliance has changed. Prior to 2016, stream temperatures that exceeded the standard could be removed from the data set due to physical factors including low flow, high air temperatures, and shoulder seasons. At the 2016 Regulation 31 RMH, the Commission took action to remedy these issues by directing the Division to define a “warming event” that allows excursions above temperature standards but is based on biological factors rather than physical factors to protect the biological use. The District supported this change.

## ASSESSMENT

The District’s interpretation of the warming event and application of stream assessment methodology differed from the WQCD, EPA, CPW, and ultimately the WQCC. The District believed that if a stream temperature was over the standard then 13.5 degree days were allowed before it was considered a warming event and one warming event was allowed once every 3 years. The WQCD’s assessment is that anything over the standard is considered a warming event. One warming event is allowed once with 4 to 6 years of data. The warming event would not be allowed at all if the warming event exceeded the 13.5 degree days resulting in a listing on the 303(d) list.

The data used for assessing stream temperature compliance was from the USGS gauge Eagle River below Milk Creek (**Figure 1**, next page). In 2018 and 2021, data was shown to be over the chronic standard 2 times in 4 years resulting in a 303 (d) listing for temperature in the river segment below the Edwards Wastewater Treatment Facility discharge.

## CONCLUSION

Implication of the 303(d) listing for temperature on Eagle River Segment 9c has yet to be determined. In general, once a water body has been added to a state’s list of impaired waters it stays there until the state develops a total maximum daily load (TMDL) and EPA approves it or circumstances occur that would remove segment 9c off the 303(d) list. EPA reporting guidance provides a way to keep track of a state’s water bodies, from listing as impaired to meeting water quality standards. This tracking system contains a running account of all the state’s water bodies and categorizes each based on the attainment status. For example, once a TMDL is developed, a water body is no longer on the 303(d) list, but it is still tracked until the water is fully restored.

The WQCD will have the opportunity to add temperature limits into Edwards Wastewater permit. This usually occurs when a permit is renewed. The Edwards Wastewater permit expires February 28, 2026. The District could also pursue different SS standards, Discharger Specific Variance, or re-segmentation of Eagle River.

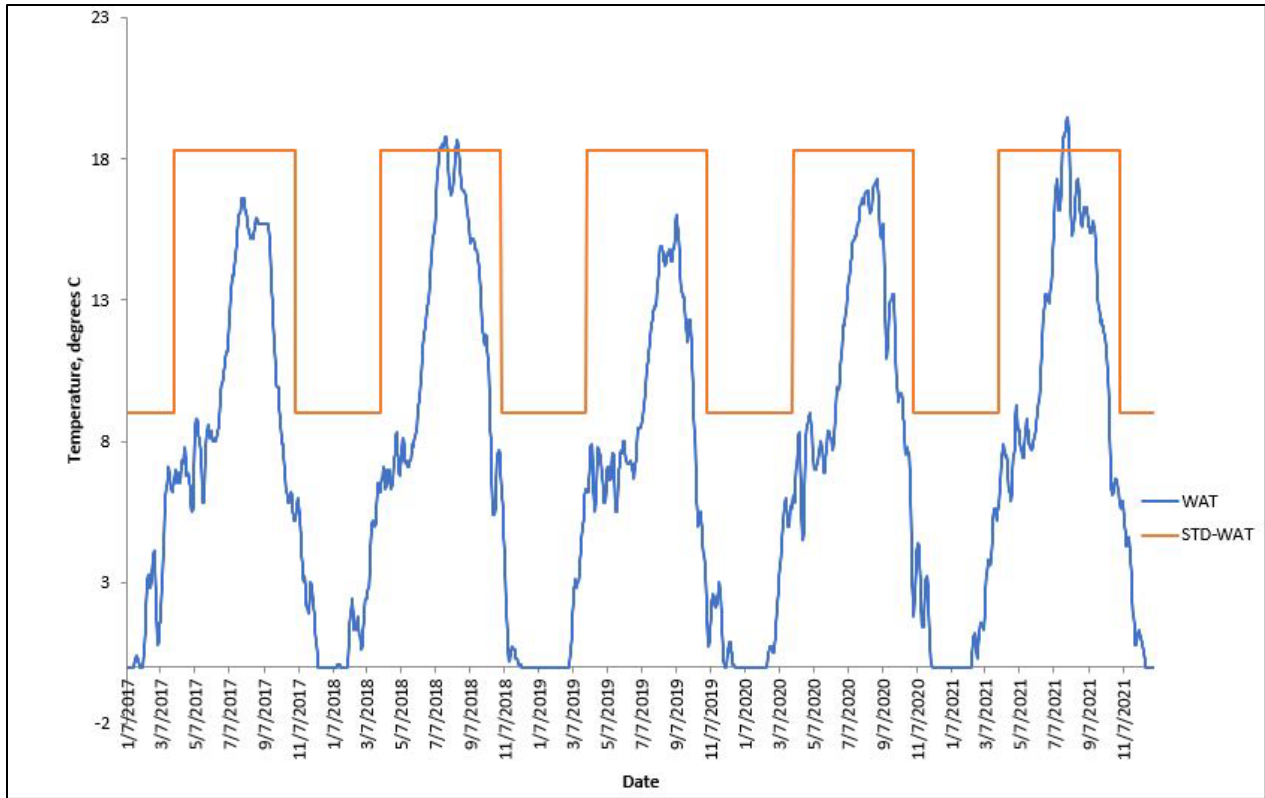



Figure 1. Comparison of WAT vs. MWAT Standard for Eagle River below Milk Creek





**MEMORANDUM**

**TO:** District and Authority Boards of Directors

**FROM:** Jason Cowles, P.E. 

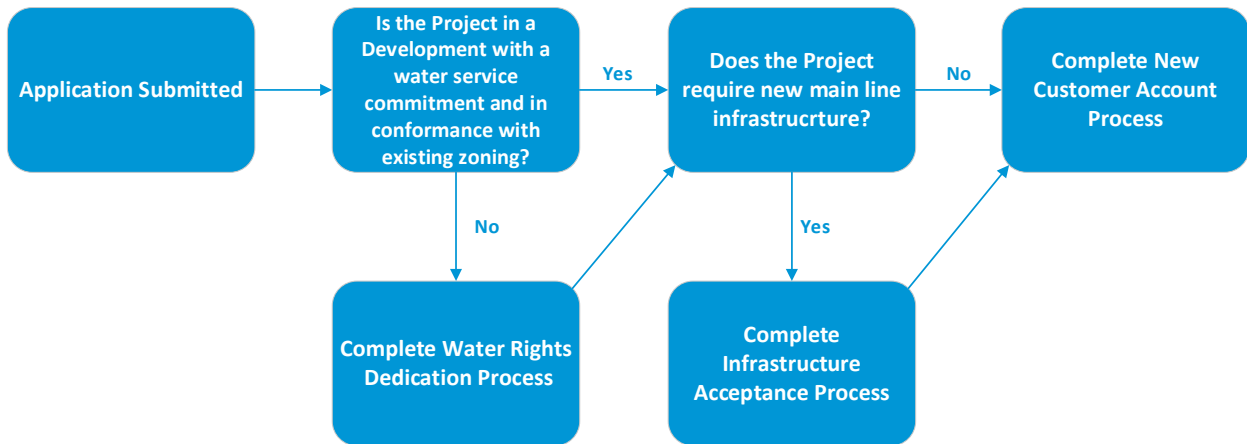
**DATE:** May 17, 2023

**RE:** Engineering & Water Resources Report

**Development Report Work Session**

At this month’s meeting, we will have a work session with the Boards to review and discuss the development report. This informational report that is included in each month’s packet was originally designed to track development project applications as they progress through the District’s Water Rights Dedication Process and/or Infrastructure Approval process which are defined in the District’s Rules and Regulations. A simplified flow chart that provides an overview of the process is presented below in Figure 1. We will provide more details on the process and the report content at the meeting.

Figure 1: Development Process Overview

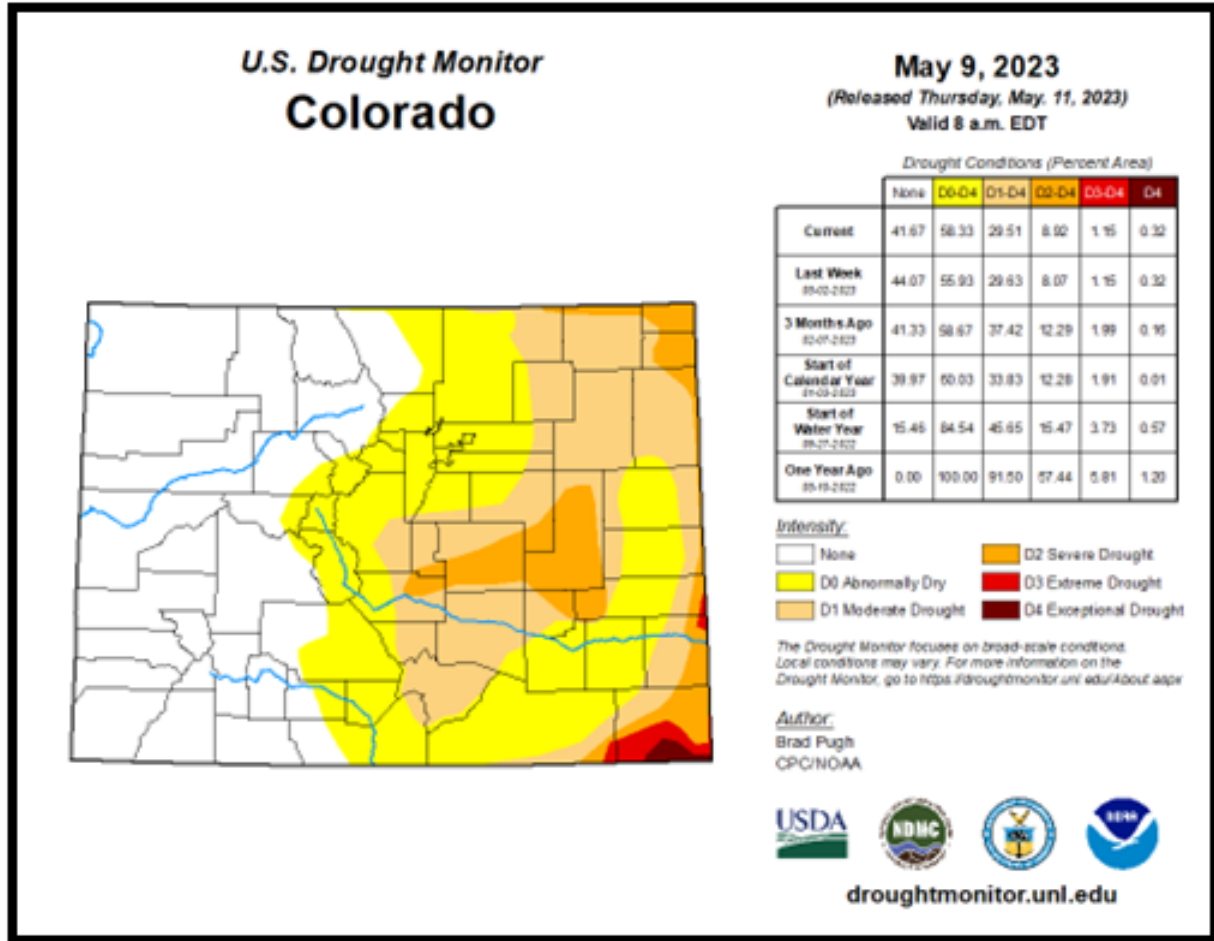


**Water Resources Report**

Drought Conditions

The May 9, 2023, U. S. Drought Monitor categorizes Eagle County as not being in drought conditions. The eastern portion of Colorado is still categorized as moderate to severe drought conditions with the exception of the far southeast corner of the state which is in exceptional drought condition.

