



**UPPER EAGLE REGIONAL  
WATER AUTHORITY**

**GOVERNED BY:**

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

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The Town of Avon

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

**TO:** Board of Directors  
**FROM:** Brian Thompson, Government Affairs Administrator  
**DATE:** April 21, 2023  
**RE:** April 27, 2023, Board Meeting

This memorandum shall serve as notice of the Regular Meeting of the Board of Directors of the Upper Eagle Regional Water Authority:

**Thursday, April 27, 2023  
8:30 a.m.**

**This meeting will be held in-person**

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 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.



**UPPER EAGLE REGIONAL  
WATER AUTHORITY**

**BOARD OF DIRECTORS REGULAR MEETING**  
April 27, 2023  
**8:30 a.m.**  
Walter Kirch Conference Room

**GOVERNED BY:**

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The Town of Avon

**AGENDA**

	<b><u>Attachment Link</u></b>
<b>1. Introductions</b>	
<b>2. Public Comment</b>	
<b>3. Action Items</b>	
<b>3.1.</b> Approval of minutes from Mar. 23, 2023, Regular Meeting	<a href="#">Action Item</a>
<b>3.2.</b> <b>J. Res. 2023-01:</b> Amended and Restated Joint Resolution Establishing a No-Fault Damages Program	<a href="#">Action Item</a>
<b>3.3.</b> Augmentation water for Eagle County Airport construction project	<a href="#">Action Item</a>
<b>4. Information Reports</b>	
<b>4.1.</b> Development report	<a href="#">Informational</a>
<b>4.2.</b> Board committees	<a href="#">Informational</a>
<b>4.3.</b> March meeting summary – draft	<a href="#">Informational</a>
<b>4.4.</b> Contract log	<a href="#">Informational</a>
<b>5. Board Member Input</b>	
<b>6. General Manager Report – Siri Roman</b>	
<b>6.1.</b> GM information items	
<b>6.1.1.</b> Senate Bill 23-213, Land Use	<a href="#">Informational</a>
<b>6.2.</b> Business Administration report – David Norris	
<b>6.2.1.</b> Quarterly financials – Jim Cannava	<a href="#">Informational</a>
<b>6.3.</b> Operations report – Brad Zachman	<a href="#">Informational</a>
<b>6.3.1.</b> Merging water systems for regulatory compliance	<a href="#">Informational</a>
<b>6.4.</b> Engineering and Water Resources report – Jason Cowles	<a href="#">Informational</a>
<b>6.4.1.</b> Sustainability statistics and progress – Kira Koppel	
<b>6.5.</b> Communications and Public Affairs report – Diane Johnson	<a href="#">Informational</a>
<b>6.5.1.</b> Senate Bill 23-150, Do Not Flush Wipes Labeling	
<b>7. Water Counsel Report – Kristin Moseley</b>	
<b>7.1.</b> Authority water rights appraisal	<a href="#">Informational</a>
<b>8. General Counsel Report – Kathryn Winn</b>	<a href="#">Confidential</a>

**9. Executive Session**

**9.1.** 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:

**9.1.1.** Senate Bill 23-213, Land Use

**9.1.2.** Major facilities agreement

**10. Any Action as a Result of Executive Session**

**11. Adjournment**

**JOINT RESOLUTION NO. 2023-01**  
**AMENDED AND RESTATED JOINT RESOLUTION OF**  
**EAGLE RIVER WATER AND SANITATION DISTRICT AND**  
**UPPER EAGLE REGIONAL WATER AUTHORITY**  
**ESTABLISHING A NO-FAULT DAMAGES PROGRAM**

**WHEREAS**, the Eagle River Water and Sanitation District (“District”) and the Upper Eagle Regional Water Authority (“Authority”) are each political subdivisions of the State of Colorado authorized to provide water service and the District also provides sewer service; and

**WHEREAS**, the District and Authority are governmental entities and pursuant to the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, are immune from liability for tortious injuries, including damage to personal and private property resulting from or caused by the District’s and Authority’s mains, equipment, and acts of employees and agents; and

**WHEREAS**, when the District’s or Authority’s water or sewer mains result in damage to private property, the homeowners’ insurance typically will not cover claims for such damage, and homeowners may have to pay out of pocket to repair damage to their homes; and

**WHEREAS**, while not liable for such damage, the District and Authority wish to provide for limited financial assistance to residential property owners who are impacted by such incidents, and therefore to establish a Damages Program and set aside funds specifically for such repairs in a No-Fault Damages Line-Item Account; and

**WHEREAS**, effective August 25, 2022, the District and Authority via Joint Resolution established a No-Fault Damages Program and the District and Authority wish to re-adopt the Program to clarify certain elements of the policy including that the Program applies only to damages to the exterior or interior of a residential structure;

**NOW, THEREFORE, BE IT RESOLVED** by the Boards of Directors of the Eagle River Water and Sanitation District and the Upper Eagle Regional Water Authority that:

1. **No-Fault Damages Program.** The District and Authority are willing to consider payment for private property damage that is caused by or results from an occurrence in the District’s or Authority’s main, subject to the following conditions and restrictions:

(a) For damages to private residential (single-family or multi-family) structures resulting from a backup, break, or other issue in the District's or Authority's main sewer or water line, individual homeowners can apply for repayment up to a maximum of \$85,000 per property, with a per-event cap of \$200,000, to cover mitigation and restoration work not covered by the homeowner's property insurance.

(b) In the event that multiple properties are impacted by a single event with the totals exceeding the event cap, payout will be split among all properties as equitably as possible.

(c) Damages payments are available only for damage to residential (single-family or multi-family) structures. The damage must be to the exterior or interior of a single-family or multi-family residential structure.

(d) A separate No-Fault Damages Line-Item Account will be set up, with the District and Authority contributing the amount of \$50,000 per year, until the cap of \$200,000 is reached; and replenishing the Account in the maximum amount of \$50,000 per year, or such other amounts as may be appropriated by the Boards.

(e) Total combined payments to homeowners cannot exceed \$200,000 in any fiscal year, or such lower amount as exists in the No-Fault Damages Account, subject to annual appropriation by the Board.

(f) Only damage to structures is eligible for payment; damages to personal property and exterior appurtenances such as hardscaping and landscaping or to any improvements constructed within an easement are not eligible.

(g) The damage must be determined by the District and Authority to have been caused by or resulted from an occurrence in the District's or Authority's main, and not resulting from the failure of a property's service line, plumbing, or any other customer owned and maintained appurtenance such as a pressure reducing valve.

(h) The property owner must provide an estimate from a contractor authorized by the District and Authority. Outside estimates will not be considered.

(i) The property must have a current homeowner's insurance policy at the time of the damage, which will be used first. The property owner must file a claim with its insurance carrier. The No-Fault Damages Account will be used to cover the gap that may exist between the insurance limits and the restoration costs, up to the maximum allowed under the program.

(j) The property owner will sign a Release of Liability with the District and/or Authority as applicable, in a form determined the District/Authority, which will bind the property owner and all successors.

(k) Property owner must notify the District within two (2) business days of the event and file a claim within thirty (30) calendar days of the event. Evidence that a claim has been submitted to the property owner's insurance and/or a letter that the insurance denied or only partially paid the claim is required.

(l) The No-Fault Damages Account shall be a line item in the General Fund, and upon motion of the Board be able to be utilized for other necessary operating needs that arise.

(m) The District and Authority staff may promulgate further rules and regulations and adopt procedures for staff to implement this Policy and consider applications.

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

3. **Effective Date.** This Joint Resolution shall take effect and be of full force and effect immediately. All acts, orders, and resolutions, or parts thereof, of the Boards which are inconsistent or in conflict with this Resolution are hereby repealed to the extent only of such inconsistency or conflict. In addition, the August 25, 2022 Joint Resolution Establishing a No-Fault Damages Program is superseded by this Resolution in its entirety.

**ADOPTED** this 27<sup>th</sup> day of April 2023 by a vote of \_\_\_\_ in favor and \_\_\_\_ opposed for the District; and a vote of \_\_\_\_ in favor and \_\_\_\_ opposed for the Authority.

**Eagle River Water and Sanitation District**

By: \_\_\_\_\_  
Dick Cleveland, Chairman

ATTEST: \_\_\_\_\_  
Secretary

**Upper Eagle Regional Water Authority**

By: \_\_\_\_\_  
George D. Gregory, Chairman

ATTEST: \_\_\_\_\_  
Secretary




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BOARD ACTION REQUEST

TO: Authority Board of Directors  
FROM: Jason Cowles, P.E.   
DATE: April 19, 2023  
RE: Augmentation Water for Eagle County Airport Construction

**Summary of Subject:** This summer the Eagle County Regional Airport will be undergoing a taxiway construction project from approximately July 5 through October 20. Staff has received a request from the County to provide augmentation water for the contractor’s diversions from the Eagle River needed for soil compaction and fugitive dust mitigation utilizing a portion of the water the County provided to the Authority for affordable housing.

**Discussion and Background:** On July 29, 2020, Eagle County executed the Eagle Park Reservoir Stock Agreement which conveyed to the Authority Class A Series 2 shares of stock representing the right to 87.4 acre-feet of water in Eagle Park Reservoir to meet water service obligations of affordable housing developments in Eagle County, water conservation goals in Eagle County, and stream and river health in the Eagle River basin. The shares have not yet been committed to a specific use in the Authority’s service area. The County is planning a construction project at the Eagle County Regional Airport this summer and will need augmentation water for construction water that will be diverted from the Eagle River. The County plans to request administrative approval from the Division 5 Engineer for the diversions and has requested use of the Eagle Park Reservoir water dedicated to the Authority as the source of augmentation water.

The County’s contractor estimates that they will divert roughly 20,000 gallons per day for rehabilitation of Taxiway A from July 5 through October 20, 2023 and an additional 100,000 gallons per day for construction of Taxiway B from August 28 through October 20, 2023. The total amount of water diverted from the Eagle River during construction is estimated to be 22.83 acre-feet. Augmentation requirements for the project are estimated at 23.75 acre-feet assuming that water is fully consumed and 4% is lost in transit from Eagle Park Reservoir to the planned diversion point at the Neilson Pump Line ditch near the Eagle County Fairgrounds in Eagle.

**Alternatives:** Alternatively, the County could contract with the Colorado River Water Conservation District for augmentation water from Eagle Park Reservoir or Wolford Mountain Reservoir.

**Legal Issues:** The diversions and use of the augmentation water are subject to administrative approval by the Division 5 Engineer.

**Budget Implication:** There are no budget implications associated with this request. The County’s outside water counsel and water resources engineer will prepare the and submit the


administrative request to the Division Engineer. It is estimated that the direct costs to the Authority for the operation of the releases will be approximately \$1,530.

**Recommendation:** Staff recommends that the Authority provide the augmentation water for the Eagle County Regional Airport project subject to the payment of the Authority's direct costs for operation of the releases.

**Suggested Resolution and Motion:** I move to approve the temporary use of the Authority's Eagle Park Reservoir water as a source of augmentation for the 2023 Eagle County Regional Airport construction projects subject to the payment of direct costs to the Authority for operation of the releases.

Thank you for your consideration of this request. I will be out of town next week and unable to attend the meeting, but Tim Friday will be available if you have any questions or need additional information.



UERWA New Development Report April 2023									
		Type of Use	SFEs Proposed	Location	Existing Service Commitment?	Augmentation Requirement	Development Approval Process Step:	Construction Approval Process Step:	
<div style="writing-mode: vertical-rl; transform: rotate(180deg);">Process</div>	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	Yes		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	No		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								
	<div style="writing-mode: vertical-rl; transform: rotate(180deg);">Process</div>	<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	

**ERWSD New Development Report**

**April 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	23	Vail	No	0.31	4. Water Rights Allocation	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	43.552	Minturn	Yes		1. Connection Application	1. Plan Review	
	North Minturn PUD	Residential	184	Minturn	Yes		N/A	1. Plan Review	
	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>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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The Town of Avon

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

**TO:** Board of Directors  
**FROM:** Brian Thompson, Government Affairs Administrator  
**DATE:** Apr. 27, 2023  
**RE:** Summary of Authority’s Mar. 23, 2023, Board Meeting

The following is a summary of items discussed at the Authority’s Mar. 23, 2023, board meeting.

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

- Rules & Regulations**            The board approved revisions to the Rules and Regulations, which were presented for public input and reviewed by the joint board committee.
- Board Committee Updates**    The board approved eliminating dormant committees and for the “Water Supply” committee to revert to “Water Conservation” to align with the original intent of the committee. Directors Trueblood and Underwood were appointed to serve on the Water Conservation Committee.
- Water Conservation Program**    David Norris provided updates on the interdepartmental water conservation team and introduced Water Conservation Supervisor Allison Ebbets. He also said special irrigation permits will be suspended for 2023.
- Safety Program**                    Dan Siebert provided an overview of the District safety program and an analysis of safety trends, costs, and staff engagement. He said the number of recordable injuries and the associated costs have decreased since 2019.
- Macroinvertebrate Sampling**    Leah Cribari presented the 2021 biomonitoring results for the Eagle River and Gore Creek. David Rees reported on data analysis methods and preliminary review of 2022 sampling.
- PFAS Update**                        Brad Zachman reported on the EPA’s proposed maximum contaminant levels (MCLs) of 4 parts per trillion for per- and polyfluoroalkyl substances (PFAS). He said 2022 sampling results were lower than the proposed MCLs.
- Water Supply Planning Grant**    Jason Cowles said the District and Authority were awarded a \$250,000 water supply planning grant from the Colorado Water Conservation Board (CWCB) to support the preliminary design of Bolts Lake Reservoir.
- “Do Not Flush” Labeling**        Diane Johnson said Senate Bill 23-150 passed in the House and Senate and is not expected to be vetoed by Governor Polis.
- Water Counsel Representation**    Chair Gregory said the Authority transitioned to a single water counsel legal representation: Kristin Moseley and her firm, Somach Simmons & Dunn
- Construction Contracts**            Kathryn Winn said Governor Polis signed House Bill 23-1023, which raises the minimum threshold on special district construction contracts requiring public bids to \$120,000 (from \$60,000).
- Water Rights Report**                The Board adopted the Authority Water Rights Report, which satisfies the biennial Water Rights Report requirement per the UERWA Agreement.

**Managed by Eagle River Water & Sanitation District**

846 Forest Road Vail, Colorado 81657 Tel (970) 476-7480 [erwsd.org](http://erwsd.org)

**UPPER EAGLE REGIONAL WATER AUTHORITY 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>
23.20.006	03/29/23		MCC Cleaning and Testing	CBS Field Services	\$29,854.00	D. Caffery	20.1.9.00.15.408	MCC Cleaning and testing of breakers at various UERWA sites.
23.20.007	04/10/23		Berry Creek Wells ClorTec Rectifier Service	DeNora Water Technologies, LLC	\$9,931.00	K. Rosema	20.1.9.00.17.500	Onsite tech visit for repair and health verification of Berry Creek ClorTec rectifier.
23.20.008	03/30/23		Traer Creek Tank - Bilco Hatch Install	DN Tanks, Inc.	\$22,500.00	M. Mantua	20.1.2.00.00.028	Replace single leaf hatch with new bilco hatch. Protect the tank from construction debris.
23.20.009	Pending		EDWF Compressor Installation	Velocity Plant Services, LLC	\$4,000.00	J. Schneider	20.1.2.00.00.376	Installation of owner-furnished air compressor at EDWF, removal of old compressor, and painting pad.
23.20.010	04/03/23		EDWF and LZ Wells Facility HVAC Service	Tolin Mechanical Systems Company, LLC	\$10,000.00	W. McCaulley	20.1.9.00.16.510 & 20.1.9.00.17.505	Edwards Drinking Water Facility and LZ Wells Facility HVAC services
23.20.011	04/10/23		EDWF Fiberglass Tank	American Fiberglass Tank Repair	\$23,400.00	W. McCaulley	20.1.2.00.00.376	Repair bottom 24 inches of EDWF Fiberglass tank and install a 5 ply floor pan system.



## MEMORANDUM

**TO:** Boards of Directors  
**FROM:** Siri Roman, General Manager  
**DATE:** April 18, 2023  
**RE:** Senate Bill 23-213 Land Use

Since the last Board meetings, District staff and water counsel have been very active in [Senate Bill 23-213](#). Simply put, the legislation proposes to rezone Colorado's land use codes to increase density and support affordable housing. Since the introduction of the bill, many amendments have occurred including removing the mandatory rezoning in Rural Resort Communities (towns of Vail and Avon); the main takeaway being what will work on the front range will not work in resort communities/on the western slope. District and Authority input has been focused on the fiscal impacts of increased capacity to our systems, requiring ability to serve provisions, and addressing water supply and increased transmountain diversion concerns.

