

Upper Eagle Regional Water Authority

Board of Directors Meeting

March 23, 2023

MINUTES

1 A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was
2 held March 23, 2023, at 8:30 a.m., in the Walter Kirch Room of the Eagle River Water & Sanitation District
3 (District), 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable statutes of
4 the state of Colorado.

ATTENDANCE

The following Directors were present and acting:

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8 Geoff Dreyer, Arrowhead Metropolitan District
9 George Gregory, Berry Creek Metropolitan District
10 Kevin Hillgren, Beaver Creek Metropolitan District
11 Mike Trueblood, Edwards Metropolitan District
12 Tamra Underwood, Town of Avon (began acting at 8:40 a.m.)
13 Kim Bell Williams, EagleVail Metropolitan District
14

Also in attendance were:

15	<u>District Staff</u>	28	Brian Thompson
16	Tug Birk	29	Brad Zachman
17	Jason Cowles	30	
18	Leah Cribari	31	<u>Consultants</u>
19	Allison Ebbets	32	Kristin Moseley, Somach Simmons & Dunn
20	Tim Friday	33	Dave Rees, Timberline Aquatics
21	Jesse Hooker	34	Kathryn Winn, Collins Cole Flynn Winn & Ulmer PLLC
22	Diane Johnson	35	
23	David Norris	36	<u>Public</u>
24	Rob Ringle	37	Eric Heil, Town of Avon Alternate
25	Siri Roman	38	Mike Towler, Beaver Creek Metropolitan District Alternate
26	Daniel Siebert		
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DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST

40 The board noted it had received more than 72 hours prior to the meeting certain disclosures of Potential Conflicts of Interest
41 Statements for the following Directors indicating the following conflicts:
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43 Director Gregory disclosed that he serves on the board of the Eagle River Water & Sanitation District; also that he occasionally
44 undertakes small development and construction activities within the Authority and District service areas. Director Bell Williams
45 disclosed that she is the Eagle County Housing Director.
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CALL TO ORDER

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48 Having determined that quorum was established, Chair Gregory called the meeting to order at 8:30 a.m.

PUBLIC COMMENT

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50 Public comment was called for and there was none.

ACTION ITEMS

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52 **Consideration of Minutes** – The minutes of the Feb. 23, 2023, regular meeting and joint meeting with
53 the District board of directors were considered. Upon motion duly made and seconded, it was
54 unanimously

55 **RESOLVED** that the minutes of the Feb. 23, 2023, regular and joint meetings be accepted and
56 hereby are approved as presented.

57 **Rules & Regulations Revisions**– Mr. Birk presented a memorandum, the summary of proposed
58 revisions, and a redline of the sections proposed for revisions, copies of which are attached hereto as

Upper Eagle Regional Water Authority

1 **Exhibits A, B, and C**, respectively, and incorporated herein by this reference. He reviewed the new
2 public comment and committee review processes, which yielded no suggested changes. Upon motion
3 duly made and seconded, it was unanimously

4 **RESOLVED** to approve and accept the 2023 Rules and Regulations Revisions as presented.

5 **Board Committee Updates** – Ms. Johnson presented a memorandum and proposed updates to board
6 committees, copies of which are attached hereto as **Exhibits D and E**, respectively, and incorporated
7 herein by this reference. She said the proposed updates eliminate committees that are dormant or no
8 longer needed. She recommended the joint “Water Supply” committee revert to “Water Conservation”
9 committee to align the committee with its original intent and address current strategic priorities.
10 Directors Trueblood and Underwood volunteered to fill vacancies on the Water Conservation
11 Committee. The board approved the revised board committees and committee assignments.

12 **INFORMATION REPORTS**

13 Directors reviewed the development report, February meeting summary, and contract log, copies of which are
14 attached hereto as **Exhibits F, G, and H**, respectively, and incorporated herein by this reference.