Figure 2. U.S. Drought Monitor – Colorado. May 9, 2023 (National Drought Mitigation Center)



Temperature and Precipitation Forecasts

The current 8 to 14 day temperature and precipitation outlooks are shown in Figures 3 and 4. The near-term modeling indicates that precipitation and temperatures will be above average for the next 2 weeks. The seasonal 3-month temperature and precipitation outlooks, which are less accurate, indicate that temperature will be leaning above average and precipitation average.

Figure 3: 8-14 Day Temperature Outlook May 15, 2023 (NOAA Climate Prediction Center)

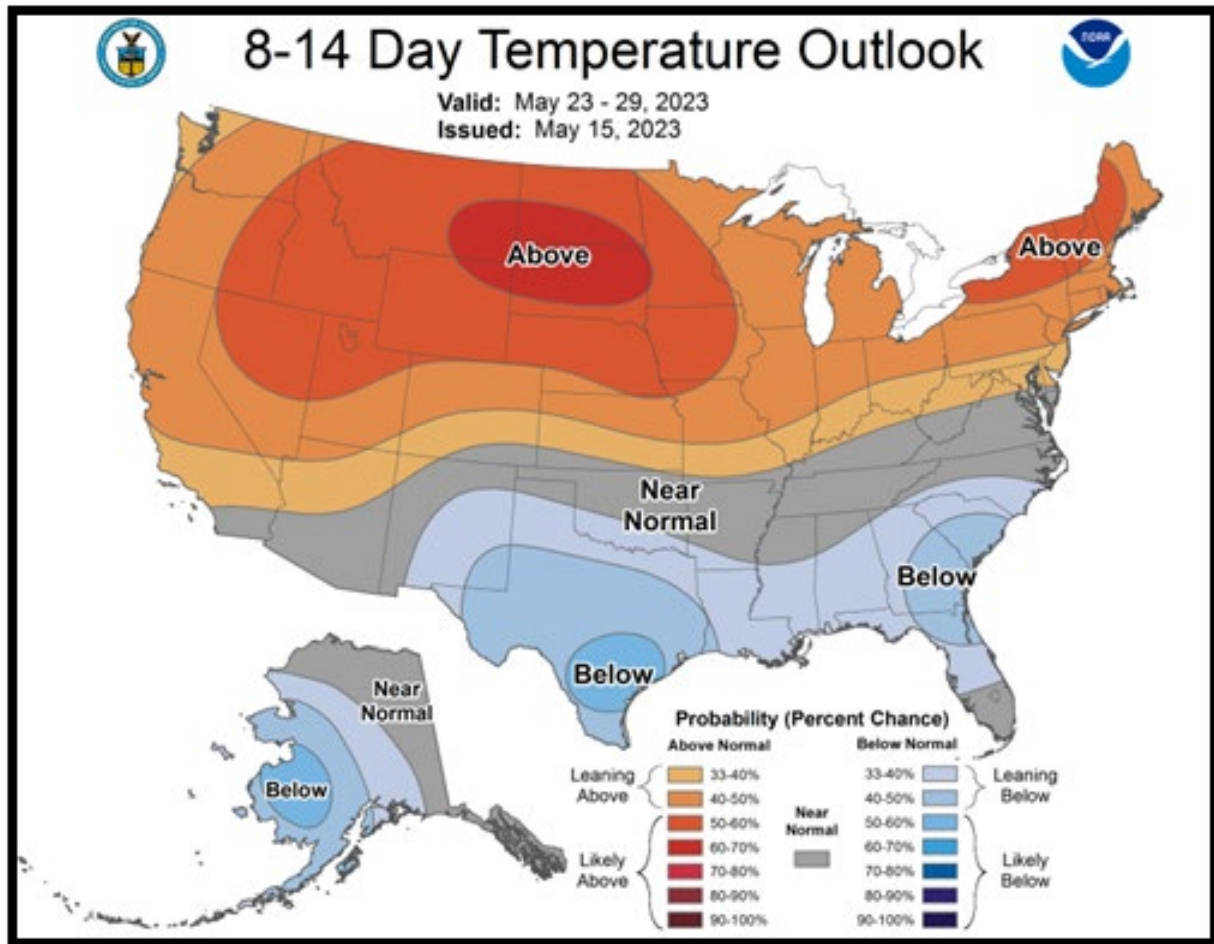
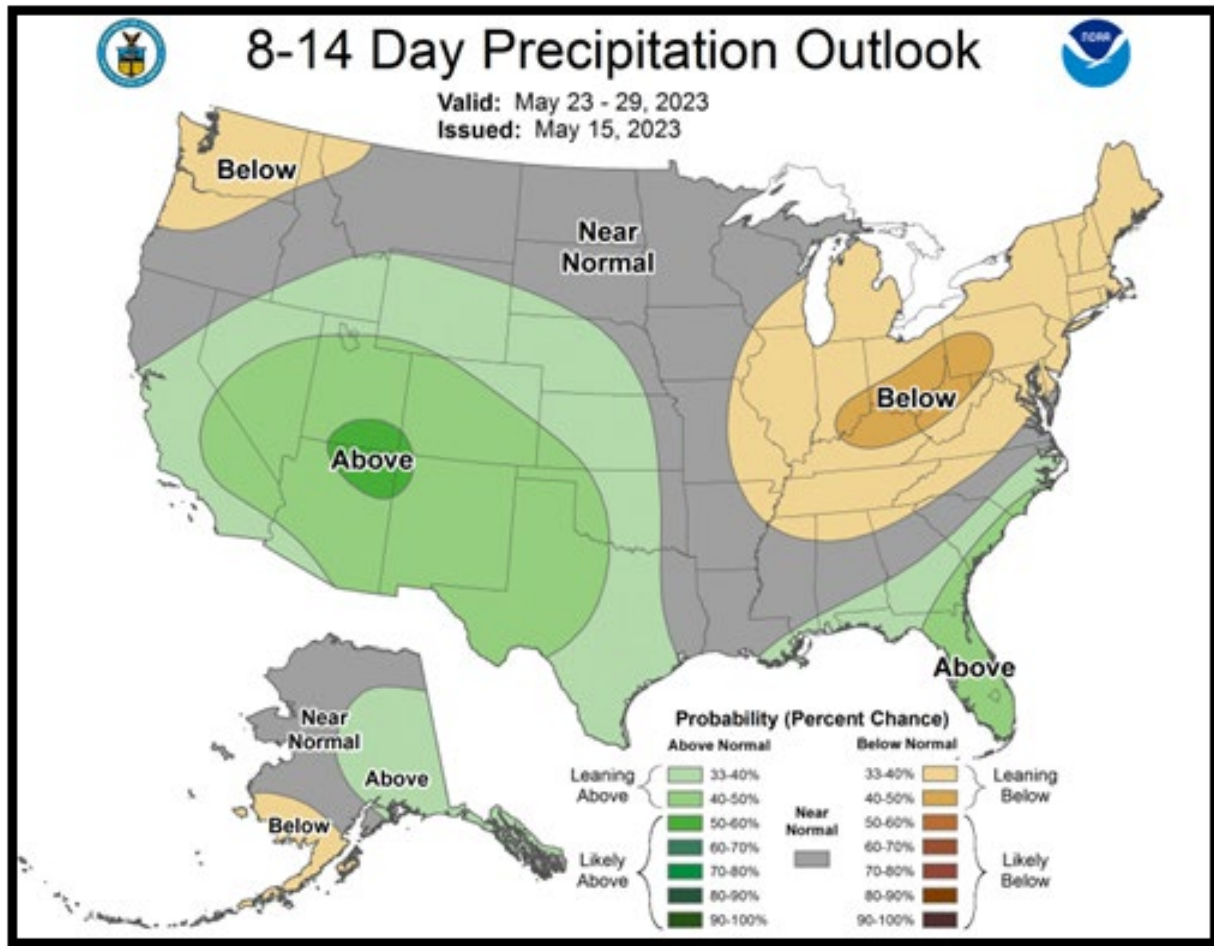


Figure 4: 8-14 Day Precipitation Outlook May 15, 2023 (NOAA Climate Prediction Center)



**Snowpack Conditions**

The two SNOTEL monitoring stations representative of the District’s water supply are Vail Mountain and Freemont Pass are shown in Figures 5 and 6 respectively. As of May 16, 2023, the Vail Mountain SNOTEL station has 6.4 inches of snow water equivalent (SWE) and is 30% of 30-year median peak. The Vail Mountain station has lost two-thirds of the SWE since its peak on April 11, 2023. The Freemont Pass SNOTEL station located near Eagle Park Reservoir has 17.0 inches of SWE and is 85% of the 30-year median peak. The Freemont Pass station is still at its peak SWE and has not started to have significant melting. Due to the below normal SWE trends at Freemont Pass, there remains some risk that Eagle Park Reservoir may not fill completely this spring. Operations staff are running the East Fork Pump Station to supplement the gravity in-flow.