This is very complex legislation with very short windows to respond; lots of gratitude to Board chairs, staff and water counsel for aligning quickly to evaluate impacts, draft letters, propose amendments and document the fiscal impacts. Our team presented a very critical issue – WATER – that was not fully being considered in the process. Staff and water counsel will plan on giving a verbal update at the Board meetings. Documents that have been emailed to the Boards over the last few weeks are attached so they are part of the permanent Board Record.

### Attachments:

- ERWSD UERWA Original Bill Letter to Senator Roberts (dated April 5, 2023)
- Fiscal Note (dated April 5, 2023)
- ERWSD UERWA Bill Amendments Letter to Senator Roberts (dated April 14, 2023)
- Colorado Water Congress Letter of Opposition (dated April 17, 2023)



April 5, 2023

Senator Dylan Roberts  
200 E. Colfax Room 346  
Denver, CO 80203

VIA EMAIL  
senatordylanroberts@gmail.com

**Re: SB23-213 – State Land Use Planning Bill**

Dear Senator Roberts:

As you know, the Eagle River Water & Sanitation District (“District”) and the Upper Eagle Regional Water Authority (“Authority”) operate a regional drinking water distribution system and wastewater collection and treatment system in the mountain resort communities of Eagle County. Our service areas include the towns of Vail and Avon, as well as unincorporated areas including Beaver Creek, Bachelor Gulch, Eagle-Vail, Edwards, Arrowhead, Cordillera, Traer Creek and Singletree. We serve approximately 27,000 full-time residents and nearly 55,000 people during peak tourist seasons.

Given exceptionally high housing costs in Eagle County, the District has operated an affordable workforce housing program for more than 25 years. The District currently owns 50 housing units that our employees may rent on a subsidized basis, and which house roughly 37% of our employee base. We also operate a comprehensive housing program that *all* employees participate in either through purchasing deed restricted properties, receiving down payment assistance, receiving monthly housing stipends, or renting subsidized properties. Increasing workforce housing continues to be a top priority of the District given the unique and specialized employee roles required to provide safe drinking water and to return clean water to our local streams. Moreover, water and wastewater operations require twenty-four hour per day availability on a year-round basis, and it is critical that operators live near our facilities to respond to operational emergencies.

While we appreciate the housing goals of SB23-213, we have concerns regarding unintended consequences of unplanned growth from upzoning of single-family properties given the District and Authority’s **limited physical and legal water supplies**. The District and Authority are exclusively water and wastewater providers and do not have land use decision authority. However, we work closely with local municipalities and Eagle County on water supply and infrastructure planning based on current zoning and water and wastewater service agreements with developments in our service area. Mandated upzoning of currently zoned single-family residences in Vail and Avon, which fall under the Rural Resort defined criteria of SB23-213, will significantly increase water supply demands for those two municipalities. It will also strain the limited supplies available to the remainder of the unincorporated service areas already committed for water service (e.g., Beaver Creek, Bachelor Gulch, Eagle-Vail, Edwards, etc.). In

other words, even though the unincorporated areas of our water service area are not directly covered by SB23-213, their water supplies will also be impacted. The current land use process of requiring provision of “Ability to Serve” letters from the District and Authority prior to approval of additional development is essential to preventing commitments in excess of available legal and physical supplies. **Accordingly, we request that SB23-213 be amended to require that this Ability to Serve process be continued prior to approval of further growth.**

The District and Authority will also incur **significant capital cost increases** associated with unplanned growth from upzoning of single-family properties, which will in-turn result in increased costs to customers. Anticipated infrastructure improvements include expansion of water storage, pumping infrastructure, wastewater collection and conveyance infrastructure, and physical water supplies for augmentation. We estimate that new development in Vail and Avon enabled by SB23-213 would increase capital operation and maintenance costs by approximately \$325 million over a 10-year period. This does not include other anticipated rate increases needed to address inflationary pressures, increased construction costs, aging infrastructure and regulatory mandates. The combined effect of the legislation and other anticipated rate increases will result in our customer’s monthly water and wastewater base rates increasing from \$97.92 per month for the average customer to at least \$176.88, or an **80% increase**. We also have concerns about ambiguous language in the legislation that may affect our ability to recoup costs for capital expenditure needed to serve new development that will be enabled by the legislation.

Our concerns about limited water supplies and increased infrastructure costs are exacerbated **by the lack of affordability criteria** for ADUs and multifamily housing in the bill. In affluent Rural Resort communities with a large volume of second homes, it seems likely that an unrestricted right to upzone single family properties will result in a large volume of new guest houses with large water demands. If the bill were limited to work force / affordable housing, the volume of units and water demands are likely to be lower and could more easily be absorbed by the District and Authority’s existing water supplies and infrastructure.

It is important to note the distinction between portions of the bill applicable to large front range municipalities compared to Rural Resort mountain communities. We request that the bill be amended to move Rural Resorts into one consolidated section of the Housing Planning section of the bill, and to put those sections under the heading of “Affordability Strategies.” **It is important to make it clear that any ADUs, Middle Housing or multifamily housing must meet affordability provisions and goals of the community.** It should also clarify that additional market-rate or second-home housing production is not the intended outcome of the bill within Rural Resort communities.

Thank you for your ongoing work on behalf of our community. Feel free to contact me or Kristin Moseley, who will testify on our behalf, with any questions.

Sincerely,

Siri Roman, General Manager





# Fiscal Note Response Form



<b>Bill #:</b> SB23-213	<b>Agency:</b> Eagle River Water & Sanitation District Upper Eagle Regional Water Authority
<b>LLS #:</b> 23-0890.01 Pierce Lively x2059	<b>Contact:</b> David Norris Director of Business Administration
<b>Bill Title:</b> State Land Use Requirements	<b>Phone #:</b> (970) 471-9257

## TYPE OF FISCAL IMPACT

Select all that apply.

Revenue Impact     
  Expenditure Impact     
  Workload Impact     
  No Fiscal Impact

## SUMMARY

Provide a plain language summary of the bill in your own words.

SB23-213 proposes that the Executive Director of the Department of Local Affairs (DOLA) be responsible for creating a multi-agency advisory committee to conduct a public comment and hearing process on and provide recommendations to the director on development of:

- Methodologies for developing statewide, regional, and local housing needs assessments;
- Guidance for creating housing needs plans;
- A menu of affordability strategies;
- A menu of displacement mitigation measures;
- Identification of strategic growth objectives; and
- Reporting and guidance templates.

Counties and municipalities in rural resort regions shall participate in a regional housing needs planning process, develop strategies that address the housing needs assigned to them, develop a housing needs plan by Dec. 31, 2026, and report on their progress implementing the plan on an annual basis to DOLA.

By Dec. 31, 2024, Counties and Municipalities in rural resort job centers are required to voluntarily adopt model land use codes that will be developed by DOLA for Accessory Dwelling Units. By Dec. 31, 2026, Counties and Municipalities in rural resort job centers are required to voluntarily adopt model land use codes that will be developed by DOLA for Middle Housing and Key Corridors. If the model codes are not voluntarily adopted, the bill establishes minimum standards that preempt local control over zoning and land use which will make accessory dwelling units a use by right in single-family residential zone districts, middle housing a use by right wherever designated in a rural resort job center's regional housing needs plan which would allow for development of 2-6 dwelling units on lots zoned for single-family residential units, and multi-family housing a use by right wherever a key corridor is designated in a rural resort job center's regional housing needs plan. The proposed legislation also places certain restrictions on how municipalities may regulate the above housing categories.

SB23-213 proposes to enact prescriptive zoning and land use at the state level that will prevent local municipalities from regulating increased density in areas currently zoned for low-density, single-family housing, potentially resulting in a six-fold increase in residential density in these areas in the furtherance of adding housing in urban municipalities and rural resort job centers. This one size fits all approach fails to recognize the importance of local land use planning, particularly in the smaller mountain communities in the rural resort job center classification that will be affected. Issues such as housing affordability, legal and physical availability of water supply, adequacy of water and wastewater infrastructure, and financial impacts will result from these sweeping changes to land use and the removal of local control from local governments and special districts that provide service to the affected areas.

SB23-213 also creates annual water loss auditing requirements for water providers that will require annual reporting to the Colorado Water Conservation Board and may require additional compliance measures if certain undetermined water loss compliance criteria are not achieved.

## **PROGRAM BACKGROUND**

*Provide any relevant background on the program(s) in your agency affected by the bill.*

The Eagle River Water & Sanitation District (District) is a Title 32 Special District that provides municipal water service to the Town of Vail and provides sanitation services to the towns of Vail, Avon, and Minturn and surrounding areas in unincorporated Eagle County from Vail to Wolcott. The District also manages and operates the Upper Eagle Regional Water Authority's (Authority) municipal water system by contract. The Authority's municipal water system is integrated with the District's municipal water system and provides water service to the Town of Avon and surrounding developed areas in unincorporated Eagle County including Arrowhead, Bachelor Gulch, Beaver Creek, Berry Creek, Edwards, Cordillera, and Traer Creek. Together, the District and Authority provide water and sanitation services to approximately 27,000 full-time residents and nearly 55,000 people during peak tourist seasons.

The towns of Vail and Avon are defined as Rural Resort Job Centers in the proposed legislation. Potential changes to land use and zoning mandated by the proposed legislation are anticipated to have substantial impacts on the District and Authority's water supply portfolio, water distribution infrastructure, water treatment infrastructure, wastewater collection infrastructure, wastewater treatment infrastructure, staffing, water and wastewater service rates, and water and wastewater impact fees. District staff performed a high-level analysis of the potential fiscal impacts of the proposed bill assuming that the minimum standards for accessory dwelling units, middle housing, and key corridors are implemented in the Towns of Vail and Avon and submit this fiscal note response form to summarize those impacts.

## **NO FISCAL IMPACT OR ABSORBABLE WORKLOAD IMPACT**

*If applicable, explain why this bill has no fiscal impact (NFI) on your agency or any absorbable impact to your agency's current workload for which no appropriation is required.*

Not applicable

**Please make sure to justify why the bill is NFI or absorbable in the box above.  
No additional information is required for NFI or absorbable workload impact bills.**

## DATA AND ASSUMPTIONS

List all data and assumptions used to determine the fiscal impact of bill (e.g., implementation dates, population estimates, caseload, growth trends, etc.). Please includes citations or links to data sources as appropriate.

This analysis assumes the following:

- Minimum middle housing standards will be mandated that make 2-6 dwelling units a use by right in areas zoned for detached single-family housing in the towns of Vail and Avon.
- Multi-family housing will be mandated a use by right in key corridors in the towns of Vail and Avon.
- Minimum accessory dwelling standards will be mandated as a use by right in areas zoned for detached single-family housing in the towns of Vail and Avon.

The assumptions used to determine the fiscal impact of the bill pertaining to capital costs are as follows:

- The District will need to upsize approximately 18.5 miles of wastewater collection mains and major interceptors between East Vail and the Avon Wastewater Treatment Facility.
- Two wastewater lift stations in the Wildridge Subdivision in Avon will need to be replaced to meet increased wastewater generation rates in the community.
- The development of additional wastewater treatment capacity will be required at the Vail Wastewater Treatment Facility.
- Additional water production capacity will be required through the development of two conditional groundwater wells.
- Additional potable water storage and pumping capacity will need to be constructed in the Wildridge Subdivision to provide adequate storage and fire flow volumes for increased density in the subdivision.
- New in-basin augmentation supplies will need to be developed by the Authority to accommodate increased density in the Town of Avon.
- It will take 10 years or more to plan for, permit, design, and construct the necessary infrastructure to serve increased development resulting from the proposed legislation. In this example, expenditures are simply averaged over a 10-year period, but the actual rate of expenditures is anticipated to vary from year to year.
- The total capital expenditures to provide adequate water and wastewater infrastructure to serve increased density resulting from the bill are estimated at \$301,950,000.
- It is assumed that these costs will be financed by the issuance of revenue bonds. The resulting increase in water and wastewater service rates to pay the debt service on revenue bonds is estimated at \$55.92 per month, per single-family equivalent. This rate increase does not consider other planned rate increases necessary to fund capital improvements to address aging infrastructure, planned growth, and other regulatory mandates.

## REVENUE IMPACT

Summarize the revenue impact of this bill in the table below and provide an explanation of any change in revenue. In this section, discuss any increase/decrease in state revenue, fee changes, and transfers or diversions of funds. Add rows/columns to table as necessary. List all affected funds by their statutory name. Provide calculations in a separate spreadsheet.

Revenue Impact	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Wastewater & Water Fund(s)	\$630,720	\$1,306,370	\$2,029,291	\$2,801,930	\$3,626,846
<b>TOTAL</b>	<b>\$630,720</b>	<b>\$1,306,370</b>	<b>\$2,029,291</b>	<b>\$2,801,930</b>	<b>\$3,626,846</b>

Revenue Impact	FY 2031	FY 2032	FY 2033	FY 2034	FY 2035
Wastewater & Water Fund(s)	\$4,504,052	\$5,438,842	\$6,434,128	\$7,492,952	\$8,618,493
<b>TOTAL</b>	<b>\$4,504,052</b>	<b>\$5,438,842</b>	<b>\$6,434,128</b>	<b>\$7,492,952</b>	<b>\$8,618,493</b>

**Explanation of revenue and/or fee impact:**

*In your explanation, please identify the sections of the bill driving the impact.*

The capital expenditures to develop infrastructure and water supply to provide water and sanitation service to areas with increased density resulting from the bill are estimated at \$301,950,000. An additional \$23,368,549 in operation and maintenance costs are estimated based on additional infrastructure and staffing requirements, bringing the total fiscal impact to \$325,318,549.

The District and Authority will need to issue revenue bonds to fund the capital expenditures. Revenue bonds will likely be issued in staggered amounts totaling \$301,950,000 as capital expenditures are made. The debt service for the revenue bonds will be passed on to the District and Authority’s existing customer base at a minimum of \$55.92 (using current rates) per month, per single family equivalent (SFE). In addition, monthly water and wastewater service rates will be increased another \$4.32 per month, per SFE to cover increased operation and maintenance costs, resulting in a total rate increase of \$60.24 per month per SFE. This \$60.24 increase would be in addition to other anticipated water and wastewater rate increases driven by inflationary pressures, increased construction costs, and planned capital improvements to address aging infrastructure, planned growth, and other regulatory mandates. With the increased water and wastewater service rates added to the monthly bills of District and Authority customers, base rates (not including volumetric water and wastewater usage rates) would be increased to at least \$176.68 per month. Compared to the current \$97.92, this represents an 80% increase.

These increases in monthly water and wastewater service rates will be partially offset by rate revenues from new customers added to the system as a result of the increased density mandated in the bill. Estimated

revenues from additional customers over the 10-year period from 2026 to 2035 total \$ 42,883,624 assuming a 1.0% growth rate of new customers.

It is assumed that water and wastewater impact fees will be increased to recoup costs for capital expenditures from new development enabled by the legislation. If the legislation limits the District and Authority's ability to collect future impact fee revenues from new development, further increases to customers' monthly water and wastewater rates will be necessary to replace the lost revenues from impact fees.

## **TRANSFERS/DIVERSIONS**

*Explain any transfers or fund diversions resulting from this bill. List all affected funds by their statutory name.*

Not applicable

**EXPENDITURE IMPACT**

Summarize the expenditure impact of this bill in the table below and provide an explanation of any change in agency expenditures. Add rows/columns to table as necessary. List affected funds by their statutory name. Provide calculations using the fiscal note expense template or a separate spreadsheet.