15 **BOARD MEMBER INPUT**

16 Chair Gregory called for general input and there was none.

17 **GENERAL MANAGER REPORT**

18 Ms. Roman reported on the Mar. 21 meeting of the Eagle Park Reservoir Company board of directors.
19 She also reported on recent and upcoming community presentations, meetings, and work sessions with
20 various local entities.

21 **BUSINESS ADMINISTRATION REPORT**

22 **Water conservation program** – Mr. Norris provided updates on the new interdepartmental water
23 conservation team and said Ms. Ebbets has been promoted to water conservation supervisor. He also
24 said irrigation times were changed in the Rules and Regulations to align with operational practices and
25 that special irrigation permits will be suspended. In response to a question, Ms. Johnson said the
26 annual water use regulations brochure will be inserted into the May billing statements.

27 **Safety program update** – Mr. Siebert presented a PowerPoint, a copy of which is attached hereto as
28 **Exhibit I** and incorporated herein by this reference. He provided an overview of the District safety
29 program and an analysis of safety trends, costs, and staff engagement. He said the number of
30 recordable injuries and the associated costs have decreased since 2019, due largely to encouraging
31 staff to report near misses as that provides an opportunity to mitigate a potential safety issue. He also
32 said insurance rates have lowered since the District raised its deductible.

33 **OPERATIONS REPORT**

34 Mr. Zachman presented the report, a copy of which is attached hereto as **Exhibit J** and is incorporated
35 herein by this reference.

Upper Eagle Regional Water Authority

1 **Macroinvertebrate sampling** – Ms. Cribari presented a memorandum and a PowerPoint, copies of
2 which are attached hereto as **Exhibits K** and **L**, respectively, and incorporated herein by this reference.
3 She reviewed the 2021 biomonitoring results and noted improvements in the aquatic health of Red
4 Sandstone Creek and Gore Creek. She also said the most significant stressors for Gore Creek are
5 urban runoff, lack of riparian area, and spraying of herbicides and pesticides. Mr. Rees provided an
6 overview of data analysis methods and said the Colorado Department of Public Health & Environment
7 (CDHPE) uses the Macroinvertebrate Multimetric Index (MMI) version 4 (v4) to assess stream health.
8 He also said that MMI v4 shows lower scores for Gore Creek, compared to MMI v3, because this metric
9 is more stringent on minor disturbances in high-elevation streams and disproportionately emphasizes the
10 most sensitive taxa. He is working with CDPHE as they develop MMI v5, which he hopes will place
11 greater emphasis on the relative abundance of all taxa. In response to a question, he said the
12 preliminary review of 2022 sampling shows some recovery in sensitive taxa in Mill Creek, but not in
13 their previous abundance.

14 **PFAS Update** – Mr. Zachman presented a PowerPoint, a copy of which is attached hereto as **Exhibit**
15 **M** and is incorporated herein by this reference. He said the EPA released proposed maximum
16 contaminant levels (MCLs) of 4 parts per trillion for per- and polyfluoroalkyl substances (PFAS) on Mar.
17 14. He referenced previous board discussions about the 2022 EPA PFAS Health Advisory and said
18 2022 sampling results were lower than the proposed MCLs.

19 **ENGINEERING AND WATER RESOURCES REPORT**

20 Mr. Cowles presented the report, a copy of which is attached hereto as **Exhibit N** and incorporated herein
21 by this reference. He said the District and Authority were awarded a \$250,000 water supply planning grant
22 from the Colorado Water Conservation Board (CWCB) to support the preliminary design of Bolts Lake
23 Reservoir. He thanked Mr. Friday for his efforts in drafting the grant application.

24 **COMMUNICATIONS AND PUBLIC AFFAIRS REPORT**

25 Ms. Johnson presented the report, a copy of which is attached hereto as **Exhibit O** and incorporated
26 herein by this reference. She reminded the board of the District's work on Senate Bill 23-150 requiring "Do
27 Not Flush" labeling on non-flushable disposable wipes. She recognized Ms. Roman and Ms. Moseley for
28 their testimony before the Senate and House committees in support of the bill. She also reported that the
29 bill passed in both chambers and is not expected to be vetoed by Governor Polis. In response to a
30 question, she said staff had received about ten responses to the PFAS notification letter that was included
31 with the March billing statement, primarily asking about methods of removing PFAS. She reminded the
32 board that reverse osmosis generates toxic contaminants that may enter wastewater systems.