Figure 5: SWE at Vail Mountain SNOTEL station, May 17, 2023 (USDA)

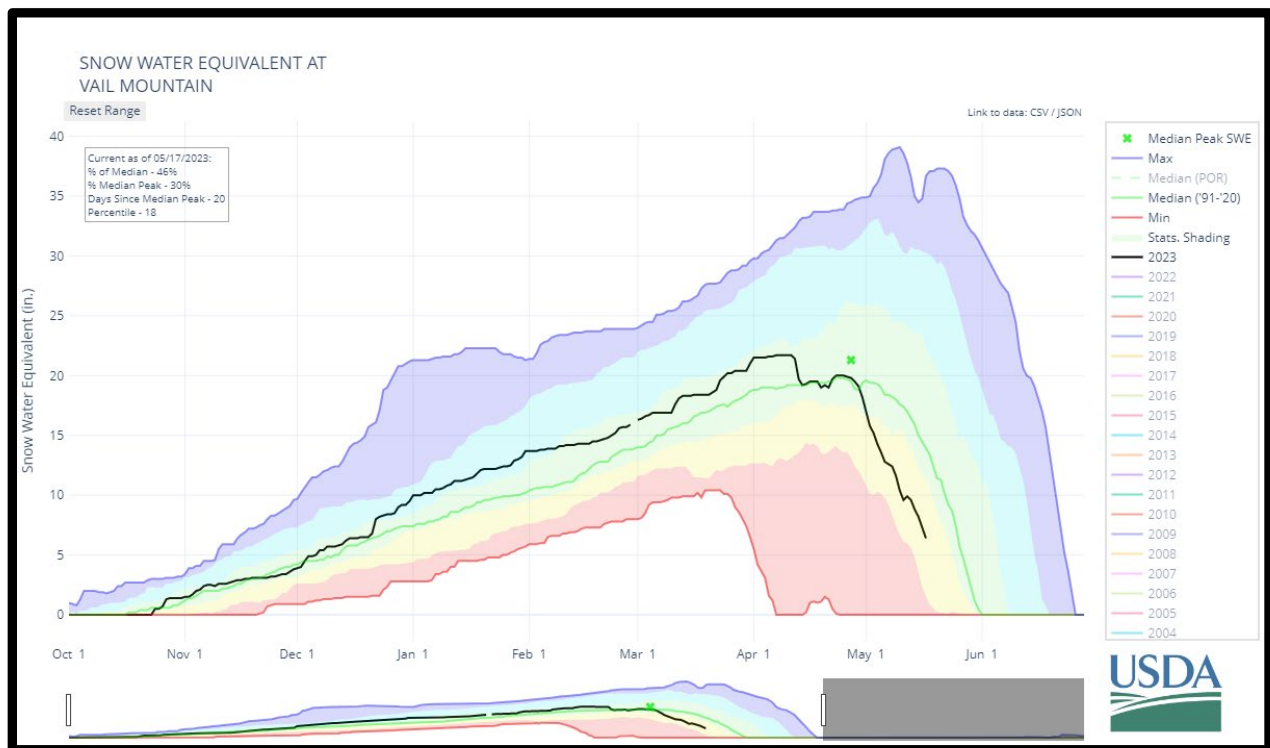
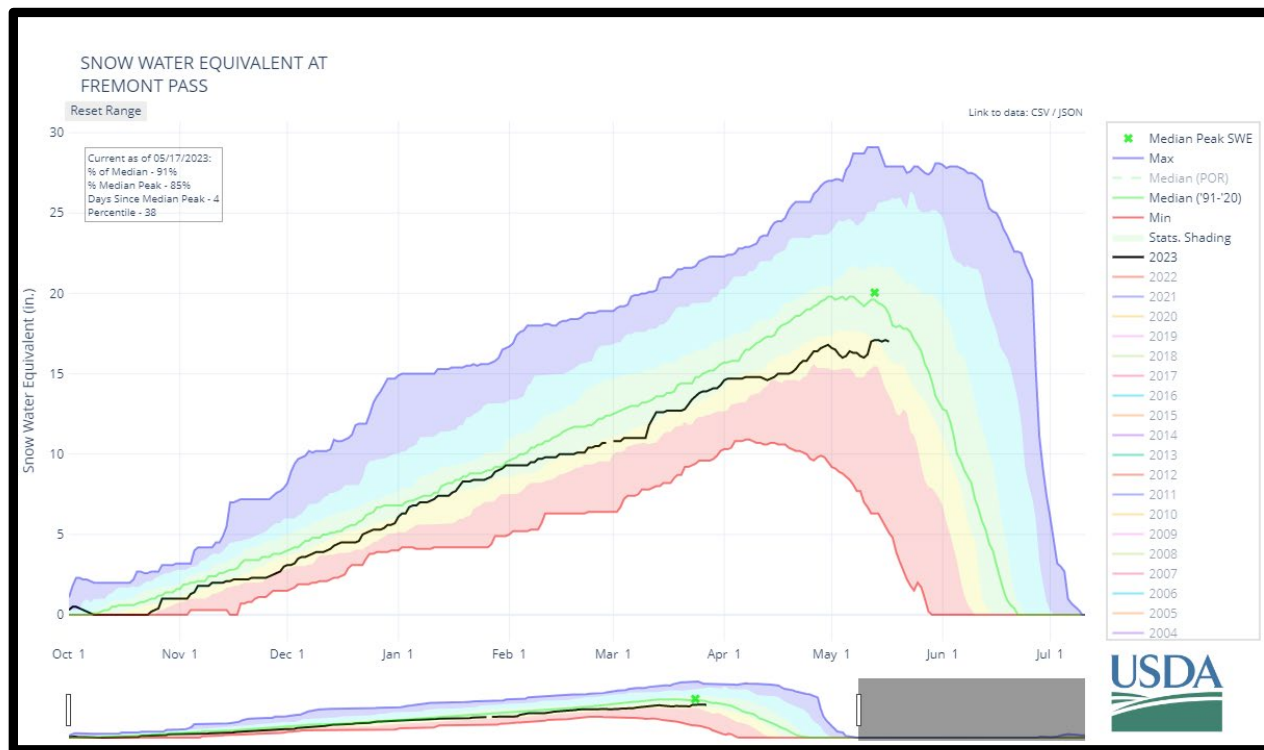


Figure 6: SWE at Fremont Pass SNOTEL, May 17, 2023 (USDA)



Streamflows

The Colorado Basin River Basin Forecast Center hydrographs for Gore Creek above Red Sandstone Creek, Eagle River at Avon, and Colorado River below Dotsero are shown on Figures 7, 8 and 9 respectively. Table 1 summarizes the flow, projected peak flow, and historical median peak flow for each gage. The forecasted peak flows are projected to be 2-weeks earlier at the 3 gage stations. The forecasted flows are lower than the historical median peak at the Gore Creek and the Eagle River stations. The Colorado River forecasted peak flow is 1,100 cfs higher than the historical median peak flow.

Table 1: Summary of flow, projected peak flow and historical median peak flow at relevant gage stations.

Gage	Gore Creek Above Red Sandstone Creek	Eagle River at Avon	Colorado River below Dotsero
May 16 Flow (cfs)	314	1,231	6,486
Projected Peak Flow (cfs)	627	2,016	7,908
Projected Peak Flow Date	May 26	May 24	May 24
Historical Median Peak Flow (cfs)	802	2,260	6,810
Historical Median Peak Flow Date	June 5	June 5	June 9

Figure 7: May 16, 2023, Gore Creek above Red Sandstone Creek Forecast Hydrograph (CBRFC).

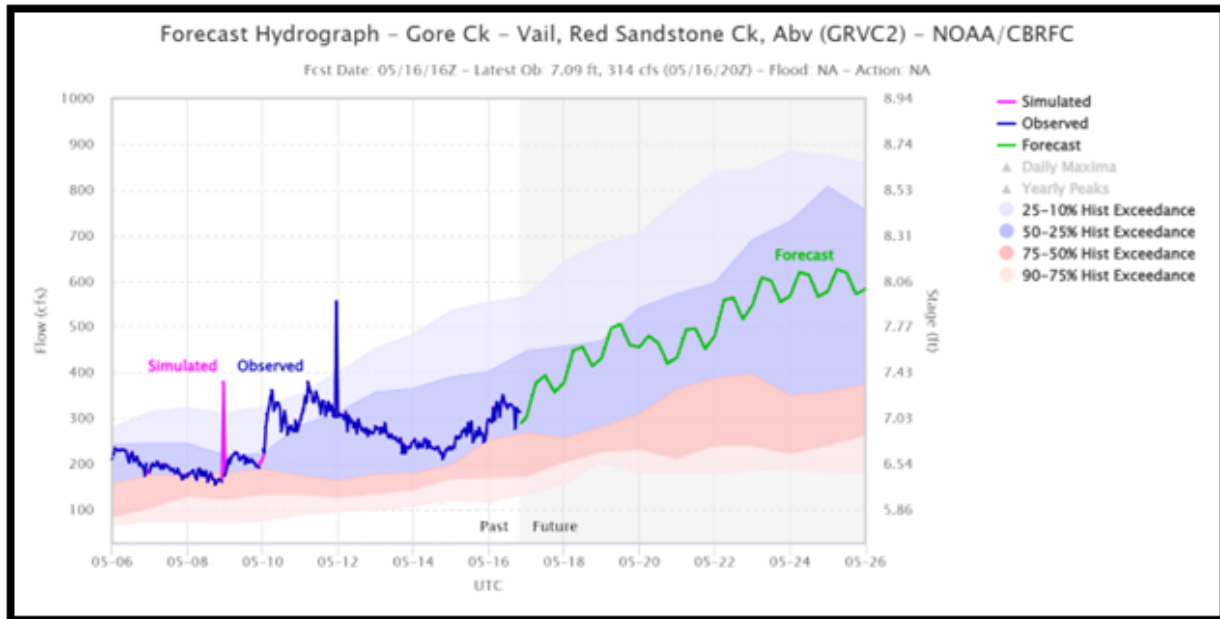


Figure 8: May 16, 2023, Eagle River at Avon Forecast Hydrograph (CBRFC).