Expenditure Impact	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Revenue Bond Proceeds	\$30,195,000	\$30,195,000	\$30,195,000	\$30,195,000	\$30,195,000
General Fund	\$1,981,145	\$2,078,180	\$2,121,265	\$2,266,797	\$2,253,467
<b>TOTAL</b>	<b>\$32,176,145</b>	<b>\$32,273,180</b>	<b>\$32,316,265</b>	<b>\$32,461,797</b>	<b>\$32,448,467</b>

Expenditure Impact	FY 2031	FY 2032	FY 2033	FY 2034	FY 2035
Revenue Bond Proceeds	\$30,195,000	\$30,195,000	\$30,195,000	\$30,195,000	\$30,195,000
General Fund	\$2,361,303	\$2,410,336	\$2,512,109	\$2,664,912	\$2,719,035
<b>TOTAL</b>	<b>\$32,556,303</b>	<b>\$32,605,336</b>	<b>\$32,707,109</b>	<b>\$32,859,912</b>	<b>\$32,914,035</b>

**Explanation of expenditure impact:**

*In your explanation, please identify the sections of the bill driving the impact.*

Revenue bond proceeds are anticipated to be used to fund the capital expenditures required to provide water and wastewater service to increased density that will become a use by right as a result of the bill. It will take 10 years or more to plan for, permit, design, and construct the necessary infrastructure to serve increased development resulting from the proposed legislation. In this example, expenditures from revenue bond proceeds are simply averaged over a 10-year period beginning in 2026 when land use changes mandated by the legislation would take effect, but the actual rate of expenditures is anticipated to vary from year to year. General fund expenditures are anticipated to cover increased annual operation and maintenance costs associated with new infrastructure and additional staffing. Total overall expenditure impact equates to \$325,318,549.

**FTE job description / duties:**

*Please provide a job description and explain the duties of each new FTE and/or class of FTE. Greater detail can be provided on the FTE Impact tab of the agency expense worksheet.*

Nine new FTEs (a 6% increase) would be required to satisfy the programmatic requirements of the legislation are anticipated as follows:

- 1 FTE Engineering Staff to participate in regional planning workshops, housing needs assessments, and annual reporting.
- 1 FTE Water Loss Auditor to comply with water loss audit requirements in legislation.

- 1 FTE Wastewater Department Operator for operation and maintenance of Vail Wastewater Treatment Plant improvements.
- 1 FTE Water Department Operator for operation and maintenance of new water supply infrastructure.
- 2 FTE Capital Improvement Program Project Managers to manage capital projects.
- 3 FTE Field Operations for operation and maintenance of additional wastewater collection and water distribution infrastructure.

**Are there any non-standardized costs included?**

*These are costs that differ from those in the common policies and include FTE salary above the range minimum, special programming costs, unique department operating costs, etc.*

**In your explanation of expenditure impact, did you consider the following?**

- ✓ Do any centrally appropriated costs (i.e., indirect costs or leased space) need to be appropriated in the bill rather than through the budget process?
- ✓ Are there any state fleet vehicle or document management related costs? *If so, have you been in contact with DPA about the bill?*
- ✓ Are there any OIT-related information technology costs? *If so, have you been in contact with OIT about the bill?*
- ✓ Are more than 100 hours of legal services required? *If so, have you been in contact with the Department of Law?*
- ✓ Are there any other funding sources that may be used for this bill?  
*Is the General Fund is the most appropriate source? Are there cash funds that may be used?*
- ✓ Has some or all of the cost of this legislation been included in the department's budget request?

**Line Item Appropriation:**

*List the line items and amounts that are impacted by this bill. Add rows as needed. Greater detail can be provided on the Line Item Appropriation tab of the agency expense worksheet.*

Line Item	Appropriation Amount
<b>Line Item Appropriation Total</b>	

**OTHER IMPACTS / INFORMATION**

**Local Government / School District Impact**

*Describe and quantify, if applicable, any direct or indirect impacts to local governments such as municipalities, counties, special districts, and school districts.*

## **Technical or Mechanical Defects or Conflicts with Existing Law**

*Describe any technical or mechanical defects that could affect the implementation of the bill or conflict with other sections of law.*

The District and Authority have limited water supplies. Many already developed areas have no access to additional water that would be required to serve additional infill development allows by the bill. Similarly, the District and Authority provide water and wastewater service to some areas via contract, which water commitments set based on the allowable land uses and densities permitted by existing zoning and the availability of legal and physical water supplies. By allowing increased density in single-family residential zone districts and key corridors, the proposed legislation will create conflicts with the terms and conditions of existing water and wastewater service agreements and augmentation plans decreed by the water court that are used to provide a legal water supply. As proposed, the legislation could result in lengthy and costly litigation over the validity and enforcement of terms in water and wastewater service contracts, as well as additional legal expenses required to adjudicate new supplemental augmentation plans and/or change existing augmentation plans to ensure that a legal water supply is available to serve the increased density. It is difficult to estimate potential legal expenses at this time, but the expenses will certainly be in the millions of dollars.

Updated August 2022





April 14, 2023

Senator Dylan Roberts  
200 E. Colfax  
Room 346  
Denver, CO 80203

VIA EMAIL  
senatordylanroberts@gmail.com

**Re: SB23-213 – State Land Use Planning Bill**

Dear Senator Roberts:

We have reviewed the proposed amendments to SB23-213 in L. 005 and were pleased to see numerous proposed revisions to address several of the District and Authority's concerns. Thank you for your role in the amendment process and leadership on important workforce housing and water supply issues.

**Our understanding is that the intent of one of the major revisions was to remove mandatory upzoning of Rural Resort Job Center Municipalities.** We very much appreciate that intent, however, we have remaining concerns regarding the language the bill drafters included in the amendments to implement that intent. Specifically, the definitions of Rural Resort Job Center Municipality (page 27, lines 20-21 of introduced bill), Tier One Urban Municipality (page 28. Line 27 – P. 29 Line 12 of introduced bill), Urban Municipality (Page 30, Lines 7-8 of introduced bill) and Non-Urban Municipality (page 47, Lines 20-22 of introduced bill) could be interpreted to be co-mingled in the undefined term of "Municipality" used in numerous provisions of the bill, including as related to ADUs, Middle Housing and Water Planning. We request that the bill be further **amended to make consistent use of the defined terms** for clarity of interpretation moving forward. Even better would be **removal of the Rural Resort Job Center Municipality references and regulation from the bill altogether**, as we believe the one size fits all approach does not work for both front range and western slope communities.

With regard to the language in the bill specifically focused on planning for Rural Resort Job Center Municipalities (see section 29-33-106 as amended and referring back to Page 36 on the introduced version, and housing needs plan process as amended and referred back to Page 40 on the introduced version), we continue to see it as **essential that Ability to Serve provisions be included to ensure that water providers have sufficient legal and physical supplies to serve new growth.** Our concern is that the lack of specificity associated with the planning process could result in recommendations from DOLA for upzoning similar to what was included in the introduced bill (dramatically increased ADUs and Middle Housing). We appreciate inclusion of affordability provisions in the bill, and it does help to temper our water supply and

infrastructure concerns. Nevertheless, given the District and Authority's limited physical and legal water supplies, there are only so many additional development units that can be served. Moreover, capacity to serve is very site specific throughout our service area given the decreed locations of our water rights as well as physical delivery requirements that vary based on elevation and proximity to existing infrastructure. **Accordingly, we request that the planning provisions applicable to Rural Resorts be amended to require the Ability to Serve process be completed by water providers prior to approval of specific projects.**

Finally, **we have growing concerns regarding increased transmountain diversions** to serve new growth on the front range that will be driven by SB23-213. As you know, existing transmountain diversions already result in approximately 500,000 acre feet of water being exported from the western slope to the front range every year. Given that return flows from transmountain diversions never return to the western slope, they are 100% depletive to the river systems and significantly diminish available water supplies for western slope communities. Changing climate and Upper Basin delivery requirements under the Colorado River Compact further increase our concerns about increased transmountain diversion impacts. Moreover, we suspect that there will be increased pressure to soften local government 1041 authority to regulate transmountain diversions if mandatory upzoning on the front range is approved. **We request that SB23-213 be amended to provide that transmountain diversions will not be increased to serve upzoning created by SB23-213.**

Thank you again for your ongoing work on behalf of our community. Feel free to contact me or Kristin Moseley with any questions.

Sincerely,

Siri Roman  
General Manager



April 17, 2023

**Re: SB23-213 Opposition**

Dear Members of the Senate Local Government and Housing Committee:

The Colorado Water Congress is a state-wide member-driven organization established in 1958. We serve as the principal voice of Colorado's water community and provide leadership on key water resource issues.

SB23-213 as currently drafted, and worsened by amendment, ignores the resource limitations of the State, communities, and water providers. These terms are impractical and, in many cases, entirely infeasible.

Colorado Water Congress has four primary concerns:

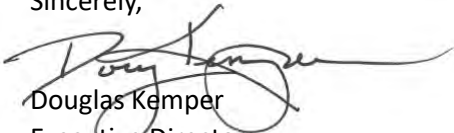
1. The **financial impact to water and wastewater providers will easily be in the \$100s of millions** when evaluating hard infrastructure requirements such as water and wastewater distribution and collection systems, water and wastewater treatment plants, and water supply infrastructure. One impacted resort community member of Colorado Water Congress has produced a financial impact estimate of \$325 million over ten years which would require an 80% increase in water rates to customers. Another member is constructing a water treatment plant that costs \$200 million. That plant is sized for heavily negotiated and planned development and overnight would be undersized to meet the needs of the forced new density. Other members of Colorado Water Congress have similarly estimated impacts in the \$100s of millions individually. The cost to build an upsized water main or an upsized water treatment plant are real and substantial costs particularly in a time of extreme construction cost escalations. Water providers are already struggling to replace currently failing infrastructure. **This will only further degrade water and wastewater provider's ability to provide reliable service to the citizens of Colorado and will put an undue burden on the citizens - at all income levels - living in those communities.**
2. The amended definitions to the bill define "Evaluations of consistency of an application with local plans" to be "discretionary approval processes" with "subjective determinations". Local plans include water treatment plant master plans, wastewater treatment plant master plans, water distribution master plans, wastewater distribution master plans, water supply plans, and the land use plans that are driven by these master plans. These plans are developed by licensed professional engineers and experts in water and wastewater infrastructure and water supply. **These local plans are developed to ensure public health and safety. They are factual and numeric in nature and are anything but "subjective" and "discretionary". They are there to ensure that communities can appropriately deliver health and safety services at their most basic level.**

3. This bill assumes that there are not consistently planned water supply evaluations. This is patently, and offensively, inaccurate. The level of effort that is ongoing at local, State, western United States, and the Federal levels are massive. System loss calculations that the bill references heavily is the most basic of water supply calculations. Per capita water use has been decreasing over the past two decades because of substantial conservation program efforts. **Even with heavily utilized conservation strategies being implemented by local and regional water providers, the State, and the Federal government, water supply is a real and legitimate issue. Water providers cannot make water available to unplanned development when there is physically no water available.** No “deadline extension for deficiency in water and wastewater infrastructure or supply” will make water available when there is none.
  
4. This bill exacerbates long-term concerns and discussions involving Colorado Eastern Slope municipal water needs versus Western Slope and would adversely impact irrigated agriculture and related rural economies. Much of the impact of this bill will be focused on Front Range municipalities and their water supplies and mountain resort towns. **This bill forces Front Range municipalities to even more aggressively search out new water supplies which increases the pressure on the Western Slope water supplies and the Colorado River.**

This bill recognizes that there are water supply and infrastructure concerns with developing beyond what has been carefully planned for by municipalities with water and wastewater service providers. But it does nothing to address the serious financial and infrastructure burdens it places on local communities, nor does it address the serious, well-discussed water supply issues that are impacting our local communities, the State, and the entire Western United States

For these reasons, the Colorado Water Congress requests that you vote **NO** on SB 213.

Sincerely,



Douglas Kemper  
Executive Director  
Colorado Water Congress



**UPPER EAGLE REGIONAL  
WATER AUTHORITY**

**Fiscal Year 2023  
Quarterly Financial Report  
For the 1st Quarter Ending March 31, 2023**

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



**UPPER EAGLE REGIONAL  
WATER AUTHORITY**

**To:** Board of Directors  
**From:** Jim Cannava, Finance Manager  
**Date:** April 19, 2023  
**Re:** Quarterly Financial Reports - YTD March 31, 2023

The 1<sup>st</sup> quarter 2023 financial reports are attached. Operating revenues are tracking 8.5% better than budget and 16.7% greater than YTD 2022. Revenues are greater than budget due to consumption growth in tier 5. We expect a portion of the tier 5 revenues to be reversed in Q2 due to a significant water loss event in Q1 that is in the process of being credited. Total Q1 consumption is in line with the 3-year average and tier 5 consumption is 21.8% greater YOY.

Operating expenses are 1.6% under budget and 22.8% greater than YTD 2022. The YOY growth is due to the timing of engineering expenses related to augmentation, the operating agreement, and utility expenses. There is a \$198k Q1 operating deficit due to the timing of expenses including property and liability insurance and augmentation water. Bond funds have been consumed and the bond issuance process will begin with information provided by the water master plan update.



**UPPER EAGLE REGIONAL  
WATER AUTHORITY**

**Net Income & Budget Comparisons**

**UERWA**

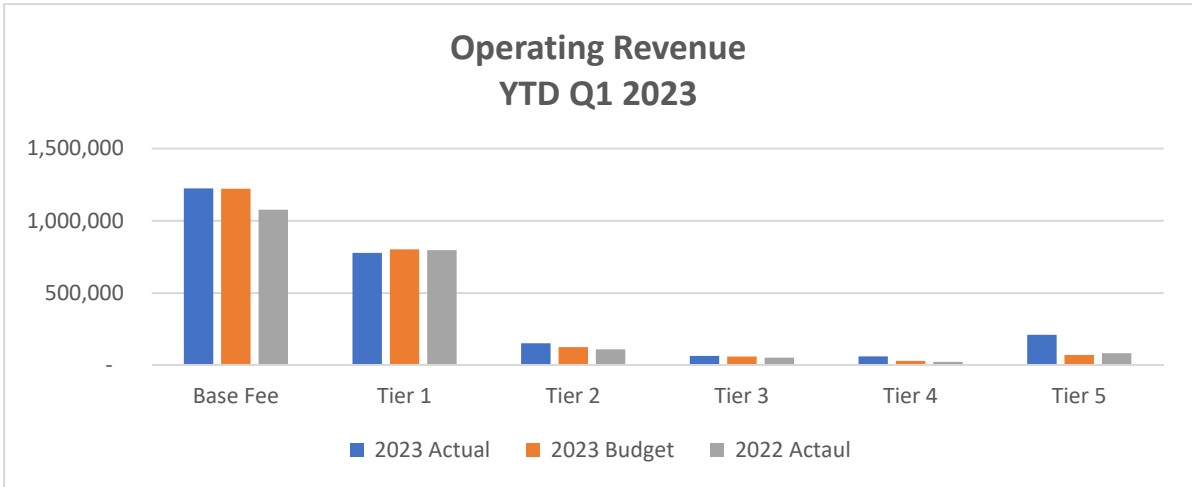
<b>Operating</b>	<b>Annual Budget</b>	<b>YTD 2023 Q1</b>	<b>YTD Q1 2022</b>
Revenue	\$13,053,526	\$2,500,860	\$2,143,121
Expense	\$11,089,457	\$3,360,896	\$2,198,312
<b>Net Income</b>	<b>\$1,964,069</b>	<b>(\$860,036)</b>	<b>(\$55,192)</b>

<b>Non-Operating</b>	<b>Annual Budget</b>	<b>YTD 2023 Q1</b>	<b>YTD Q1 2022</b>
Revenue	\$4,261,562	\$1,165,274	\$1,148,407
Expense	\$5,162,895	\$556,010	\$613,598
<b>Net Income</b>	<b>(\$901,333)</b>	<b>\$609,264</b>	<b>\$534,809</b>

<b>Net Income</b>	<b>\$1,062,736</b>	<b>(\$250,772)</b>	<b>\$479,617</b>
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<b>Unrestricted Fund Balance</b>	<b>Annual Budget</b>	<b>YTD 2023 Q1</b>
Beginning Balance	\$5,624,024	\$5,624,024
Net Income	\$1,062,736	(\$250,772)
<b>Ending Balance</b>	<b>\$6,686,760</b>	<b>\$5,373,253</b>

**Revenue Comparison**



- Total Water Service Revenue is 7.8% better than budget YTD & 16.2% over YTD 2022
  - Base fees are on budget with YOY growth due to rate increases
  - Tier revenues are 16.3% better than budget due to a 21.8 % YOY growth in tier 5
    - Some of the tier 5 revenues may be reversed in Q2
- Capital Replacement Base Fees are on budget
- Water Service Impact Fees are \$159K YTD, \$12K less than Q1 last year