33 **WATER COUNSEL REPORT**

34 Chair Gregory said the Authority transitioned to a single water counsel legal representation: Kristin
35 Moseley and her firm, Somach Simmons & Dunn. Ms. Moseley had no updates in open session.

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Upper Eagle Regional Water Authority

GENERAL COUNSEL REPORT

The board noted Ms. Winn's privileged written report. She said Governor Polis signed House Bill 23-1023, which raises the minimum threshold on special district construction contracts requiring public bids to \$120,000, which will be readjusted every five years. She also said the threshold remains \$60,000 until the new law takes effect 90 days after the adjournment of the general assembly.

EXECUTIVE SESSION

Ms. Winn requested the board move into Executive Session to receive legal advice of counsel and discuss matters in negotiation related to Bolts Lake obligations. Upon motion duly made and seconded, it was unanimously

RESOLVED to enter into Executive Session at 10:08 a.m. to discuss matters related to Bolts Lake obligations pursuant to §24-6-402(4)(b) and (e), C.R.S., with no electronic record created as Ms. Winn opined the contents of the discussion would contain privileged attorney-client communications.*

Ms. Moseley requested the board move into Executive Session to receive legal advice of counsel and discuss matters in negotiation related to water rights reports. Upon motion duly made and seconded, it was unanimously

RESOLVED to enter into Executive Session at 10:23 a.m. to discuss matters related to water rights reports pursuant to §24-6-402(4)(b) and (e), C.R.S., with no electronic record created as Ms. Moseley opined the contents of the discussion would contain privileged attorney-client communications.*

Ms. Moseley requested the board move into Executive Session to receive legal advice of counsel and discuss matters in negotiation related to a proposed stream restoration bill. Upon motion duly made and seconded, it was unanimously

RESOLVED to enter into Executive Session at 10:34 a.m. to discuss matters related to a proposed stream restoration bill pursuant to §24-6-402(4)(b) and (e), C.R.S., with no electronic record created as Ms. Moseley opined the contents of the discussion would contain privileged attorney-client communications.*

The open session resumed at 10:38 a.m. During the executive session, the board did not take any formal action or discuss any matters not enumerated in §24-6-402(4), C.R.S.

ACTION AS A RESULT OF EXECUTIVE SESSION

Ms. Moseley presented the Authority Water Rights Report, a copy of which is attached hereto as **Exhibit P** and incorporated herein by this reference. The board unanimously agreed to add the following language: "This document satisfies the biennial Water Rights Report requirement pursuant to the Authority Agreement." Director Trueblood said Edwards Metropolitan District retained Garfield & Hecht to provide counsel on water matters. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve and accept the Authority Water Rights Report as amended.

Upper Eagle Regional Water Authority

1 **ADJOURNMENT**

2 There being no further business to come before the board at this meeting and upon motion duly moved
3 and seconded, it was unanimously

4 **RESOLVED**, that the signing of the minutes of this meeting shall be deemed to constitute
5 full and complete adoption, ratification, and approval of the business conducted and the
6 resolutions passed; and be it

7 **FURTHER RESOLVED**, that the meeting be adjourned at 10:40 a.m.

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9 Respectfully submitted,

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12 _____
13 Secretary to the Meeting

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16 **MINUTES APPROVED, FORMAL CALL, AND**
17 **NOTICE OF MEETING WAIVED**

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21 **Arrowhead Metropolitan District**

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25 **Town of Avon**

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29 **Beaver Creek Metropolitan District**

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33 **Berry Creek Metropolitan District**

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37 **EagleVail Metropolitan District**

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41 **Edwards Metropolitan District**

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

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47 _____
48 **Kristin Moseley, Water Counsel**

_____ **Kathryn Winn, General Counsel**