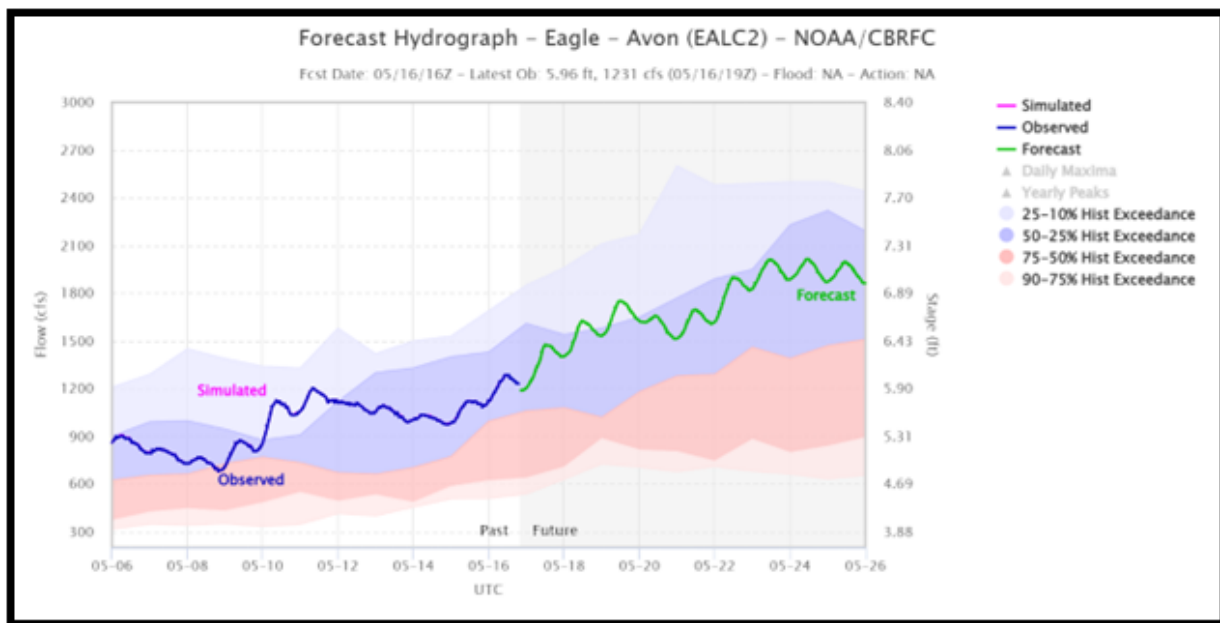
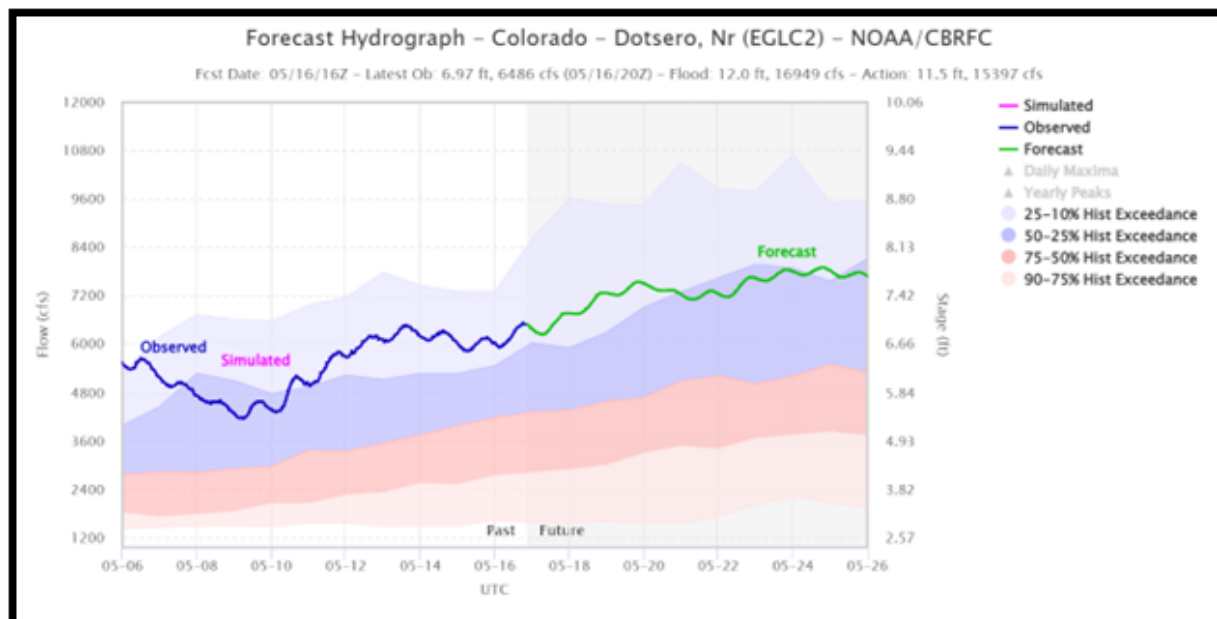


Figure 9: May 16, 2023, Colorado River at Dotsero Forecast Hydrograph (CBRFC).



Eagle Park Reservoir

The reservoir storage accounts are summarized in Table 2. The stored water volume is expected to meet the District and Authority’s needs for 2023. The low levels in the Black Lakes are a result of annual releases and the lakes are expected to fill during the spring runoff.

Table 2: District and Authority storage accounts for May 1, 2023 (Helton and Williamsen).

May 1 2023 Volumes in Storage and Percentages of Full:						
Reservoir	ERWSD		UERWA		Total	
Green Mountain	560.84	60%	452.87	83%	1013.71	68%
Black Lakes	182.90	43%	182.90	61%	182.90	43%
Eagle Park	430.39	99%	583.50	86%	1013.90	91%
Homestake Res	250.00	100%	256.50	100%	506.50	100%
Wolford Mtn	500.00	100%	628.32	88%	1128.32	93%

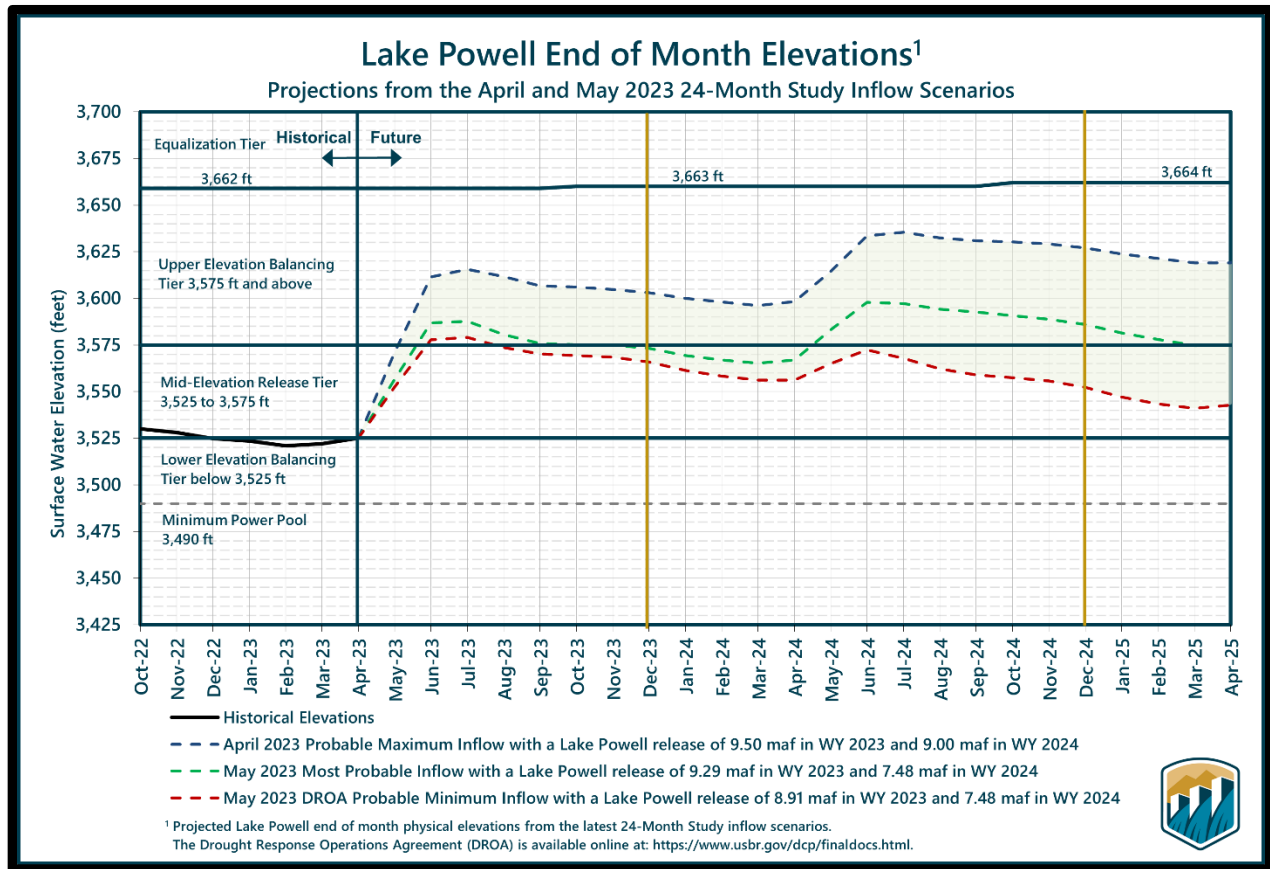
\*Homestake Year currently set as July 1-June 30.



Lake Powell

The current projections by the U.S. Bureau of Reclamation for Lake Powell indicate the reservoir levels in 1-year will likely increase up to 40-FT. Figure 10 summarizes the 3 lake level scenarios for the next 24-months based on projected inflows and releases.