**UPPER EAGLE REGIONAL  
WATER AUTHORITY**

**Bond Balances & Cash**

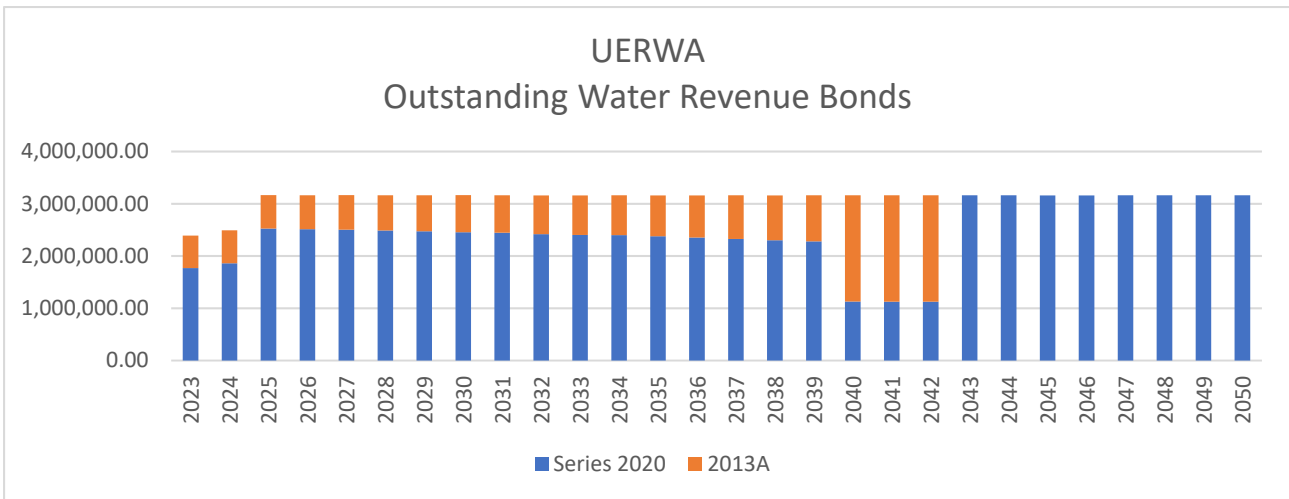
Bond Funds	Budget	YTD 2023 Q1	YE 2022
Beginning Balance	(\$900,715)	(\$900,715)	\$7,143,902
Expense	\$8,998,283	\$202,760	\$8,044,617
<b>Bond Balance</b>	<b>(\$9,898,999)</b>	<b>(\$1,103,475)</b>	<b>(\$900,715)</b>

Bond Projects	*Budget	Actual	Remaining Budget
RTU System Upgrade	\$150,000	\$589	\$149,411
Bolts Lake Reservoir	\$688,950	\$79,613	\$609,337
Arrowhead Transmission Main Rehab	\$2,023,738	\$6,639	\$2,017,099
Upgrade PLC 6 @ ADWF-Master PLC	\$2,061,659	\$58,843	\$2,002,815
Wildridge BPS and PRV Improvements	\$2,748,548	\$41,878	\$2,706,670
Edwards Transmission Line Phase 2	\$10,000	\$11,226	(\$1,226)
Fenno Well House/Raw Water Conveyance	\$1,295,389	\$920	\$1,294,468
Traer Creek Tank Replacement	\$20,000	\$3,053	\$16,947
<b>Total</b>	<b>\$8,998,283</b>	<b>\$202,760</b>	<b>\$8,795,523</b>

- \* Includes 2022 unspent budgets carried forward to 2023
- The negative bond ending balance illustrates the need for a bond as planned

UERWA	2023	2022	2021
Cash Balance	13,349,241	14,369,698	21,742,153

- Cash balance fluctuations are primarily due to bond proceeds and expenditures



- Total Outstanding Debt Service: \$87,076,073



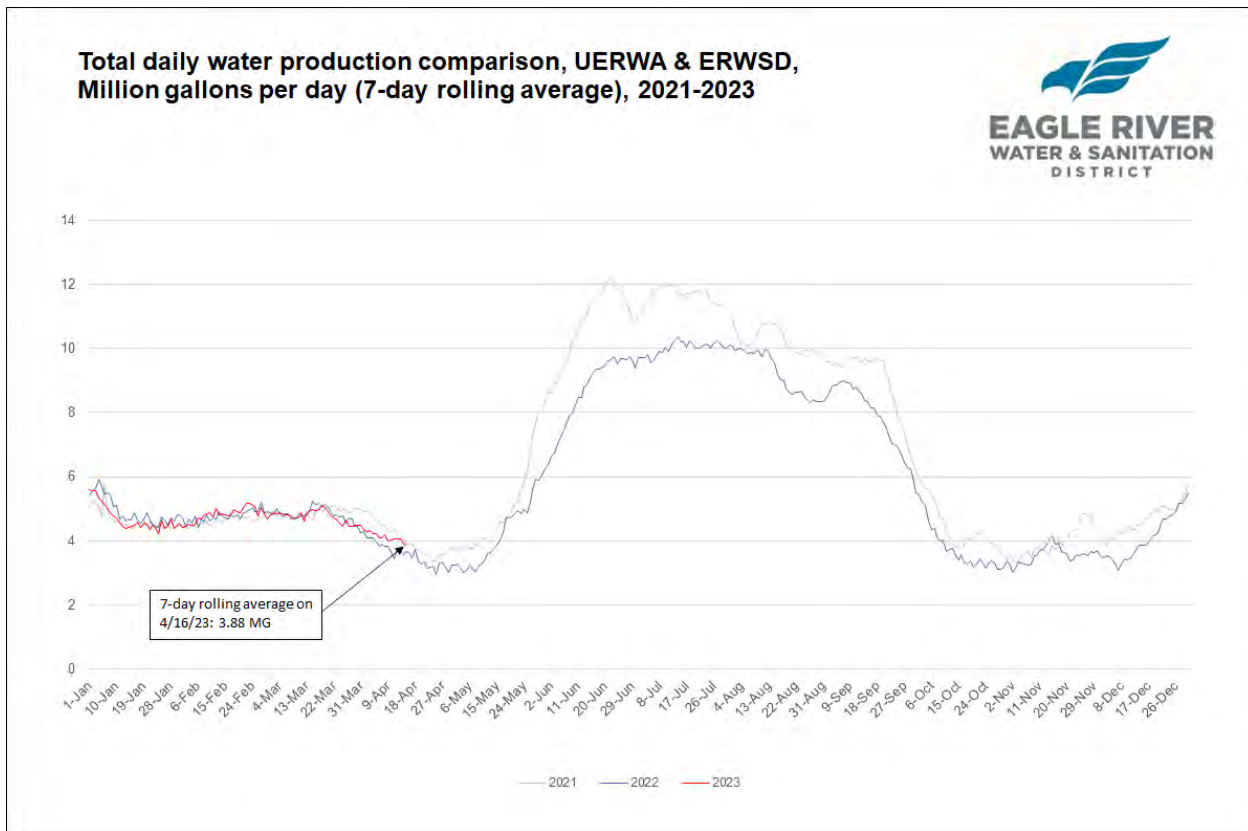


### OPERATIONS MONTHLY REPORT April 2023

## WATER

Brad Zachman

The system-wide water production comparison was updated through Apr. 13. System production and demand have started dropping as the ski areas begin to close for the season. Seasonal water uploads to Vail were stopped on Apr. 18 and downloads were started. The annual intersystem transfers are on pace to be at the required net-zero balance by Apr. 30 (the end of District's/Authority's contract year).



The Colorado Department of Public Health and Environment (CDPHE) formally approved the District's and Authority's request to combine the public water system identification numbers (PWSIDs) for regulatory compliance purposes. This was a multi-year, strategic effort aimed at aligning the regulatory compliance and monitoring programs with actual operational practices. Additional details are provided in the memo included in the board packet.

**Clean Water. Quality Life.™**

846 Forest Road Vail, Colorado 81657 Tel (970) 476-7480 Fax (970) 476-4089 [erwsd.org](http://erwsd.org)

One of the major electrical components of the onsite sodium hypochlorite generation (OSHG) system feed system at the Berry Creek Wellhouse failed in late-March. The facility remained offline through Apr. 14, while replacement parts were procured, and a repair was coordinated. In response to the unexpected equipment failure, Water Operations and CIP staff are currently working with the CDPHE to design and install a backup sodium hypochlorite chemical feed system for the site. The backup system will provide critical redundancy for the disinfection process and allow the facility to safely operate in the event of a future OSHG failure. Staff plans to permit and install similar redundant disinfection equipment at other groundwater production sites in the near future.



*On Site Sodium Hypochlorite Generator (OSHG) repair at Berry Creek Wellhouse*

#### LABORATORY & WATER QUALITY

Leah Cribari

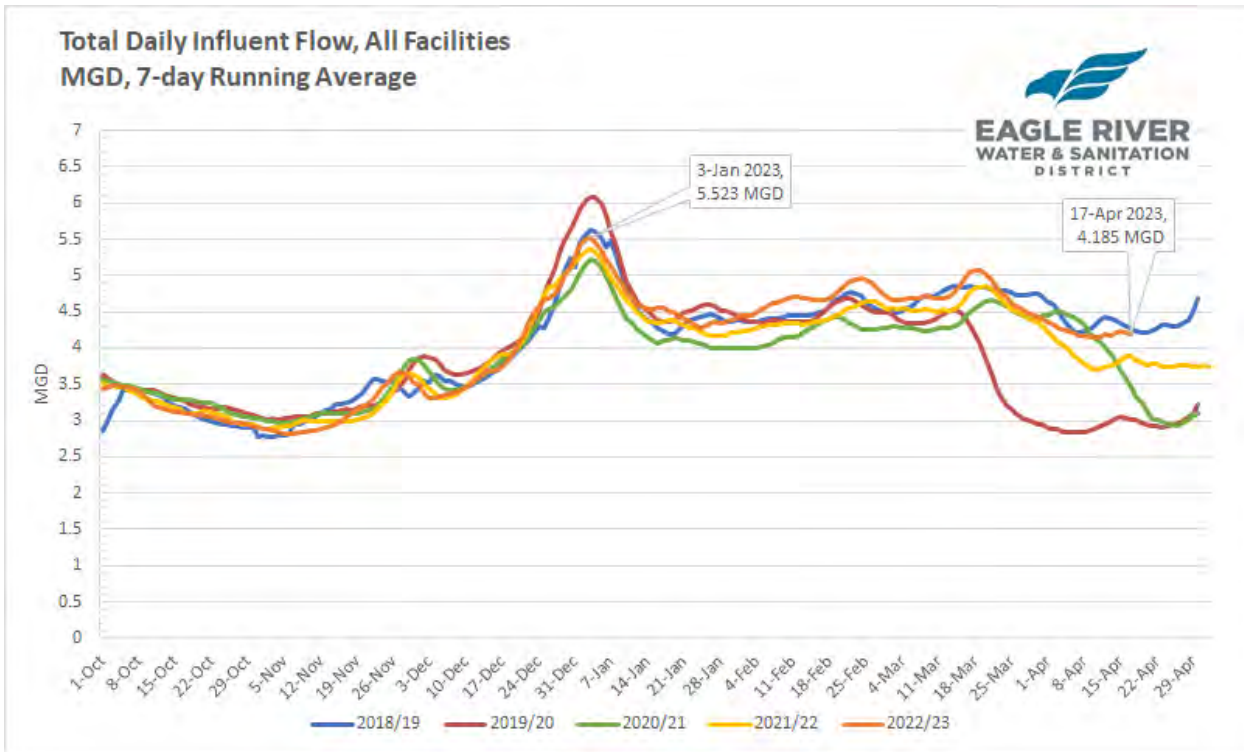
On May 8, a Water Quality Control Commission (WQCC) rulemaking hearing will occur for Colorado's Regulation 93, which includes proposed changes to Colorado's Section 303(d) List of Impaired Waters and Monitoring and Evaluation List. The District's legal counsel, staff, and consultants submitted a Rulemaking Prehearing Statement and will be testifying at the upcoming rulemaking hearing regarding the positions summarized below.

- Opposition to listing Eagle River Segment 9c for temperature.
- Support for listing Eagle River Segment 5a\_B for cadmium.
- Opposition to de-listing Segment 5a\_C for dissolved iron.
- Opposition to de-listing Segment 5b\_A for dissolved zinc.

**WASTEWATER**

Rob Ringle

Cumulative influent wastewater flow and loading continue to trend near the high end of seasonal norms. This is likely the result of extended ski season operations and favorable snow conditions. Data from recent weeks indicate the start of the expected seasonal decline. Influent flows and loads typically reach seasonal lows just before spring runoff in early May.



Operations, CIP, and consulting staff performed a condition assessment of the two primary sludge gravity thickener units at the Edwards Wastewater Treatment Facility (EWW). The assessment is part of the ongoing Wastewater Master Plan Update project. Both gravity thickener units were found to be in better condition than expected, but some equipment will need to be rehabilitated as part of the next major capital improvements project at the facility.

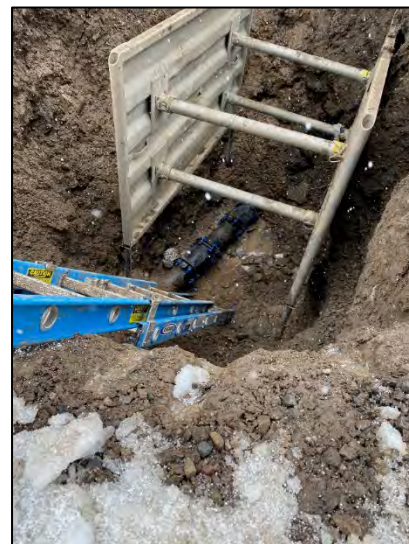


*Gravity thickener inspection at the Edwards Wastewater Treatment Facility*

**FIELD OPERATIONS**

Niko Nemcanin

On Mar. 20, Field Operations operators repaired a water main break at Matterhorn Circle in Vail. The break was determined to be a circumferential crack in the main, likely caused by prolonged stresses from improper pipe bedding and backfill materials used during initial installation. The damaged section of pipe was cut out and replaced.



*Matterhorn Circle water main repair*

On Mar. 29, Field Operations operators responded to a water main leak on Draw Spur Road in Wildridge. Excavation began on Mar. 30 and a repair was completed on Mar. 31. The water leak was caused by the failure of a corroded water service saddle tap. The saddle was replaced, and the service tap was successfully reconnected.



*Wildridge water main repair*

On Apr. 15-16, an emergency water main repair was made near S. Frontage Rd. in West Vail. Upon initial arrival at the scene, Field Operations operators immediately isolated the main due to reports of flooding in four basements in a nearby building. Equipment was mobilized and excavation began on the afternoon of Apr. 15. The water main was buried at approximately 12-feet and the excavation was slowed due to challenging utility conflicts, the close proximity to the road, and a frost layer that extended approximately four feet below ground surface. Water service was fully restored at 7:00 pm on Apr. 16. The break was determined to be a circumferential crack in the main, likely due to improper backfill and bedding materials.



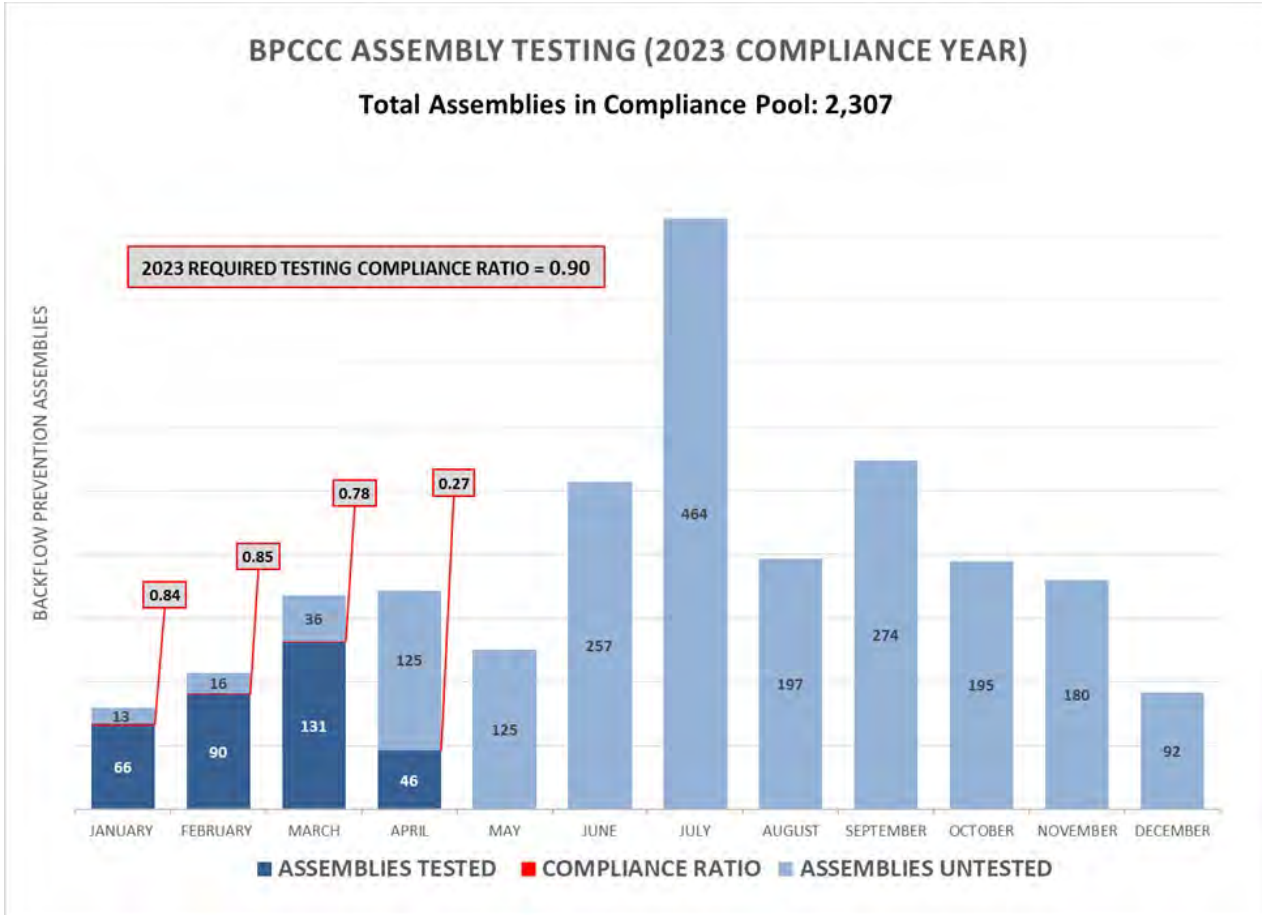
*S. Frontage Rd. water main repair*

**UTILITY SERVICES**

Shane Swartwout

**BPCCC Program**

The BPCCC team successfully completed testing the 172 backflow prevention assemblies that had not been tested in 2022. Per a new regulatory requirement, each backflow prevention assembly not tested during the previous calendar year was required to be tested within 90 days (Apr. 1, 2023). The team successfully achieved compliance by the regulatory deadline. Updated BPCCC assembly tracking data for the 2023 compliance year is provided in the figure below.



**Meter Services**

The meter services team completed annual testing of the 3” fire hydrant meters that are used for seasonal construction purposes. Each construction meter is equipped with a reduced pressure zone (RPZ) backflow prevention assembly to control cross connection and backflow hazards. There is a total of 46 construction meters in the inventory: 35 dedicated for general use, four dedicated for District and Authority capital improvement projects, one dedicated for non-revenue water uses, and six available for governmental uses. The team is also continuing with its ongoing effort to upgrade AMI meters across the system. A updated progress report is provided below.

Report Date:	4/11/2023
--------------	-----------

AMI SYSTEM STATUS	ERWSD	UERWA	TOTAL
(1) Total No. of Meters	3196	6820	10016
(2) No. of AMI Meters	3193	5925	9118
(3) System Percentage of AMI Meters	99%	87%	94%
Meters Remaining to Reach 100% AMI	3	895	898

*Meter Services – Advanced Metering Infrastructure (AMI) Status (Updated 4-11-2023)*

## 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.

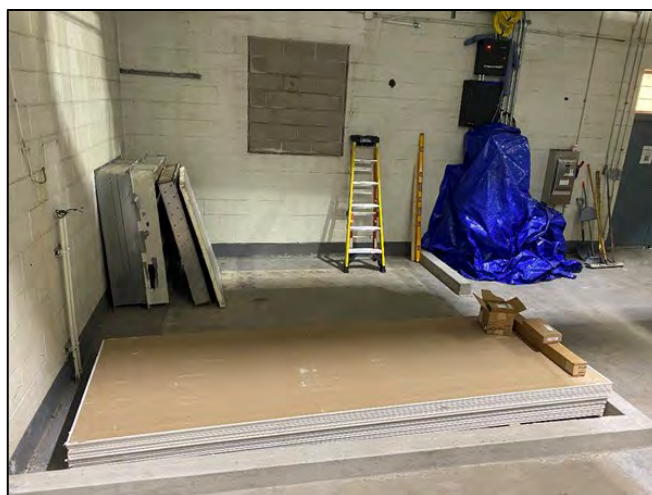
Project Update: A new pump and motor is currently being procured for the Fenno F6 well. Installation of the equipment will be completed this spring. The project team is also working to schedule the remaining four wells for inspection and is coordinating easement access with the property owner near Well F7.

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

Jenna Beairsto

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

Project Update: Construction has started on the new server room at ADWF. The contractor has removed the louver in the wall and replaced it with masonry block. The curb around the perimeter has been placed and framing and drywall work has started. A control philosophy workshop will be held the week of Apr. 17 for the influent pumps, during which the programming and SCADA screens will be tested by the project team.



*Construction of the new networking and server room at ADWF*



## **Water Production and Treatment Masterplan**

Jenna Beairsto

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

Project Update: The project team met to review the risk tool that is being developed by District staff. Additional modifications are underway to expand the functionality of the tool. A workshop is scheduled for May 4 to discuss the key risk challenges and review potential risk mitigation projects. The initial chapters of the masterplan 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 project team is currently working to secure easements from Vail Resorts and will advertise the project once the easement agreements are completed. Additionally, a Location and Extents Application (LEA) was submitted to the Eagle County and Planning Commission; approval is expected on May 17. A permit application was approved by the U.S. Army Corps of Engineers (USACE) for the portion of the work that crosses McCoy Creek.

## **North Frontage Road Watermain Improvements**

Woodson Spring

General Project Scope: This project involves the 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: One bid was received for the project on Mar. 16. The bid was below the engineer's estimate and the project was awarded to the sole bidder. Permit applications have been submitted and pre-construction meetings have been held with the Town of Vail and Middle Creek property management. Contractor mobilization is scheduled for early August.

## 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: The project team completed the third formal punch list walk for the equalization basin gallery and contractor is working to complete punch list work. Construction of the retaining wall along the southern property line is ongoing. A full closure and detour of the bike path remains in place during the retaining wall construction. District operators continue to optimize treatment while running two parallel aeration basins. The first delivery of the new carbon chemical was accepted and operators began feeding it to the process. The coatings subcontractor mobilized and began blasting and recoating the first of the two secondary clarifiers (SCs). The sandblasting work is nearly complete on the first clarifier and coating installation will begin as soon as the surface preparation is complete. The roof replacement work is scheduled to begin in May. General civil site work continues around the facility in preparation for paving, which will occur as soon as the asphalt plants are operational for the season.



*Construction of the retaining wall along the southern property line*



*Recoating work in clarifier*

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

Jenna Beairsto

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 contractor re-mobilized to the site in March and April. The temporary fill material that was placed around the new lift station was vacuumed out and will be reused. The new wet well passed a volumetric leak test and the contractor is working to repair small cracks in the concrete. The wet well final backfilling process will begin the week of Apr. 17. The electricians will concurrently install the below-grade electrical conduit for the lift station. Traffic control was installed from the new lift station to the tie-in location at the West Vail Interceptor. The contractor began fusing 8" HDPE pipe for the force main and has completed over 1,300 feet.



*Wet well inspection during hydrostatic leak test*



*Contractors fusing the HDPE pipe for the new force main*

## 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: The construction team is currently working on the exterior portion of the project. Demolition work is underway to remove the old MAU and duct work on the roof. Installation of the new MAU and duct work will begin on Apr. 18.



*Rooftop duct work/HVAC equipment installation*

## 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: Construction work has resumed after a winter hiatus. Building and electrical permit applications have been submitted to the Town of Vail. Equipment procurement is underway for the ultraviolet (UV) disinfection system, mechanical bar screen, and Parshall flume. Public notice of the bike path closure and detour of the Gore Valley Trail was issued. Project and detour signage and erosion control measures have been installed. The contractor began excavation and rock

removal for the sanitary sewer bypass on the southeast side of the facility. District operators are preparing procedures to test a VWW wastewater flow bypass before Phase II begins. A full-flow bypass of VWW will be installed during Phase II construction activities. An agreement to utilize Vail Resorts' parking lot was finalized and overflow parking will be available beginning May 1.



*Installation of the sanitary sewer bypass pipe*

## **GENERAL CAPITAL**

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### **Fleet Maintenance Facility**

Mark Mantua

General Project Scope: The District's fleet maintenance shop, which is currently located at the Avon Wastewater Treatment Facility (AWW), needs to be relocated before a planned administrative expansion project can be initiated. The scope of this preliminary planning project is to define a conceptual footprint for the building and identify possible site locations.

Project Update: The engineering consultant developed a final conceptual-level site plan for a proposed facility located on the east side of the Edwards Wastewater Treatment Facility. District

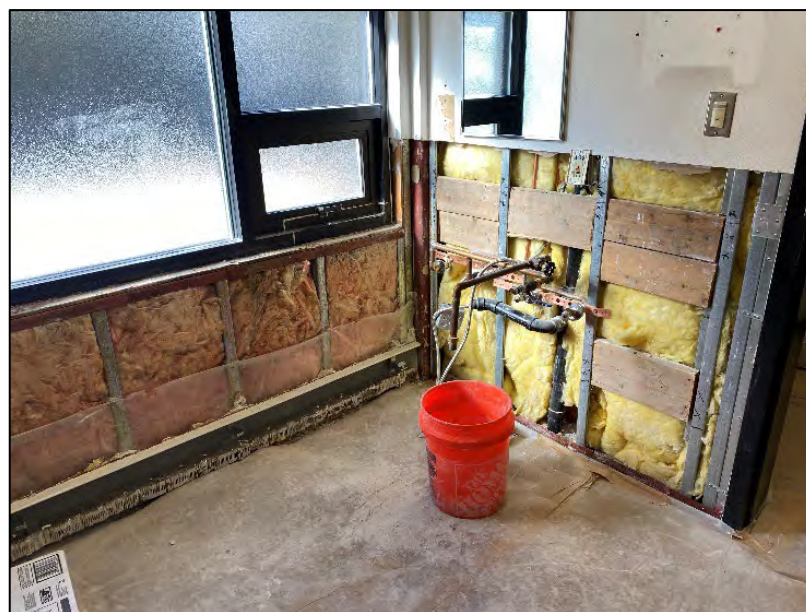
staff reviewed the final conceptual design and the report was finalized. The team is beginning to evaluate alternative building sites at the Hillcrest site (in Edwards) and AWW.

### **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 began work on second level restrooms on Apr. 15. The bathroom demolition has started. Plumbing and electrical rough-in work is under way.



*Demolition in the upstairs restrooms*



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

**TO:** Boards of Directors  
**FROM:** Brad Zachman, Director of Operations  
**DATE:** April 20, 2023  
**RE:** CDPHE Approval to Combine District and Authority Public Water Systems' Regulatory Compliance Programs

The purpose of this memo is to formally notify the boards that the Colorado Department of Public Health and Environment (CDPHE) has approved the District's and Authority's requests to merge their individual public water systems (PWSs) for regulatory compliance purposes. The District's and Authority's systems are now formally regulated as a single PWS. The change became effective on April 1, 2023.


Functionally, the approval resulted in the creation of a single PWS identification number (PWSID) in the CDPHE and EPA databases. Moving forward, the combined PWS will be identified as Eagle River Water and Sanitation District. The PWSID previously assigned to the Upper Eagle Regional Water Authority has been inactivated.

The approved administrative change aligns system monitoring and regulation with actual system operation. Specific details and background information regarding the rationale for merging the regulatory programs was previously summarized in the board action request memos dated April 15, 2020 and September 14, 2022.





## MEMORANDUM

**TO:** District and Authority Boards of Directors  
**FROM:** Jason Cowles, P.E.   
**DATE:** April 19, 2023  
**RE:** Engineering & Water Resources Report

### **Bolts Lake Update**

The EPAs comment period on the partial deletion of the Trestle Area from Operating Unit 3 (OU3) closed on March 24. Two comments were received that will be entered into the EPAs docket for the deletion, with one of the comments in favor of the deletion. The EPA will evaluate and respond accordingly to comments before making a final decision on the partial deletion.

Shannon & Wilson have provided data reports on last fall's geotechnical investigations at the reservoir site. We are reviewing the information and will provide an update in the future when we have an opportunity to review. There were some issues noted with bedrock on the southeast side of the reservoir where there are large fractures in the bedrock that we will need to address in the reservoir design due to seepage potential.

LRE Water is studying reservoir water delivery system alternatives in an effort to optimize reservoir size, yield, and costs. Once LRE Water updates the yields based on our water supply systems model, we hope to decide on our preferred delivery approach for preliminary design and permitting.

### **Water Resources Report**

This month's water resources report is brought to you by Justin Hildreth, who was recently hired to fill the water resources engineer role with the District. We're excited to have Justin join our team and look forward to his contributions as an employee of the District.

### Drought Conditions

The April 11, 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 extreme drought conditions.

Figure 1: U.S. Drought Monitor – Colorado. April 11, 2023 (National Drought Mitigation Center)

# U.S. Drought Monitor Colorado

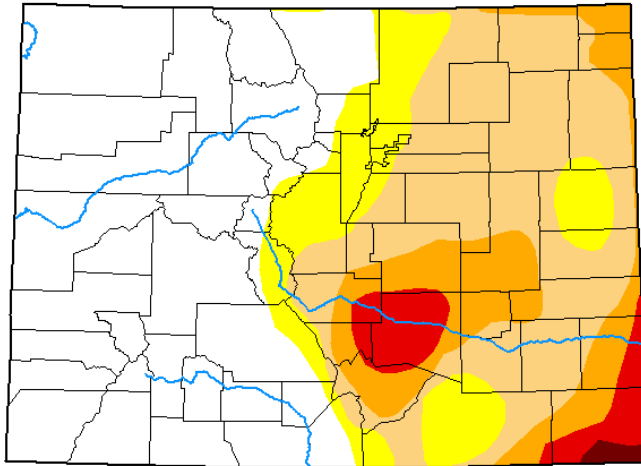
**April 11, 2023**

*(Released Thursday, Apr. 13, 2023)*

Valid 8 a.m. EDT

*Drought Conditions (Percent Area)*

	None	D0-D4	D1-D4	D2-D4	D3-D4	D4
<b>Current</b>	48.25	51.75	39.85	14.50	4.52	0.43
<b>Last Week</b> <i>04-04-2023</i>	52.49	47.51	37.88	12.75	2.24	0.43
<b>3 Months Ago</b> <i>01-10-2023</i>	39.98	60.02	35.67	12.28	2.28	0.04
<b>Start of Calendar Year</b> <i>01-03-2023</i>	39.97	60.03	33.83	12.28	1.91	0.01
<b>Start of Water Year</b> <i>09-27-2022</i>	15.46	84.54	45.65	15.47	3.73	0.57
<b>One Year Ago</b> <i>04-12-2022</i>	0.00	100.00	82.90	31.94	4.32	0.53



Intensity:

- None
- D0 Abnormally Dry
- D1 Moderate Drought
- D2 Severe Drought
- D3 Extreme Drought
- D4 Exceptional Drought

*The Drought Monitor focuses on broad-scale conditions. Local conditions may vary. For more information on the Drought Monitor, go to <https://droughtmonitor.unl.edu/About.aspx>*

Author:

David Simeral  
Western Regional Climate Center



[droughtmonitor.unl.edu](https://droughtmonitor.unl.edu)

Temperature and Precipitation Forecasts

The current 8 to14 day temperature and precipitation outlooks are shown in Figures 2 and 3. 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 precipitation and temperature will be average.