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





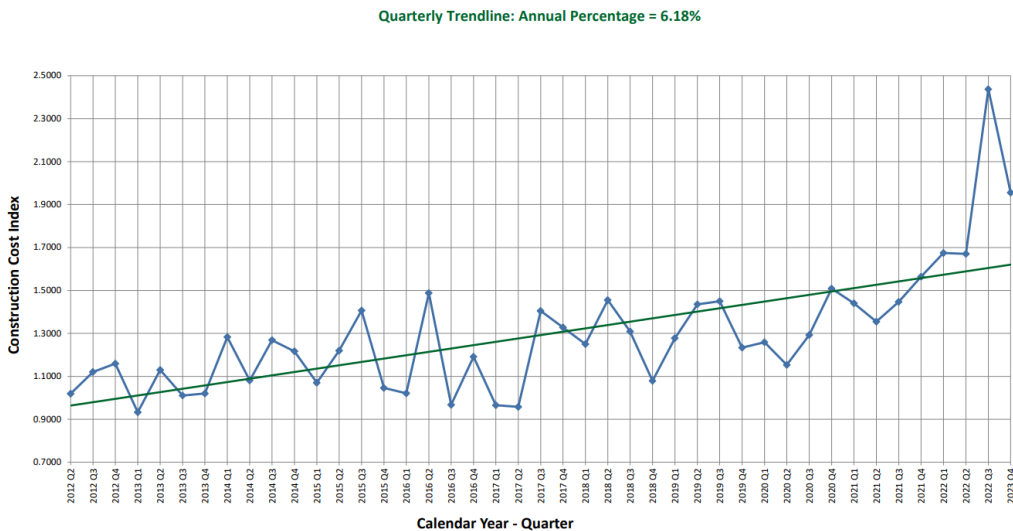
**MEMORANDUM**

**TO:** Board of Directors  
**FROM:** Jeffrey Schneider, P.E.  
**DATE:** May 17, 2023  
**RE:** 2023 Construction Cost and Market Update

**Summary of Subject:** This memorandum is to accompany a brief presentation on construction market conditions including cost escalation, material availability and lead times, and impact to ERWSD/UERWA capital projects. Those factors are exaggerated in our small and competitive Eagle County construction market and specialized water/wastewater sector. Industry trends show dramatically escalating costs, but the rate of increase appears to be slowing over 2022’s peak.

**Discussion and Background:** On a statewide-level, Colorado Department of Transportation (CDOT), Engineering News-Record (ENR), and Mortenson provide objective, index-style data indicating that the historic construction price escalations that began during the pandemic appear to be continuing, albeit at a slower rate. The 4<sup>th</sup> quarter 2022 CDOT Construction Cost Index Report (CCI), Effective December 31, 2022, reports a 20.32% relative increase from the previous year. In comparison, last year’s relative change was over 31%, so it appears that escalation tends to be less severe than in 2021. Its index, which began in 2012 with a reference point of 1.00, has risen to 1.9024. Figure 1 below shows the index over time.

Figure 1: CDOT CCI Overall (Source: CDOT)



CDOT’s data reflects the dramatic seasonal fluctuations in highway work, but the overall trend indicates continued cost increases; construction costs have nearly doubled since 2012. The index is comprised of unit pricing from CDOT projects for earthwork, concrete pavement, asphalt pavement, structural concrete,

and reinforcing steel. While not ‘apples to apples’ with our typical projects, it nonetheless paints a similar picture for water utility work, and earthwork, structural concrete, and reinforcing steel are major components of our larger capital projects.

Another good resource for construction industry data is the Engineering News Record (ENR) Construction Cost Index. Figure 2 below is a snapshot of Builders Cost Index (BCI) and Construction Cost Index (CCI) beginning the start of the COVID-19 pandemic, although their data goes back to 1978. Figure 3 below shows the monthly percent change over the previous year for the same timeframe.

Figure 2: Denver Market BCI and CCI since March 2020 (Source: ENR)

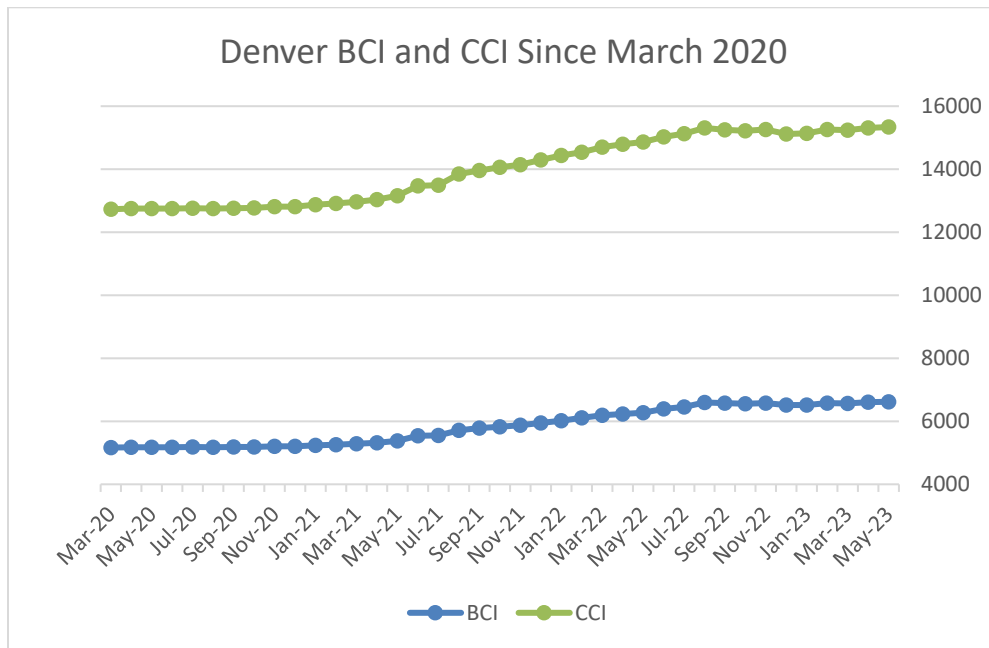
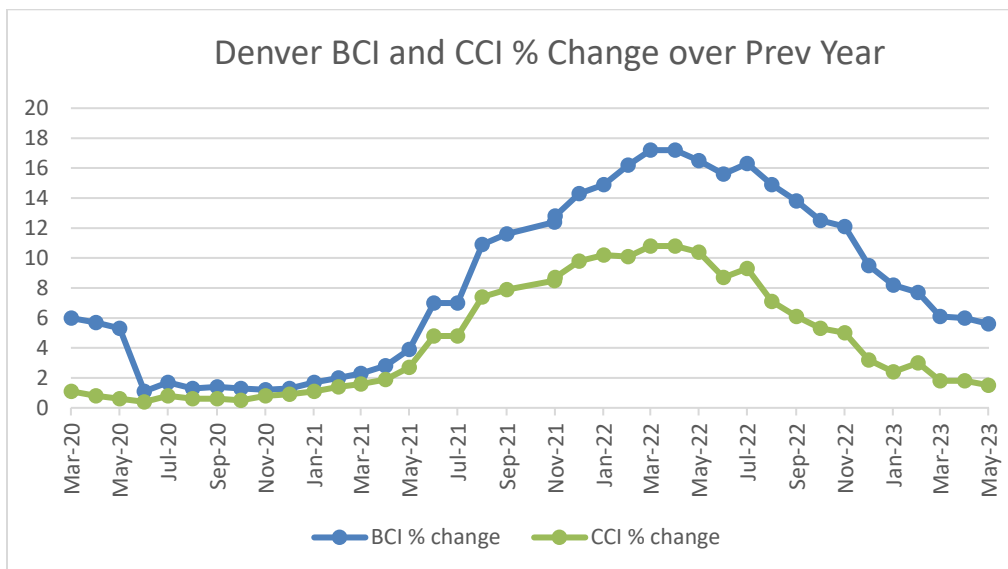


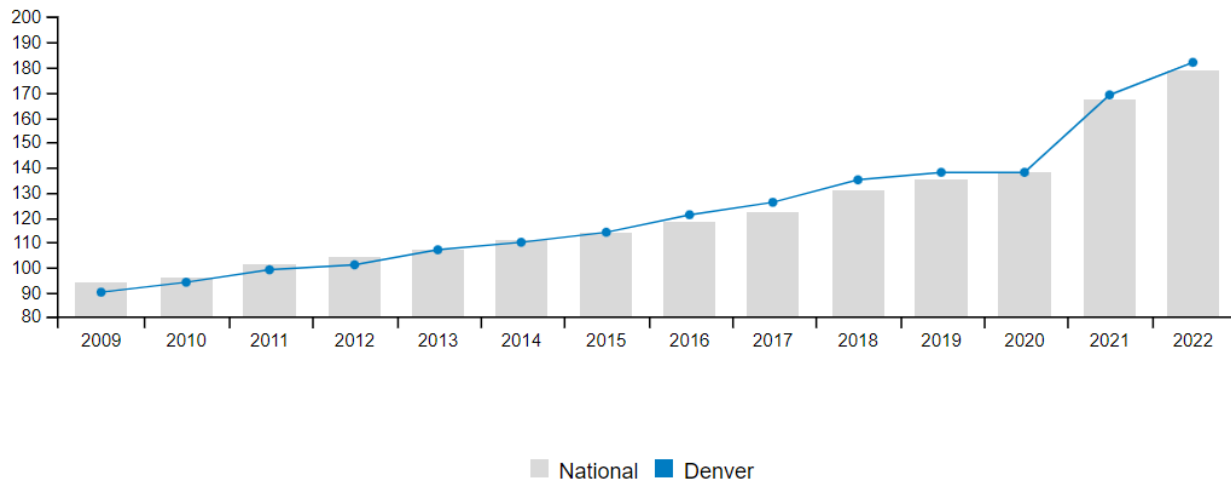
Figure 3: % Change Over Previous Year (Source: ENR)



The indices use local prices for Portland cement and lumber and national prices for structural steel. BCI accounts for wages for specialty trades such as carpenters and bricklayers, and the CCI uses general laborers only. Extrapolating the ‘mountain factor’ from the Denver market, one could assume that Eagle County is experiencing higher costs than reflected in the Denver data.

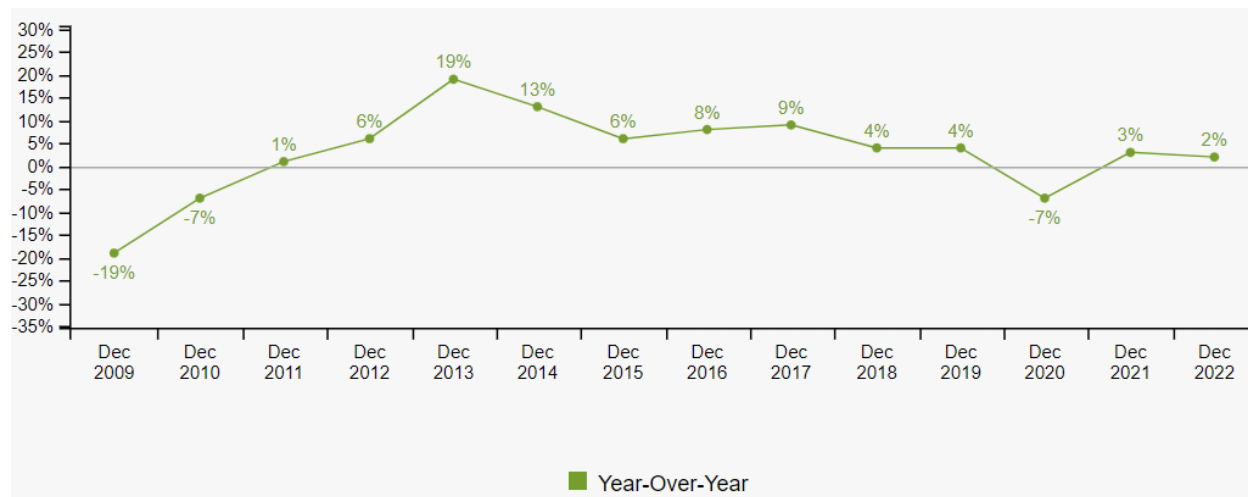
Mortensen, one of the nation’s largest general contractors, keeps their own cost data indices. Figure 4 below shows their construction cost index, using data beginning in 2009, both in Denver and nationally.

Figure 4: Mortensen Construction Cost Index (Source: Mortensen)



Mortensen reports that more recently, the Denver market has experienced construction costs increases of 7.7% in the last twelve months, compared with 6.7% nationally. Data from last years report (for 2021) was over 20% and 18%, respectively, further indicating that the rate of escalation has slowed. Labor availability and overall inflation play a large role in cost increases. Figure 5 below shows the increase in construction industry employment over the previous year.

Figure 5: Annual Employment Growth (Source: Mortensen)

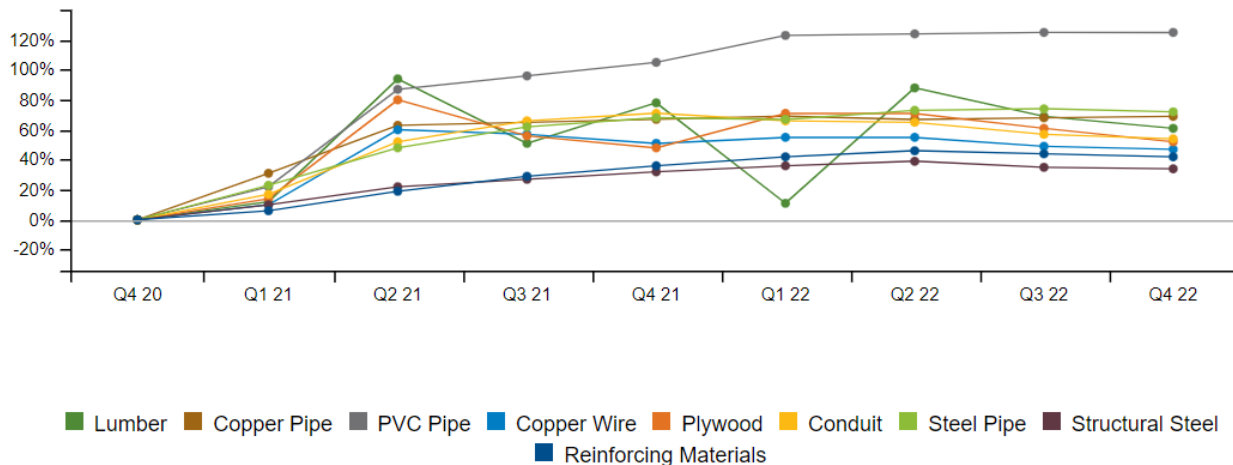


New jobs in the sector continue to grow, with 2% more over the previous year. Labor shortages continue to affect many industries, including construction and especially skilled tradesmen and subcontractors.

Inflationary issues force companies to raise wages, increasing the costs to the owner. Our larger capital projects involve much out-of-town general contractor labor and our dire housing situation directly affects our costs; it is costly and difficult for contractors to find housing and there is a lack of local labor.

In addition to labor shortages, material cost escalations are a large contributor to cost escalation. Figure 6 below shows the percent cost increase since 1<sup>st</sup> quarter 2020 for the Denver market.

Figure 6: Material Cost Increases (Source: Mortensen)



It appears that material cost increases have levelled off in 2022, but the data shows increases between 34% and 125% in the past two years for structural steel and PVC pipe, respectively, with the remaining materials in between. While prices have levelled off, lead time and inventory issues are ongoing, in particular with electrical and HVAC equipment. Typically, once submittals are approved and equipment released, the lead time is solidified. In one case, electrical equipment suppliers increased lead times from 40 to 60 weeks without any warning. Cost escalation and lead time delays have a considerable impact on our budgeting; normal annual 5% escalation rates applied to budgetary figures aren't keeping up with the market and with schedules pushing, the impacts are amplified. Table 1 below summarizes recent impacts of equipment lead times on active capital projects.

Table 1: ERWSD Capital Project Lead Time Issues

<u>Project Name</u>	<u>Lead Time Impact</u>
Vail WWTF Master Plan Improvements	Electrical equipment pushed from spring 2023 delivery to fall 2023 delivery
Dowd Junction Collection System – Lift Station 4	Electrical equipment pushed anticipated schedule into December 2023 from October 2023
Avon Lab Improvements	HVAC and lab fume hood pushed from March 2023 to anticipated July delivery

So far in 2023 we have completed the advertisement process for two projects, and are currently in the advertisement phase for two more. The bid results relative to estimate and budget are summarized in Table 2 below.

Table 2: 2023 CIP Bid Results Summary

<u>Project Name</u>	<u>No. of Bidders</u>	<u>Low Bid Price</u>	<u>Estimate</u>	<u>Difference</u>
North Frontage Road Water Main	1	\$633,295	\$913,874	\$280,579
Wildridge BPS, Tank, PRV Improvements	2	\$5,920,216	\$4,676,000	(\$1,244,216)

The estimate above for the North Frontage Road was inflated by the engineer and cannot be considered accurate. Both of the above projects were in exceedance of their appropriated budgets. It is not unusual to execute budget transfers when opening bids, as that is the point of a project where the costs are finalized. Normally those overages are offset by bid results that are well within budgets on other projects. Budgets are based on estimates and if bids continue to greatly exceed estimates, available funds to reallocate will be limited.

We are in the process of completing three major master planning efforts in our operational divisions: water treatment and production, wastewater update, and collection system. These plans will provide capital needs and recommendations. Infrastructure continues to age, more stringent regulations continue to be promulgated, and costs continue to escalate. This must be balanced with the impact to our ratepayers in a sustainable way. We continue to seek grant funding and strategic partnerships to offset our costs. We look forward to collaborating with the board in the upcoming 2023 budget season. Feel free to contact me if there are any questions about the contents of this memorandum.



## MEMORANDUM

**TO:** Board of Directors

**FROM:** Brian Thompson, Designated Election Official

**DATE:** May 18, 2023

**RE:** Election returns

This memo summarizes the numbers of votes counted and ballots cast in the District's regular election held on May 2, 2023. There is also comparative data from other local special district elections.

The canvass board convened on May 10 to certify the following election results:

Name of Candidate	Votes Counted - Vail	Votes Counted - EagleVail	Votes Counted - Edwards	Votes counted - Absentee & UOCAVA	Total Votes Counted
<b>Director District 2</b>					
Dick Cleveland	43	101	130	176	450
<b>Director District 4</b>					
Christian E. Neuswanger	6	15	56	20	97
Todd Williams	10	42	36	49	137
Sarah Smith Hymes	27	54	70	156	307
<b>Director District 6</b>					
Robert Warner, Jr.	39	76	118	163	396
Michael C. Towler	6	36	36	73	151

Other local special districts with a service area similar to the District's that also held polling place elections this year include Mountain Recreation and Eagle County Paramedic Services, which had three and two director seats, respectively, up for election. The three elected Mountain Rec candidates received **278**, **263**, and **249** total votes, respectively. The two elected ECPS candidates received **191** and **175** total votes, respectively. In about the same number of ballots cast, the District's elected candidates received more votes than these other local special districts.

There were also increases in votes counted compared to the District's 2022 election. The elected candidates in 2022 election received **329**, **328**, **328**, and **286** votes, respectively. In addition, there were more ballots cast this year. The chart below shows the number of ballots cast, by polling place, from the 2022 and 2023 elections, along with the percent change. Not every ballot contains a vote in each race so the number of ballots cast for each candidate at each polling place do not add up to the total ballots cast at that location.

	Ballots Cast – Vail	Ballots Cast – EagleVail	Ballots Cast – Edwards	Ballots Cast - Absentee & UOCAVA	Total Number of Ballots Cast
<b>2022 Election</b>	46	103	151	156	456
<b>2023 Election</b>	45	121	172	249	587
<b>% +/-</b>	-2%	+17%	+14%	+60%	+28%

Of the absentee ballots cast, 87% were electors on the permanent absentee list. The District's permanent absentee list began in 2022, with 160 electors added in 2022 and 116 electors added in 2023. In total, we mailed 321 absentee ballots (non-UOCAVA) with a 78% return rate. The absentee ballot return rate in the 2022 election was 75%.



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SOMACHLAW.COM

## MEMORANDUM

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

FROM: Kristin Moseley

SUBJECT: Senate Bill 23-295 – Colorado River Drought Task Force

DATE: May 17, 2023

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[Senate Bill 23-295](#) creates the Colorado River Drought Task Force to develop recommendations for state legislation to implement water-conservation programs to avoid a compact call. The goal of the task force is also to provide additional tools for the Colorado Water Conservation Board to collaborate with the Colorado River Water Conservation District, the Southwestern Water Conservation District, and other relevant stakeholders in the development of programs that address drought in the Colorado River basin and interstate commitments related to the Colorado River and its tributaries through conservation of the waters of the Colorado River and its tributaries. The bill requires the task force to reflect the racial and ethnic diversity of the state and have experience with a wide range of water issues, and will include representatives selected by the Ute Mountain Ute Tribe and the Southern Ute Indian Tribe to study tribal matters. It also calls out specific task force members from front range and western slope municipal water suppliers to be appointed by the Speaker of the House, Julie McCluskie. This bill passed the Senate and the House and is currently awaiting Governor Polis' signature.