Figure 2: 8-14 Day Temperature Outlook April 17, 2023 (NOAA Climate Prediction Center)

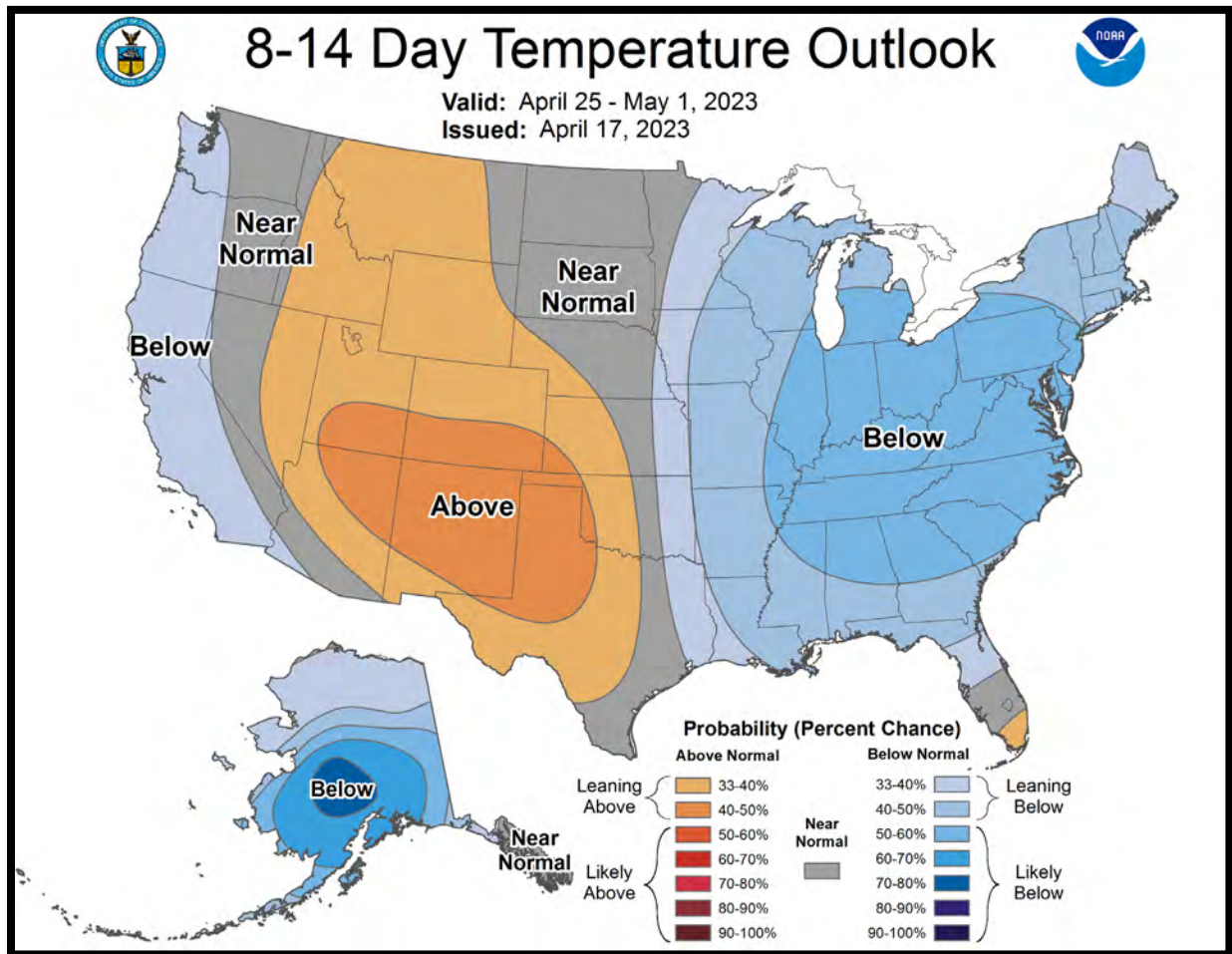
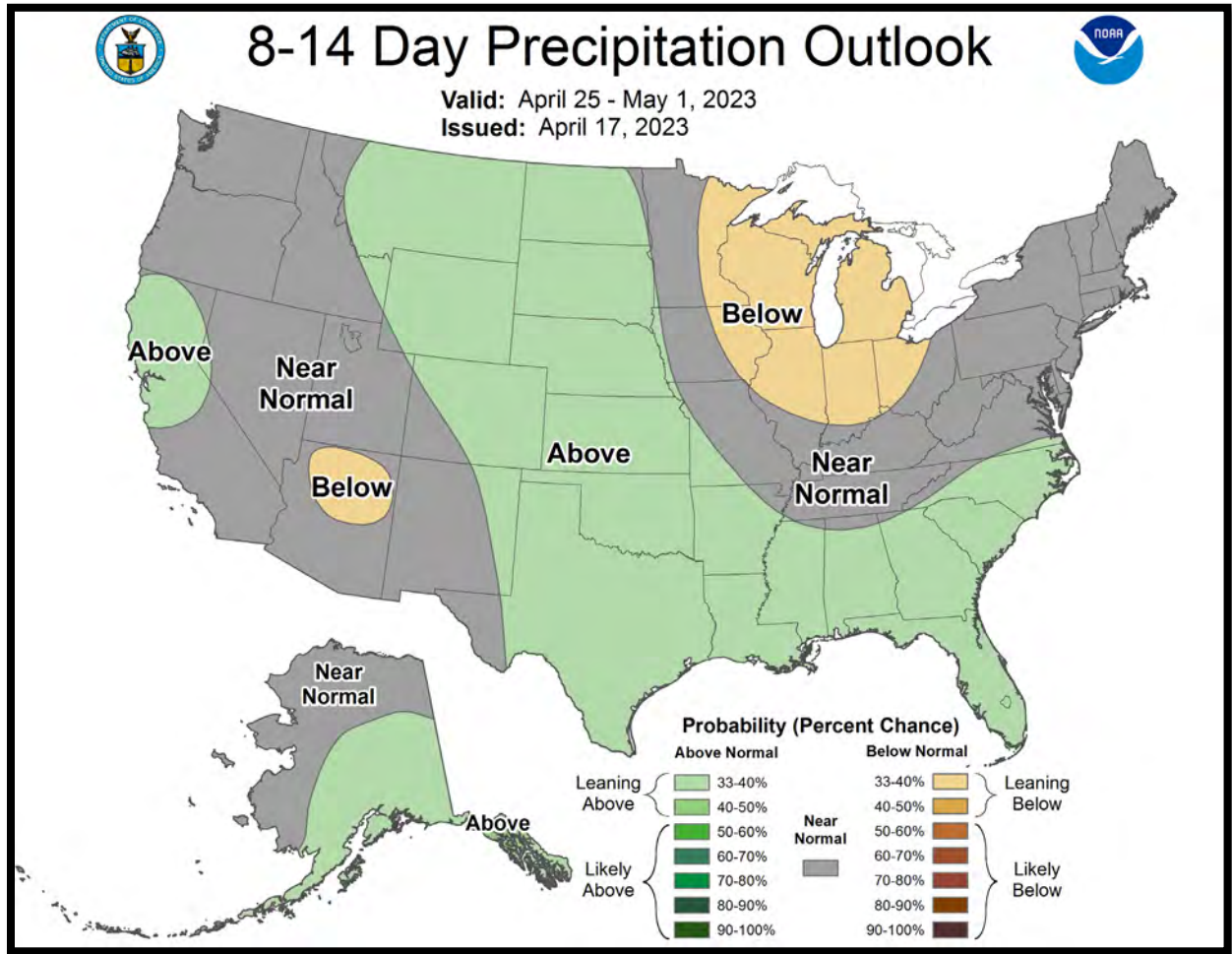


Figure 3: 8-14 Day Precipitation Outlook April 17, 2023 (NOAA Climate Prediction Center)



Snowpack Conditions

The two SNOTEL monitoring stations representative of the District’s water supply are Vail Mountain and Freemont Pass are shown in Figures 4, and 5 respectively. As of April 19, 2023, the Vail Mountain SNOTEL station has 19.0 inches of snow water equivalent (SWE) and is 89% of 30-year median peak. The Freemont Pass SNOTEL station located near Eagle Park Reservoir has 15.0 inches of SWE and is 75% of the 30-year median peak. The public perception is that the snowpack is above average because of the national news reporting record high snowpacks in California and Utah. 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 preparing to run the East Fork Pump Station as soon as conditions permit.

Figure 4: SWE at Vail Mountain SNOTEL station, April 19, 2023

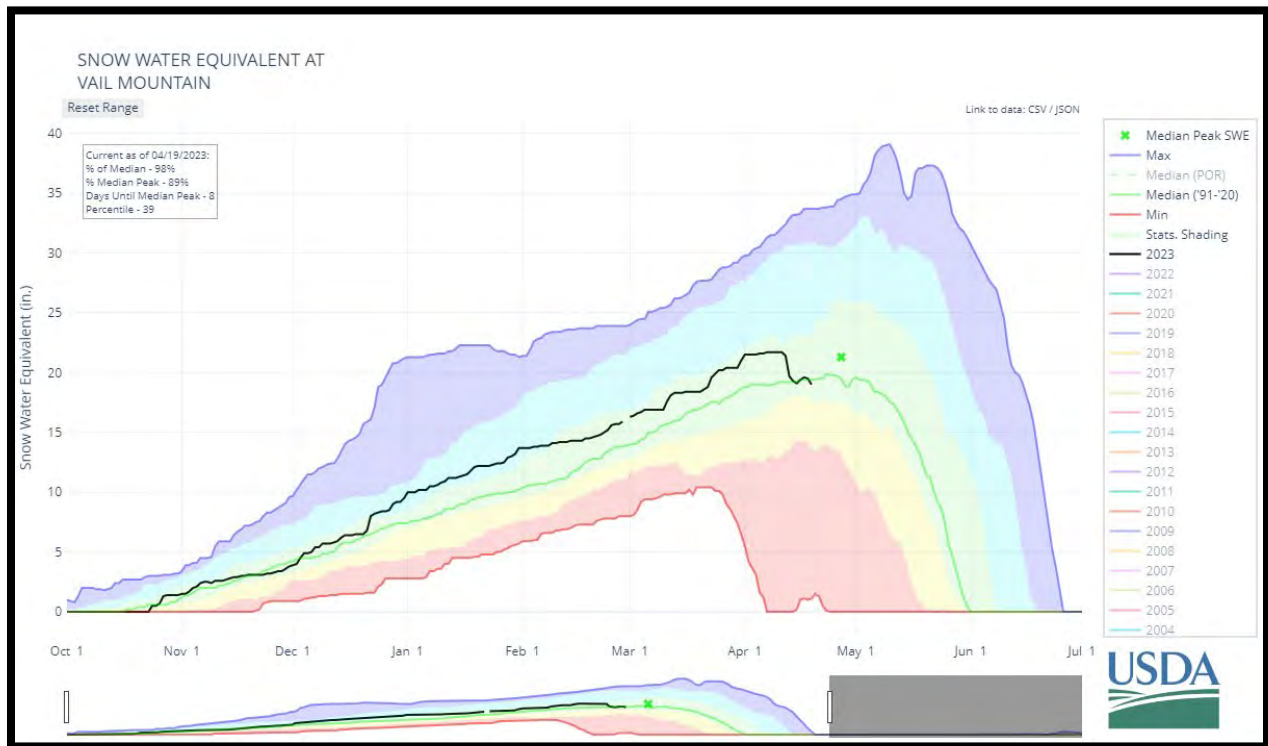
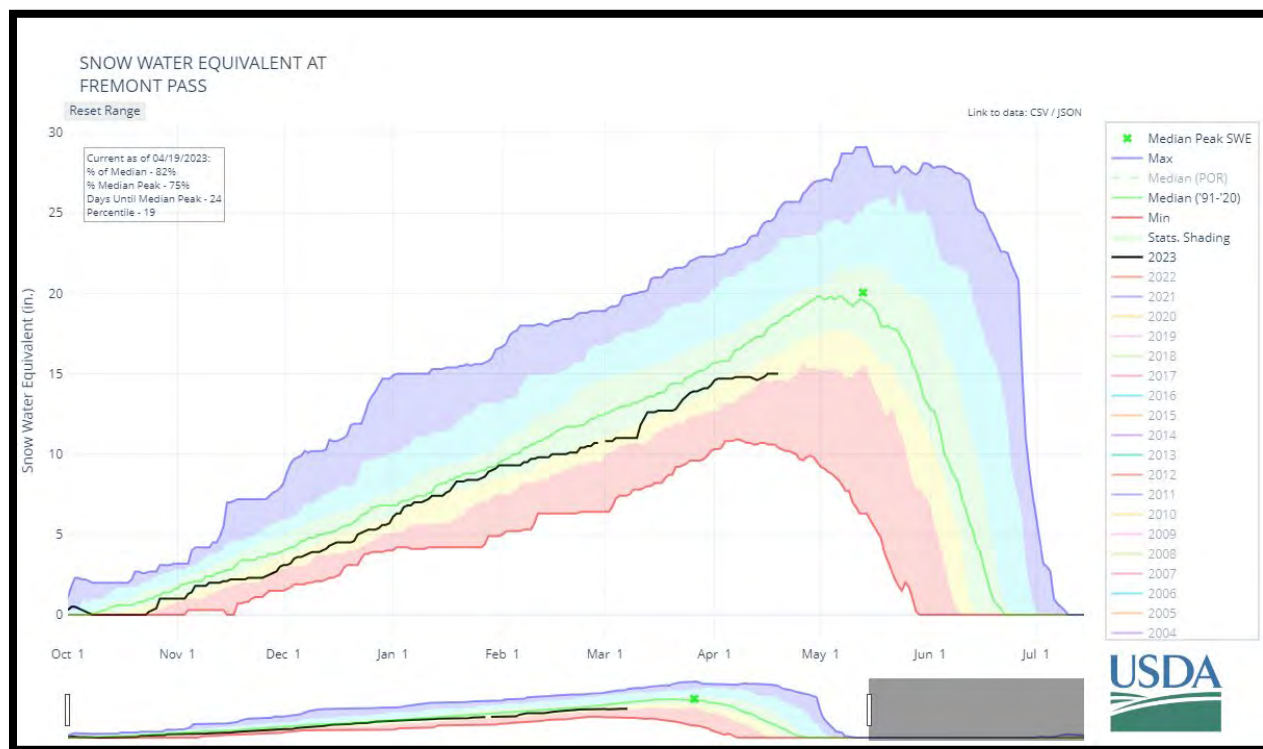


Figure 5: SWE at Freemont Pass SNOTEL, April 19, 2023



**Reservoir Storage**

The reservoir storage accounts are summarized in Table 1. 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 1. District and Authority storage accounts for April 1, 2023 (Helton and Williamsen).

**April 1 2023 Volumes in Storage and Percentages of Full:**

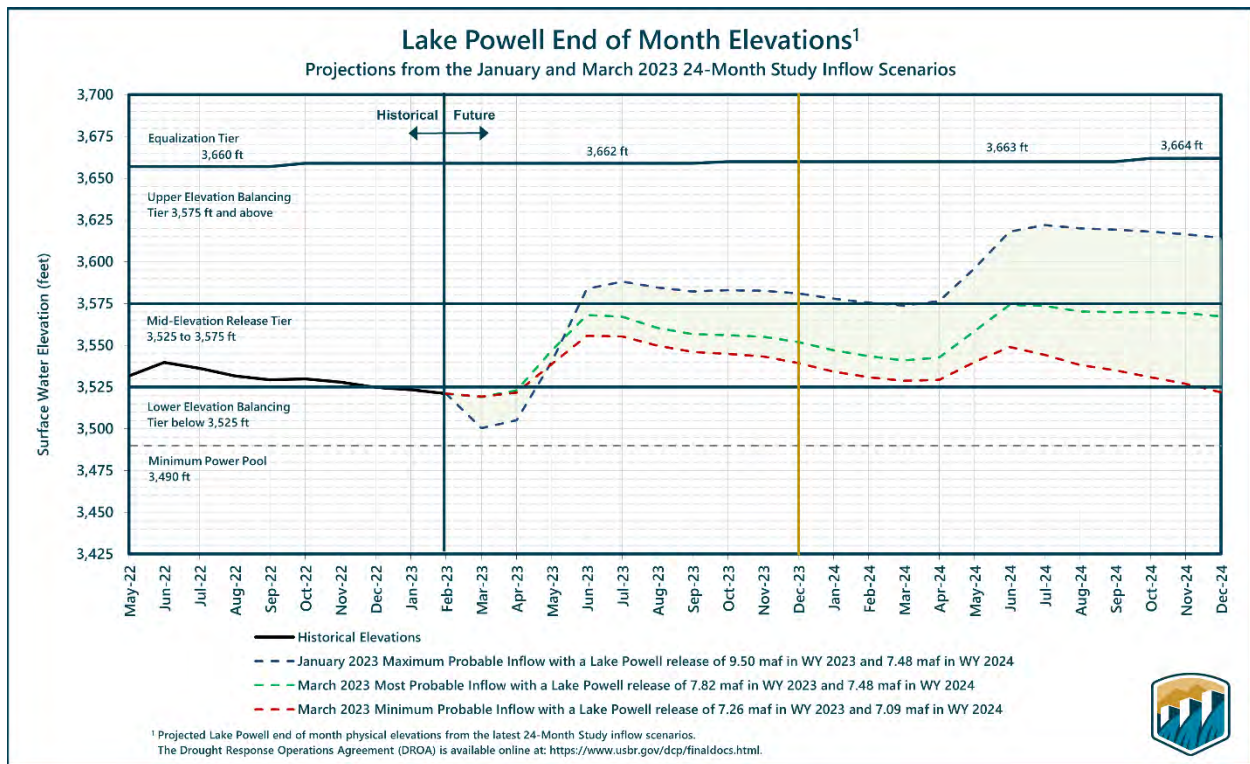
<b>Reservoir</b>	<b>ERWSD</b>		<b>UERWA</b>		<b>Total</b>	
Green Mountain	560.84	60%	452.87	83%	1013.71	68%
Black Lakes	52.10	12%	52.10	17%	52.10	12%
Eagle Park	430.39	99%	583.50	86%	1013.90	91%
Homestake Res	250.00	100%	256.50	100%	506.50	100%
Wolford Mtn	500.00	100%	628.32	88%	1128.32	93%

\*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 30-FT. Figure 6 summarizes the 3 lake level scenarios for the next 24-months based on projected inflows and releases.