The first meeting is required to occur no later than July 31, 2023. All task force meetings will be open to the public and at least one meeting will allow public testimony. The task force's final report is to be submitted to the legislature by December 15, 2023, and will include the task force's formal recommendations, as well as discussion of recommendations that were not approved.



**NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.**

# An Act

SENATE BILL 23-295

BY SENATOR(S) Roberts and Will, Bridges, Pelton B., Rich, Coleman, Cutter, Exum, Gardner, Ginal, Hansen, Kirkmeyer, Liston, Lundeen, Marchman, Moreno, Mullica, Pelton R., Priola, Rodriguez, Simpson, Smallwood, Winter F., Zenzinger;  
also REPRESENTATIVE(S) McCluskie and Catlin, Holtorf, Lukens, McCormick, McLachlan, Soper, Velasco, Amabile, Armagost, Bacon, Bird, Boesenecker, Bradley, Brown, deGruy Kennedy, Dickson, Duran, English, Frizell, Froelich, Gonzales-Gutierrez, Hamrick, Jodeh, Joseph, Lieder, Lindsay, Lindstedt, Lynch, Mabrey, Michaelson Jenet, Pugliese, Ricks, Sirota, Snyder, Story, Taggart, Titone, Vigil, Weissman, Willford, Winter T., Young.

CONCERNING THE CREATION OF THE COLORADO RIVER DROUGHT TASK FORCE, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1. Legislative declaration.** (1) The general assembly finds and declares that:

(a) Since 2000, the Colorado river basin, including the Colorado

*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

river and its tributaries in Colorado, has experienced unprecedented drought conditions that have contributed to decreased water supplies;

(b) Climate change, drier conditions, and depleted snowpack may further reduce water available in Colorado's surface streams for beneficial uses and threaten Colorado's significant interests in the Colorado river and its tributaries; and

(c) Dry hydrology continues to reduce water supplies across the western slope of Colorado and the Colorado river basin and threatens the security of available water resources.

(2) The general assembly therefore determines that it is in the best interest of Colorado to form a task force to provide recommendations for programs to assist Colorado in addressing drought in the Colorado river basin and the state's interstate commitments related to the Colorado river and its tributaries.

**SECTION 2.** In Colorado Revised Statutes, **add** 37-98-105 as follows:

**37-98-105. Colorado river drought task force - created - appointments - report - definitions - repeal.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "BOARD" MEANS THE COLORADO WATER CONSERVATION BOARD CREATED IN SECTION 37-60-102.

(b) "COLORADO RIVER WATER CONSERVATION DISTRICT" MEANS THE COLORADO RIVER WATER CONSERVATION DISTRICT CREATED IN SECTION 37-46-103.

(c) "COMMITTEE" MEANS THE WATER RESOURCES AND AGRICULTURE REVIEW COMMITTEE CREATED IN SECTION 37-98-102 (1)(a)(I).

(d) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL RESOURCES CREATED IN SECTION 24-1-124 (1).

(e) "LOCAL GOVERNMENT" MEANS A HOME RULE OR STATUTORY COUNTY, MUNICIPALITY, CITY AND COUNTY, WATER CONSERVANCY

DISTRICT, OR WATER AND SANITATION DISTRICT.

(f) "PROGRAMS" MEANS THE PROGRAMS DESCRIBED IN SUBSECTION (4)(a) OF THIS SECTION.

(g) "SOUTHWESTERN WATER CONSERVATION DISTRICT" MEANS THE SOUTHWESTERN WATER CONSERVATION DISTRICT CREATED IN SECTION 37-47-103.

(h) "SUB-TASK FORCE" MEANS THE SUB-TASK FORCE ESTABLISHED PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION.

(i) "TASK FORCE" MEANS THE COLORADO RIVER DROUGHT TASK FORCE CREATED IN SUBSECTION (2) OF THIS SECTION.

(j) "WATER RIGHT" HAS THE MEANING SET FORTH IN SECTION 37-92-103 (12).

(2) (a) NOTWITHSTANDING SECTION 2-3-303.3, THE COLORADO RIVER DROUGHT TASK FORCE IS CREATED. THE TASK FORCE CONSISTS OF THE FOLLOWING MEMBERS:

(I) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

(II) THE COMMISSIONER OF AGRICULTURE OR THE COMMISSIONER OF AGRICULTURE'S DESIGNEE;

(III) A REPRESENTATIVE OF THE UTE MOUNTAIN UTE TRIBE, APPOINTED BY THE UTE MOUNTAIN UTE TRIBE;

(IV) A REPRESENTATIVE OF THE SOUTHERN UTE INDIAN TRIBE, APPOINTED BY THE SOUTHERN UTE INDIAN TRIBE;

(V) A REPRESENTATIVE OF THE COLORADO RIVER WATER CONSERVATION DISTRICT, APPOINTED BY THE BOARD OF DIRECTORS OF THE COLORADO RIVER WATER CONSERVATION DISTRICT;

(VI) A REPRESENTATIVE OF THE SOUTHWESTERN WATER CONSERVATION DISTRICT, APPOINTED BY THE BOARD OF DIRECTORS OF THE

SOUTHWESTERN WATER CONSERVATION DISTRICT;

(VII) A REPRESENTATIVE OF THE SOUTHEASTERN COLORADO WATER CONSERVANCY DISTRICT, APPOINTED BY THE BOARD OF DIRECTORS OF THE SOUTHEASTERN COLORADO WATER CONSERVANCY DISTRICT;

(VIII) A REPRESENTATIVE OF THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT, APPOINTED BY THE BOARD OF DIRECTORS OF THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT;

(IX) THE FOLLOWING MEMBERS APPOINTED BY THE PRESIDENT OF THE SENATE:

(A) A REPRESENTATIVE OF A LOCAL GOVERNMENT LOCATED WITHIN THE BOUNDARIES OF THE SOUTHWESTERN WATER CONSERVATION DISTRICT THAT PROVIDES WATER FOR MUNICIPAL PURPOSES; AND

(B) A REPRESENTATIVE OF A STATEWIDE ENVIRONMENTAL NONPROFIT ORGANIZATION WITH EXPERTISE IN WATER RIGHTS AND COLORADO RIVER INTERSTATE GOVERNANCE;

(X) THE FOLLOWING MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES:

(A) A REPRESENTATIVE OF A STATEWIDE AGRICULTURAL ORGANIZATION THAT IS THE OWNER OF WATER RIGHTS;

(B) A REPRESENTATIVE OF A FRONT RANGE MUNICIPAL WATER PROVIDER THAT DIVERTS WATER FROM THE COLORADO RIVER;

(C) A REPRESENTATIVE OF A STATEWIDE ENVIRONMENTAL NONPROFIT ORGANIZATION WITH EXPERTISE IN WATER RIGHTS AND COLORADO RIVER INTERSTATE GOVERNANCE;

(D) AN AGRICULTURAL PRODUCER THAT OWNS WATER RIGHTS WITHIN THE BOUNDARIES OF THE COLORADO RIVER WATER CONSERVATION DISTRICT; AND

(E) A REPRESENTATIVE OF A LOCAL GOVERNMENT LOCATED WITHIN THE BOUNDARIES OF THE COLORADO RIVER WATER CONSERVATION DISTRICT

THAT PROVIDES WATER FOR MUNICIPAL PURPOSES;

(XI) AN AGRICULTURAL PRODUCER THAT OWNS WATER RIGHTS WITHIN THE BOUNDARIES OF THE SOUTHWESTERN WATER CONSERVATION DISTRICT, APPOINTED BY THE MINORITY LEADER OF THE SENATE; AND

(XII) A REPRESENTATIVE OF AN INDUSTRIAL WATER USER THAT IS LOCATED ON THE WESTERN SLOPE, APPOINTED BY THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES.

(b) THE STATE ENGINEER OR THE STATE ENGINEER'S DESIGNEE SHALL ALSO SERVE ON THE TASK FORCE IN AN ADVISORY, NONVOTING CAPACITY.

(c) THE MEMBERS OF THE TASK FORCE MUST, TO THE EXTENT PRACTICABLE, REFLECT THE RACIAL AND ETHNIC DIVERSITY OF THE STATE AND HAVE EXPERIENCE IN A WIDE RANGE OF WATER ISSUES, INCLUDING CONSUMPTIVE USES OF WATER FOR MUNICIPAL, INDUSTRIAL, AND IRRIGATION PURPOSES AND NONCONSUMPTIVE USES OF WATER FOR OUTDOOR RECREATION, FISH AND WILDLIFE, AND HYDROPOWER PURPOSES.

(3) (a) NO LATER THAN JUNE 30, 2023:

(I) THE APPOINTING AUTHORITIES SHALL MAKE ALL APPOINTMENTS TO THE TASK FORCE; AND

(II) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL APPOINT A CHAIR OF THE TASK FORCE.

(b) NO LATER THAN JULY 15, 2023, THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL CREATED IN SECTION 2-3-301 (1) SHALL HIRE A FACILITATOR TO SUPPORT THE WORK OF THE TASK FORCE.

(c) (I) NO LATER THAN JULY 31, 2023, THE CHAIR OF THE TASK FORCE APPOINTED PURSUANT TO SUBSECTION (3)(a)(II) OF THIS SECTION SHALL CONVENE THE FIRST MEETING OF THE TASK FORCE. THE TASK FORCE MAY HOLD UP TO TWELVE MEETINGS IN THE 2023 LEGISLATIVE INTERIM, WHICH MAY BE IN-PERSON OR VIRTUAL MEETINGS. THE TASK FORCE SHALL TAKE ANY ACTION REQUIRED PURSUANT TO THIS SECTION BY A MAJORITY VOTE.

(II) ANY MEETING OF THE TASK FORCE OR SUB-TASK FORCE MUST BE OPEN TO THE PUBLIC. THE TASK FORCE AND SUB-TASK FORCE SHALL ALLOW PUBLIC TESTIMONY DURING AT LEAST ONE MEETING OF THE TASK FORCE AND SUB-TASK FORCE. A TASK FORCE MEMBER, SUB-TASK FORCE MEMBER, OR GOVERNMENTAL ENTITY THAT IS PARTICIPATING IN THE TASK FORCE OR SUB-TASK FORCE IS NOT REQUIRED TO PROVIDE ANY INFORMATION THAT IS PROTECTED FROM DISCLOSURE BY APPLICABLE LAW.