Figure 6: Lake Powell End of Month Elevations (U.S. Bureau of Reclamation).





## MEMORANDUM

**TO:** Boards of Directors  
**FROM:** Diane Johnson, Communications & Public Affairs Manager  
**DATE:** April 27, 2023  
**RE:** Communications and Public Affairs Report

### **Senate Bill 23-150: Do Not Flush labeling on non-flushable disposable wipes**

**We passed a law!** On April 11, Governor Polis administratively signed [Senate Bill 23-150](#) that will require “Do Not Flush” labeling on non-flushable disposable wipes. The law goes into effect Aug. 7 and applies to covered products (almost all wipes) sold in Colorado. We greatly appreciate the board’s support to pursue this legislation, including staff and consultant time, along with the leadership of Senator Dylan Roberts who agreed to sponsor the bill last August and worked with us and stakeholders through the legislative drafting process. While ‘Do Not Flush’ labeling won’t stop wipes from being flushed, it’s a big step towards keeping our rivers clean and our Operators safe. The executed Final Act is attached to this report.

### **May 2, 2023, Regular Election**

Brian Thompson, as Designated Election Official, continues to coordinate all aspects of the upcoming board of directors’ election. [Election information](#) and [candidate profiles](#) are on our website. The deadline to request an [application for absentee ballot](#) is **4 p.m. Apr. 25**.

After that date, eligible electors may vote in-person at any polling place: 1. ERWSD Vail administrative office 2. EagleVail Pavilion 3. Edwards Field House. Polling places are open from 7 a.m. to 7 p.m. on election day (May 2). Absentee ballots may be returned by mail or hand-delivered to the ballot box at our Vail office (in the front entryway, available between 8 and 5 p.m., Monday through Friday) or to any of the polling places on election day. For a ballot to be counted, it must be received by 7 p.m. on election day.

### **Town of Vail Restore the Gore programs**

As part of the town of Vail’s “Restore the Gore” campaign, they hosted a free “sustainable landscaping workshop” on April 18 for any interested person. It was a technical 6-hour class and was well attended, primarily by landscaping representatives. The district partnered with the town on the event as a sponsor and Water Conservation Supervisor Allison Ebbets presented information about water use regulations, conservation, and rebate programs. Allison will give a similar presentation at noon on May 10 as part of their “Lunch with the Locals” program.

### **Water Use Regulations**

The Water Use Regulations brochure will be sent to every customer account with their May billing statements. This annual update serves as a general reminder to our customers about outdoor water use. This year’s brochure was reimagined thanks to Jane Tucker and Robyn Janssen, and much of the content was overhauled in collaboration with Allison. Significantly, the brochure is double-sided with English on one side and Spanish on the other (see attached). This is a first for us and part of our effort to release important district communications in both English and Spanish. Hard copies will be available at the Vail office in mid-May. The Vail Daily prints the outdoor water use schedule every day in the paper on the weather page, which will likely start in early May. Our normal regulations are in effect year-round and are purposely “regulations” rather than “restrictions.” If needed, we would implement restrictions, but our goal is to keep customers within the normal regulations.



### **Vail Recreation District's Vail Whitewater Series**

We are again the title sponsor of the 2023 VRD [Vail Whitewater Series](#) that begins May 9. We sponsor this race series primarily because the district and our water counsel secured the recreational in-channel diversion ("RICD") water right on Gore Creek that allowed for the creation of the whitewater park about 20 years ago. The water right and park launched the Mountain Games (now sponsored by GoPro) which have grown far beyond the original kayak competitions. We continue to do legal filings for the conditional portions of the water right. Races are every Tuesday from May 9 through Jun. 6 (right before the Mountain Games begin). Robyn Janssen is coordinating our sponsorship of this series.

### **Eagle River Valley State of the River meeting**

Eagle River Water & Sanitation District will again host the Eagle River Valley version of the Colorado River Water Conservation District's "State of the River" meetings that occur annually throughout their 15-county service area. We worked with the River District in 2011 to create this forum in the Eagle River valley and have led its coordination since. The meeting will be held at 5:15 p.m., Thursday, June 1, at Colorado Mountain College in Edwards. The format will follow previous ones, with information tables and food available at 5:15 p.m. to be followed by a variety of speakers from 6 to 8 p.m.

### **Colorado River Basin**

The Bureau of Reclamation released its April 24-Month Study on Apr. 20, which includes an increase to downstream flows from Lake Powell to Lake Mead of up to 9.5 million acre-feet (maf) this water year. The full news release is [here](#).

### **District in the news:**

1. Apr. 17, Colorado Newline: [She grew up in mountain mobile home parks. Now she's running a bill to fix their foul water](#)
2. Apr. 17, Vail Daily: [Do the proposed amendments to the land use bill do enough for mountain communities](#)
3. Apr. 14, Colorado Public Radio: [Ski towns could be exempted from controversial land-use bill as Democrats try to clear path](#)
4. Apr. 13, Vail Daily: [Eagle County officials are well underway with preparations for possible spring flooding](#)
5. Apr. 13, Vail Daily: [Trail closures extended in Avon, set to begin in Vail](#)
6. Apr. 12, Vail Daily: [Bennet, Hickenlooper on potential revisions to Colorado River operation: Wet year no excuse to ignore a drier future](#)
7. Apr. 7, Vail Daily: [Vail, Avon leaders testify in opposition to sweeping Colorado land-use bill during marathon Senate hearing](#)
8. Apr. 4, Vail Daily: [VRD announces 2023 ERWSD Vail Whitewater Race Series](#)
9. Apr. 3, Vail Daily: [Vail Valley set to see yet another spring storm](#)
10. Mar. 31, Vail Daily: [A Colorado land use bill is facing fierce opposition from mountain communities](#)
11. Mar. 30, Aspen Journalism newsletter: [The Runoff: No-flush wipes bill sent to governor's desk](#)
12. Mar. 27, Fresh Water News: [Colorado lawmakers approve "don't flush" labels for disposable wipes](#)

### **Attachments (or hyperlinks):**

1. Apr. 11, Executed Final Act of Colorado Senate Bill 23-150, Concerning a requirement that certain persons label disposable wipes.
2. 2023 ERWSD Water Use Regulations brochure
3. Apr. 20, U.S. Bureau of Reclamation, [Reclamation releases Climate Change Adaptation Strategy](#)
4. Apr. 11, AZ Central: [How Colorado River states would share water cuts under new federal proposal](#)
5. Apr. 11, U.S. Bureau of Reclamation news: [Interior Department Announces Next Steps to Protect the Stability and Sustainability of Colorado River Basin](#)

# An Act

SENATE BILL 23-150

BY SENATOR(S) Roberts and Will, Kolker, Cutter, Exum, Hansen, Jaquez Lewis, Marchman, Moreno, Mullica, Priola, Rodriguez, Zenzinger, Fenberg;  
also REPRESENTATIVE(S) Froelich and Frizell, Lukens, Amabile, Bacon, Bird, Brown, Dickson, English, Jodeh, Kipp, Lindsay, Lynch, Mabrey, Mauro, McLachlan, Michaelson Jenet, Ricks, Sirota, Snyder, Story, Titone, Valdez, Vigil, Willford, Woodrow.

CONCERNING A REQUIREMENT THAT CERTAIN PERSONS LABEL DISPOSABLE WIPES.

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

**SECTION 1.** In Colorado Revised Statutes, **add** article 18.9 to title 25 as follows:

## **ARTICLE 18.9** **Disposable Wipes**

**25-18.9-101. Legislative declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

*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.*

(a) OVER THE PAST SEVERAL YEARS, CONSUMER DEMAND FOR PREMOISTENED, DISPOSABLE WIPE PRODUCTS, INCLUDING BABY WIPES, SURFACE CLEANING WIPES, HAND SANITIZING WIPES, AND MAKEUP REMOVAL WIPES, HAS SIGNIFICANTLY INCREASED;

(b) THESE WIPE PRODUCTS ARE COMPOSED, ENTIRELY OR IN PART, OF PETROCHEMICAL-DERIVED FIBERS THAT WERE NEVER DESIGNED TO BE FLUSHED DOWN TOILETS;

(c) CONSUMER CONFUSION HAS RESULTED IN MILLIONS OF THESE NONFLUSHABLE WIPES BEING IMPROPERLY DISPOSED OF BY BEING FLUSHED DOWN TOILETS;

(d) WIPES THAT WERE NOT DESIGNED TO BE FLUSHED DO NOT BREAK DOWN LIKE TOILET PAPER, SO WHEN IMPROPERLY DISPOSED OF IN TOILETS, THE WIPES OFTEN CAUSE SEWER BLOCKAGE AND OVERFLOW, CLOG PIPES AND MECHANICAL EQUIPMENT, RELEASE PLASTIC MATERIALS AND WASTEWATER INTO WATERWAYS, AND BLOCK PRIVATE DRAIN LINES, WHICH CAN RESULT IN FLOODED HOMES AND BUSINESSES;

(e) THE NATIONAL ASSOCIATION OF CLEAN WATER AGENCIES HAS DETERMINED THAT UNITED STATES MUNICIPALITIES AND WASTEWATER TREATMENT PROVIDERS INCUR COSTS IN EXCESS OF ONE BILLION DOLLARS ANNUALLY ON MAINTENANCE TO REMOVE CLOGS CAUSED BY WIPES; AND

(f) CLEAR "DO NOT FLUSH" LABELING ON THE PACKAGES FOR WIPES THAT ARE NOT DESIGNED TO BE FLUSHED IS A CRITICAL STEP IN HELPING CONSUMERS PRACTICE RESPONSIBLE FLUSHING HABITS, WHICH IN TURN LEADS TO HEALTHIER HOMES AND COMMUNITIES AND THE PROTECTION OF THE ENVIRONMENT, WATERWAYS, AND PUBLIC INFRASTRUCTURE USED FOR THE COLLECTION, TRANSPORT, AND TREATMENT OF WASTEWATER.

**25-18.9-102. Definitions.** AS USED IN THIS ARTICLE 18.9:

(1) "COVERED ENTITY" MEANS:

(a) THE MANUFACTURER OF A COVERED PRODUCT THAT IS SOLD OR OFFERED FOR SALE IN THIS STATE; AND

(b) A WHOLESALER, SUPPLIER, OR RETAILER THAT IS RESPONSIBLE

FOR THE LABELING OR PACKAGING OF A COVERED PRODUCT.

(2) "COVERED PRODUCT" MEANS A CONSUMER PRODUCT SOLD OR OFFERED FOR SALE IN THIS STATE THAT IS:

(a) A PREMOISTENED, NONWOVEN DISPOSABLE WIPE MARKETED AS A BABY WIPE OR DIAPERING WIPE; OR

(b) A PREMOISTENED, NONWOVEN DISPOSABLE WIPE THAT IS:

(I) COMPOSED ENTIRELY OF OR IN PART OF PETROCHEMICAL-DERIVED FIBERS; AND

(II) LIKELY TO BE USED IN A BATHROOM WITH SIGNIFICANT POTENTIAL TO BE FLUSHED, INCLUDING BABY WIPES, BATHROOM CLEANING WIPES, TOILET CLEANING WIPES, HARD SURFACE CLEANING WIPES, DISINFECTING WIPES, HAND SANITIZING WIPES, ANTIBACTERIAL WIPES, FACIAL CLEANSING WIPES, MAKEUP REMOVAL WIPES, GENERAL PURPOSE CLEANING WIPES, PERSONAL CARE WIPES FOR USE ON THE BODY, FEMININE HYGIENE WIPES, ADULT INCONTINENCE WIPES, ADULT HYGIENE WIPES, AND BODY CLEANSING WIPES.

(3) "HIGH CONTRAST" MEANS:

(a) TONAL CONTRAST THAT IS SHOWN BY EITHER A LIGHT SYMBOL ON A SOLID DARK BACKGROUND OR A DARK SYMBOL ON A SOLID LIGHT BACKGROUND; AND

(b) HAVING AT LEAST SEVENTY PERCENT CONTRAST BETWEEN THE SYMBOL ARTWORK AND BACKGROUND USING THE FORMULA  $[(B1 - B2) \div B1] \times 100$ , WHERE:

(I) B1 IS THE LIGHT REFLECTANCE VALUE OF THE RELATIVELY LIGHTER AREA; AND

(II) B2 IS THE LIGHT REFLECTANCE VALUE OF THE RELATIVELY DARKER AREA.

(4) "LABEL" MEANS A REPRESENTATION MADE BY STATEMENT, WORD, PICTURE, DESIGN, OR EMBLEM ON A COVERED PRODUCT PACKAGE,

WHETHER AFFIXED TO OR WRITTEN DIRECTLY ON THE PACKAGE.

(5) "LABEL NOTICE" MEANS:

(a) THE PHRASE "DO NOT FLUSH" IN A SIZE EQUAL TO AT LEAST TWO PERCENT OF THE SURFACE AREA OF THE PRINCIPAL DISPLAY PANEL;

(b) FOR COVERED PRODUCTS REGULATED PURSUANT TO THE "FEDERAL HAZARDOUS SUBSTANCES ACT", 15 U.S.C. SEC. 1261 ET SEQ., AS AMENDED, BY THE FEDERAL CONSUMER PRODUCT SAFETY COMMISSION UNDER 16 CFR 1500.121, THAT IF AT LEAST TWO PERCENT OF THE SURFACE AREA OF THE PRINCIPAL DISPLAY PANEL WOULD RESULT IN A TYPE SIZE LARGER THAN FIRST AID INSTRUCTIONS PURSUANT TO THE "FEDERAL HAZARDOUS SUBSTANCES ACT", THEN, TO THE EXTENT PERMITTED BY FEDERAL LAW, THE PHRASE "DO NOT FLUSH" IN TYPE SIZE EQUAL TO OR GREATER THAN THE TYPE SIZE REQUIRED FOR THE FIRST AID INSTRUCTIONS; AND

(c) FOR COVERED PRODUCTS REQUIRED TO BE REGISTERED BY THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY UNDER THE "FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT", 7 U.S.C. SEC. 136 ET SEQ., AS AMENDED, THAT IF AT LEAST TWO PERCENT OF THE SURFACE AREA OF THE PRINCIPAL DISPLAY PANEL WOULD RESULT IN A TYPE SIZE ON THE PRINCIPAL DISPLAY PANEL LARGER THAN A WARNING PURSUANT TO THE "FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT", THEN, TO THE EXTENT PERMITTED BY FEDERAL LAW, THE PHRASE "DO NOT FLUSH" IN A TYPE SIZE EQUAL TO OR GREATER THAN THE TYPE SIZE REQUIRED FOR THE "KEEP OUT OF REACH OF CHILDREN" STATEMENT REQUIRED UNDER 40 CFR 156.66.