(d) (I) THE MEMBERS OF THE TASK FORCE SERVE WITHOUT COMPENSATION BUT MAY BE REIMBURSED FOR ANY REASONABLE EXPENSES THEY INCUR IN THE PERFORMANCE OF THEIR DUTIES PURSUANT TO THIS SECTION.

(II) AN APPOINTING AUTHORITY MAY REMOVE A MEMBER OF THE TASK FORCE FROM THE TASK FORCE FOR MALFEASANCE IN OFFICE, FAILURE TO REGULARLY ATTEND MEETINGS, OR ANY CAUSE THAT MAKES THE MEMBER UNABLE OR UNFIT TO FULFILL THE MEMBER'S DUTIES PURSUANT TO THIS SECTION.

(III) A MEMBER OF THE TASK FORCE MAY DESIGNATE ANOTHER PERSON THAT MEETS THE MEMBER'S QUALIFICATIONS FOR MEMBERSHIP ON THE TASK FORCE TO ATTEND A MEETING OR MEETINGS OF THE TASK FORCE ON THE MEMBER'S BEHALF IF THE MEMBER IS UNABLE TO ATTEND A MEETING OR MEETINGS.

(4) (a) THE PURPOSE OF THE TASK FORCE IS TO PROVIDE RECOMMENDATIONS FOR POTENTIAL STATE LEGISLATION THAT WOULD PROVIDE ADDITIONAL TOOLS TO THE BOARD TO COLLABORATE WITH THE COLORADO RIVER WATER CONSERVATION DISTRICT, THE SOUTHWESTERN WATER CONSERVATION DISTRICT, AND OTHER RELEVANT STAKEHOLDERS, INCLUDING HOLDERS OF WATER RIGHTS, AGRICULTURAL PRODUCERS, INDUSTRIAL WATER USERS, ENVIRONMENTAL ORGANIZATIONS, THE UTE MOUNTAIN UTE TRIBE, THE SOUTHERN UTE INDIAN TRIBE, AND LOCAL GOVERNMENTS, TO DEVELOP PROGRAMS THAT ADDRESS DROUGHT IN THE COLORADO RIVER BASIN AND INTERSTATE COMMITMENTS RELATED TO THE COLORADO RIVER AND ITS TRIBUTARIES THROUGH THE IMPLEMENTATION OF DEMAND REDUCTION PROJECTS AND THE VOLUNTARY AND COMPENSATED CONSERVATION OF THE WATERS OF THE COLORADO RIVER AND ITS TRIBUTARIES.

(b) THE RECOMMENDATIONS MADE PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION MUST:

(I) PROVIDE THAT THE PROGRAMS BE DESIGNED TO BE REASONABLY IMPLEMENTED IN A MANNER THAT AVOIDS DISPROPORTIONATE NEGATIVE ECONOMIC OR ENVIRONMENTAL IMPACTS TO ANY SINGLE SUBBASIN OR REGION IN THE STATE;

(II) PROVIDE THAT ANY PROGRAM THAT SEEKS TO ADMINISTER WATER THROUGH STREAM REACHES WITHIN THE STATE OR TO THE STATE LINE FOR INTERSTATE PURPOSES MUST BE OPERATED CONSISTENT WITH:

(A) THE AGREEMENT REGARDING STORAGE AT COLORADO RIVER STORAGE PROJECT ACT RESERVOIRS UNDER AN UPPER BASIN DEMAND MANAGEMENT PROGRAM, ENTERED INTO BY THE STATES OF COLORADO, NEW MEXICO, UTAH, AND WYOMING AND THE FEDERAL SECRETARY OF THE INTERIOR ON MAY 20, 2019, AND ANY EXTENSION OF, AMENDMENT TO, OR REPLACEMENT OF THAT PROGRAM THAT IS INTENDED TO ACHIEVE SIMILAR OBJECTIVES; AND

(B) PRINCIPLE FOUR OF COLORADO'S CONCEPTUAL FRAMEWORK, REFERENCED ON PAGE SEVENTY-FIVE OF THE COLORADO WATER PLAN, WHICH WAS FINALIZED AND APPROVED BY THE BOARD ON JANUARY 24, 2023;

(III) REQUIRE THAT ANY ACQUISITION BY THE PROGRAMS OF A WATER RIGHT USED FOR AGRICULTURAL IRRIGATION PURPOSES IS VOLUNTARY, TEMPORARY, AND COMPENSATED;

(IV) SPECIFY THE RESPECTIVE ROLES AND OBLIGATIONS OF THE BOARD, THE COLORADO RIVER WATER CONSERVATION DISTRICT, AND THE SOUTHWESTERN WATER CONSERVATION DISTRICT IN THE DEVELOPMENT, IMPLEMENTATION, AND OPERATION OF THE PROGRAMS WHILE MAINTAINING THE AUTHORITY OF THE STATE ENGINEER TO ADMINISTER WATER RIGHTS FOR INTERSTATE COMPLIANCE;

(V) EVALUATE SOURCES OF REVENUE TO APPROPRIATELY COMPENSATE PARTICIPANTS IN THE PROGRAMS AND TO SUPPORT REASONABLE ADMINISTRATIVE COSTS OF THE PROGRAMS; AND

(VI) PROVIDE THE STATE ENGINEER WITH THE APPROPRIATE LEGAL AUTHORITY AND DIRECTION NECESSARY TO FULFILL THE PURPOSES OF THE PROGRAMS IN A MANNER THAT, WITHOUT MINIMIZING THE PRIMARY PURPOSE OF THE PROGRAMS TO REDUCE OR MITIGATE INTERSTATE COMMITMENTS RELATED TO THE COLORADO RIVER AND ITS TRIBUTARIES, PROVIDES BENEFITS TO RECREATION AND THE ENVIRONMENT.

(5) (a) THE TASK FORCE SHALL ESTABLISH A SUB-TASK FORCE TO STUDY TRIBAL MATTERS. THE SUB-TASK FORCE CONSISTS OF:

(I) THE REPRESENTATIVE OF THE SOUTHERN UTE INDIAN TRIBE APPOINTED PURSUANT TO SUBSECTION (2)(a)(IV) OF THIS SECTION;

(II) THE REPRESENTATIVE OF THE UTE MOUNTAIN UTE TRIBE APPOINTED PURSUANT TO SUBSECTION (2)(a)(III) OF THIS SECTION;

(III) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OR THE DIRECTOR'S DESIGNEE; AND

(IV) TWO OTHER MEMBERS JOINTLY APPOINTED BY THE SOUTHERN UTE INDIAN TRIBE, THE UTE MOUNTAIN UTE TRIBE, AND THE DEPARTMENT.

(b) THE PURPOSE OF THE SUB-TASK FORCE IS TO PROVIDE RECOMMENDATIONS FOR STATE LEGISLATION THAT WILL:

(I) PROVIDE FOR FULL TRIBAL PARTICIPATION IN THE PROGRAMS IN A MANNER THAT RECOGNIZES THE UNIQUE NATURE OF TRIBAL WATER RIGHTS AND TRIBAL WATER USE, SPECIFICALLY IN REGARD TO FORBEARANCE AND DEMAND MANAGEMENT OPPORTUNITIES;

(II) PROVIDE FOR TRIBAL PARTICIPATION IN THE PROGRAMS IN A MANNER THAT IS VOLUNTARY, TEMPORARY, AND COMPENSATED; AND

(III) EVALUATE SOURCES OF REVENUE TO APPROPRIATELY COMPENSATE THE SOUTHERN UTE INDIAN TRIBE AND THE UTE MOUNTAIN UTE TRIBE FOR PARTICIPATION IN THE PROGRAMS.

(6) ANY STATE AGENCY WITH ACCESS TO INFORMATION RELEVANT TO THE TASK FORCE'S DUTIES SHALL PROMPTLY PROVIDE THE INFORMATION TO THE TASK FORCE UPON THE REQUEST OF THE TASK FORCE, EXCEPT FOR



PROPRIETARY INFORMATION A STATE AGENCY HAS RECEIVED FROM THE SOUTHERN UTE INDIAN TRIBE AND THE UTE MOUNTAIN UTE TRIBE.

(7)(a) BEFORE THE SUBMISSION OF THE FINAL REPORT PURSUANT TO SUBSECTION (7)(b) OF THIS SECTION, THE TASK FORCE SHALL PROVIDE AT LEAST ONE UPDATE TO THE COMMITTEE ON THE PROGRESS OF THE TASK FORCE'S DUTIES PURSUANT TO THIS SECTION.

(b) NO LATER THAN DECEMBER 15, 2023, THE TASK FORCE AND SUB-TASK FORCE SHALL SUBMIT A FINAL REPORT TO THE COMMITTEE THAT PROVIDES:

(I) THE RECOMMENDATIONS OF THE TASK FORCE AND SUB-TASK FORCE PURSUANT TO SUBSECTIONS (4)(a) AND (5)(b) OF THIS SECTION;

(II) A SUMMARY OF THE TASK FORCE'S AND SUB-TASK FORCE'S WORK PURSUANT TO THIS SECTION, INCLUDING ANY RECOMMENDATIONS CONSIDERED BUT NOT APPROVED BY THE TASK FORCE AND SUB-TASK FORCE AND A DESCRIPTION OF WHY THE RECOMMENDATIONS WERE NOT APPROVED; AND

(III) ANY OTHER INFORMATION THAT THE TASK FORCE AND SUB-TASK FORCE DETERMINES TO BE RELEVANT.

(8) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2024.

**SECTION 3. Appropriation.** For the 2023-24 state fiscal year, \$200,000 is appropriated to the legislative department for use by the legislative council. This appropriation is from the general fund. To implement this act, the council may use this appropriation to implement the bill.

**SECTION 4. Safety clause.** The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

\_\_\_\_\_  
Steve Fenberg  
PRESIDENT OF  
THE SENATE

\_\_\_\_\_  
Julie McCluskie  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

\_\_\_\_\_  
Cindi L. Markwell  
SECRETARY OF  
THE SENATE

\_\_\_\_\_  
Robin Jones  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED \_\_\_\_\_  
(Date and Time)

\_\_\_\_\_  
Jared S. Polis  
GOVERNOR OF THE STATE OF COLORADO