(6) "PRINCIPAL DISPLAY PANEL" MEANS THE SIDE OF A PRODUCT PACKAGE THAT IS MOST LIKELY TO BE DISPLAYED, PRESENTED, OR SHOWN UNDER CUSTOMARY CONDITIONS OF DISPLAY FOR RETAIL SALE.

(7) "SYMBOL" MEANS THE "DO NOT FLUSH" SYMBOL, OR A SYMBOL THAT IS EQUIVALENT, AS DEPICTED IN THE INDA/EDANA CODE OF PRACTICE SECOND EDITION AND PUBLISHED WITHIN "GUIDELINES FOR ASSESSING THE FLUSHABILITY OF DISPOSABLE NONWOVEN PRODUCTS", EDITION 4, MAY 2018, WHICH IS IN A SIZE EQUAL TO AT LEAST TWO PERCENT OF THE SURFACE AREA OF THE PRINCIPAL DISPLAY PANEL, EXCEPT AS

SPECIFIED IN SECTION 25-18.9-104 (1)(a)(II)(C).

**25-18.9-103. Determination of surface area of a principal display panel.** (1) FOR A CYLINDRICAL OR NEARLY CYLINDRICAL PACKAGE, THE SURFACE AREA OF THE PRINCIPAL DISPLAY PANEL CONSTITUTES FORTY PERCENT OF THE PRODUCT PACKAGE AS MEASURED BY MULTIPLYING THE HEIGHT OF THE CONTAINER BY THE CIRCUMFERENCE.

(2) FOR A FLEXIBLE FILM PACKAGE IN WHICH A RECTANGULAR PRISM OR NEARLY RECTANGULAR PRISM STACK OF WIPES IS HOUSED WITHIN THE FILM, THE SURFACE AREA OF THE PRINCIPAL DISPLAY PANEL IS MEASURED BY MULTIPLYING THE LENGTH BY THE WIDTH OF THE SIDE OF THE PACKAGE WHEN THE FLEXIBLE PACKAGING FILM IS PRESSED FLAT AGAINST THE STACK OF WIPES ON ALL SIDES OF THE STACK.

**25-18.9-104. Labeling requirements - exceptions.** (1) EXCEPT AS PROVIDED IN SUBSECTIONS (2), (3), (4), AND (6) OF THIS SECTION, A COVERED PRODUCT MANUFACTURED ON OR AFTER DECEMBER 31, 2023, SHALL BE LABELED CLEARLY IN ADHERENCE TO THE FOLLOWING REQUIREMENTS:

(a) FOR CYLINDRICAL OR NEAR CYLINDRICAL PACKAGING INTENDED TO DISPENSE INDIVIDUAL WIPES, A COVERED ENTITY SHALL:

(I) PLACE THE SYMBOL AND LABEL NOTICE ON THE PRINCIPAL DISPLAY PANEL IN A LOCATION REASONABLY VIEWABLE EACH TIME A WIPE IS DISPENSED; OR

(II) PLACE THE SYMBOL ON THE PRINCIPAL DISPLAY PANEL AND EITHER THE SYMBOL OR LABEL NOTICE, OR THE SYMBOL AND LABEL NOTICE IN COMBINATION, ON THE FLIP LID, SUBJECT TO THE FOLLOWING:

(A) IF THE LABEL NOTICE DOES NOT APPEAR ON THE FLIP LID, THE LABEL NOTICE SHALL BE PLACED ON THE PRINCIPAL DISPLAY PANEL;

(B) THE SYMBOL OR LABEL NOTICE, OR THE SYMBOL AND LABEL NOTICE IN COMBINATION, ON THE FLIP LID MAY BE EMBOSSED, AND IN THAT CASE ARE NOT REQUIRED TO COMPLY WITH SUBSECTION (1)(f) OF THIS SECTION; AND

(C) THE SYMBOL OR LABEL NOTICE, OR THE SYMBOL AND LABEL

NOTICE IN COMBINATION, ON THE FLIP LID MUST COVER A MINIMUM OF EIGHT PERCENT OF THE SURFACE AREA OF THE FLIP LID.

(b) (I) FOR FLEXIBLE FILM PACKAGING INTENDED TO DISPENSE INDIVIDUAL WIPES, A COVERED ENTITY SHALL:

(A) PLACE THE SYMBOL ON BOTH THE PRINCIPAL DISPLAY PANEL AND THE DISPENSING SIDE PANEL; AND

(B) PLACE THE LABEL NOTICE ON EITHER THE PRINCIPAL DISPLAY PANEL OR DISPENSING SIDE PANEL IN A PROMINENT LOCATION REASONABLY VISIBLE TO THE USER EACH TIME A WIPE IS DISPENSED.

(II) IF THE PRINCIPAL DISPLAY PANEL IS ON THE DISPENSING SIDE OF THE PACKAGE, TWO SYMBOLS ARE NOT REQUIRED.

(c) FOR REFILLABLE TUBS OR OTHER RIGID PACKAGING INTENDED TO DISPENSE INDIVIDUAL WIPES AND BE REUSED BY THE CONSUMER FOR THAT PURPOSE, A COVERED ENTITY SHALL PLACE THE SYMBOL AND LABEL NOTICE ON THE PRINCIPAL DISPLAY PANEL IN A PROMINENT LOCATION REASONABLY VISIBLE TO THE USER EACH TIME A WIPE IS DISPENSED.

(d) FOR PACKAGING NOT INTENDED TO DISPENSE INDIVIDUAL WIPES, A COVERED ENTITY SHALL PLACE THE SYMBOL AND LABEL NOTICE ON THE PRINCIPAL DISPLAY PANEL IN A PROMINENT AND REASONABLY VISIBLE LOCATION.

(e) A COVERED ENTITY SHALL ENSURE THAT THE PACKAGING SEAMS, FOLDS, OR OTHER PACKAGE DESIGN ELEMENTS DO NOT OBSCURE THE SYMBOL OR THE LABEL NOTICE.

(f) A COVERED ENTITY SHALL ENSURE THAT THE SYMBOL AND LABEL NOTICE HAVE SUFFICIENTLY HIGH CONTRAST WITH THE IMMEDIATE BACKGROUND OF THE PACKAGING TO RENDER THE SYMBOL AND LABEL NOTICE LIKELY TO BE SEEN AND READ BY AN ORDINARY INDIVIDUAL UNDER CUSTOMARY CONDITIONS OF PURCHASE AND USE.

(2) FOR COVERED PRODUCTS SOLD IN BULK AT RETAIL, BOTH THE OUTER PACKAGE VISIBLE AT RETAIL AND THE INDIVIDUAL PACKAGES CONTAINED WITHIN MUST COMPLY WITH THE LABELING REQUIREMENTS IN

THIS SECTION APPLICABLE TO THE PARTICULAR PACKAGING TYPES, EXCEPT FOR:

(a) INDIVIDUAL PACKAGES CONTAINED WITHIN THE OUTER PACKAGE THAT ARE NOT INTENDED TO DISPENSE INDIVIDUAL WIPES AND CONTAIN NO RETAIL LABELING; AND

(b) OUTER PACKAGES THAT DO NOT OBSCURE THE SYMBOL AND LABEL NOTICE ON INDIVIDUAL PACKAGES CONTAINED WITHIN.

(3) IF A COVERED PRODUCT IS PROVIDED WITHIN THE SAME PACKAGING AS ANOTHER CONSUMER PRODUCT FOR USE IN COMBINATION WITH THE OTHER CONSUMER PRODUCT, THE OUTSIDE RETAIL PACKAGING OF THE OTHER CONSUMER PRODUCT DOES NOT NEED TO COMPLY WITH THE LABELING REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION.

(4) IF A COVERED PRODUCT IS PROVIDED WITHIN THE SAME PACKAGE AS ANOTHER CONSUMER PRODUCT FOR USE IN COMBINATION WITH THE OTHER PRODUCT AND IS IN A PACKAGE SMALLER THAN THREE INCHES BY THREE INCHES, THE COVERED ENTITY RESPONSIBLE FOR THE LABELING OR PACKAGING OF THE COVERED PRODUCT MAY COMPLY WITH THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION BY PLACING THE SYMBOL AND LABEL NOTICE IN A PROMINENT LOCATION REASONABLY VISIBLE TO THE USER OF THE COVERED PRODUCT.

(5) A COVERED ENTITY, DIRECTLY OR THROUGH A CORPORATION, PARTNERSHIP, SUBSIDIARY, DIVISION, TRADE NAME, OR ASSOCIATION IN CONNECTION WITH THE MANUFACTURING, LABELING, PACKAGING, ADVERTISING, PROMOTION, OFFERING FOR SALE, SALE, OR DISTRIBUTION OF A COVERED PRODUCT, SHALL NOT MAKE ANY REPRESENTATION, IN ANY MANNER, EXPRESSLY OR BY IMPLICATION, INCLUDING THROUGH THE USE OF A PRODUCT NAME, ENDORSEMENT, DEPICTION, ILLUSTRATION, TRADEMARK, OR TRADE NAME, ABOUT THE FLUSHABLE ATTRIBUTES, FLUSHABLE BENEFITS, FLUSHABLE PERFORMANCE, OR FLUSHABLE EFFICACY OF A COVERED PRODUCT.

(6) (a) IF A COVERED PRODUCT IS REQUIRED TO BE REGISTERED BY THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY UNDER THE "FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT", 7 U.S.C. SEC. 136 ET SEQ., AS AMENDED, AND, TO THE EXTENT NOT PREEMPTED BY 7 U.S.C. SEC.



136v (b), BY THE COLORADO DEPARTMENT OF AGRICULTURE UNDER THE "PESTICIDE ACT", ARTICLE 9 OF TITLE 35, THEN THE COVERED ENTITY, TO THE EXTENT PERMITTED UNDER FEDERAL LAW, SHALL SUBMIT A LABEL COMPLIANT WITH THE LABELING REQUIREMENTS OF THIS SECTION NO LATER THAN DECEMBER 31, 2023, TO THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY AND, UPON ITS APPROVAL, TO THE DEPARTMENT OF AGRICULTURE, WHICH SHALL REVIEW THE LABEL OF THE COVERED PRODUCT IN THE MANNER AUTHORIZED UNDER THE "PESTICIDE ACT", ARTICLE 9 OF TITLE 35, AND ADMINISTRATIVE RULES ADOPTED UNDER THE "PESTICIDE ACT", ARTICLE 9 OF TITLE 35.

(b) IF THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY OR THE COLORADO DEPARTMENT OF AGRICULTURE DOES NOT APPROVE A PRODUCT LABEL THAT OTHERWISE COMPLIES WITH THE LABELING REQUIREMENTS OF THIS SECTION, THE COVERED ENTITY SHALL USE A LABEL THAT COMPLIES WITH AS MANY OF THE REQUIREMENTS OF THIS SECTION AS THE RELEVANT AGENCY HAS APPROVED.

(7) A COVERED ENTITY MAY INCLUDE ON A COVERED PRODUCT WORDS OR PHRASES IN ADDITION TO THOSE REQUIRED FOR THE LABEL NOTICE IF THE WORDS OR PHRASES ARE CONSISTENT WITH THE PURPOSES OF THIS SECTION.

**25-18.9-105. Enforcement.** A PERSON THAT, IN THE COURSE OF THE PERSON'S BUSINESS, VOCATION, OR OCCUPATION, VIOLATES SECTION 25-18.9-104 COMMITS A DECEPTIVE TRADE PRACTICE UNDER THE "COLORADO CONSUMER PROTECTION ACT", ARTICLE 1 OF TITLE 6.


**SECTION 2.** In Colorado Revised Statutes, 6-1-105, **add** (1)(www) as follows:


**6-1-105. Unfair or deceptive trade practices.** (1) A person engages in a deceptive trade practice when, in the course of the person's business, vocation, or occupation, the person:

(www) VIOLATES SECTION 25-18.9-104.


**SECTION 3. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except

that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

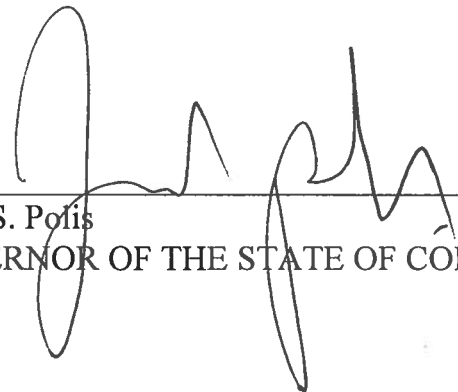
  
\_\_\_\_\_  
Steve Fenberg  
PRESIDENT OF  
THE SENATE

  
\_\_\_\_\_  
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 Tuesday, April 11<sup>th</sup> 2023 at 1:15 pm  
(Date and Time)

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



erwsd.org

# Your actions now, impact the future.

## Reduce your use.



\*Consulte la version en español detras de la carta.

# 2023 WATER USE REGULATIONS

### 2023 WATER USE REGULATIONS

- Follow the outdoor water use schedule based on the last digit of your street address.
- Properties with both odd and even numbered addresses should contact Customer Service to determine the best watering schedule.
- Hoses must have shutoff nozzles to prevent water waste.
- Special Irrigation Permits have been suspended. Go to erwsd.org for more information.
- Swimming pools may only be filled once per year, unless draining for repairs is necessary.
- Water is to be used for beneficial purposes only.

Your landscaping choices directly affect local stream health.

Eliminating water waste and reducing outdoor use keeps more water in streams and limits the amount of pollutants that flow into waterways through runoff.

### OUTDOOR WATER USE SCHEDULE

Each property has a maximum of three designated watering days. Only water on your assigned day. These regulations are in effect year-round.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
EVEN	NO OUTDOOR WATER USE	ODD	EVEN	ODD	EVEN	ODD

Outdoor water use may only occur before 8 a.m. and after 6 p.m. on your property's designated day. The watering day is from midnight to midnight.

### Violating the Water Use Regulations will result in the following:

**1st Offense:** Warning letter, email, and/or phone call.

**2nd Offense:** \$500 fine, letter & site visit.

**3rd Offense:** \$1000 fine, and disconnection of water service.

### We must all do our part to conserve our vital water resources.

Reducing your water use indoors and out is an important step.

#### Prevent water waste

- Minimize evaporation by watering when winds are calm, and temperatures are cool.
- Adjust irrigation schedules monthly based upon weather and plant needs.

#### Ensure irrigation systems are efficient

- Check lines and sprinkler heads for breaks, blockages, and leaks.
- Use a Smart Irrigation Controller
- Adjust sprinkler heads to avoid watering pavement or structures.
- Check system settings after power outages.

#### Reduce your use

- Convert your landscaping to low-water, native vegetation.
- Cut back on your water use now to help stabilize rate increases in the future.
- Track your water use by reading your bill and accessing your free WaterSmart account.

### Not sure how much water you use?

Access your free **WaterSmart** account to view your water use and bill at [erwsd.watersmart.com](http://erwsd.watersmart.com)

2023 Water Usage Rates & Tiers	TIER	DESCRIPTION	GALLONS PER SFE* PER MONTH	PRICE PER 1,000 GALLONS	
				ERWSD	UERWA
1	Efficient Indoor Use	0 - 6,000	\$3.59	\$4.75	
2	Efficient Outdoor Use	6 - 12,000	\$6.52	\$7.39	
3	Excessive Use	12 - 18,000	\$12.89	\$12.89	
4	Unsustainable Use	18 - 24,000	\$26.86	\$26.86	
5		Greater than 24,000	\$40.30	\$40.30	

Properties using 12,000 gallons or more per month stress water resources and need to reduce their water use. Continued high use will increase your water bill, impact other water users, and may be subject to citations and fines.

\* Go to erwsd.org for full details about monthly water rates and charges.

### WATER CONSERVATION REBATES

We offer the following rebates to help customers permanently reduce outdoor water use:

- Irrigation audits
- Smart irrigation controllers
- Soil moisture sensors
- Irrigation efficiency bundles
- Turf replacement (Customers in the Edwards Metro District are eligible for a \$1 per sq. ft. matching rebate)

Stop by our Vail office to pick up the following free water conservation items: hose shutoff nozzles, soil moisture probes, rain gauges, and toilet leak detector tablets.

For more information or to report Water Use Regulation violations, please call 970.477.5451. [www.erwsd.org](http://www.erwsd.org)

# Sus acciones ahora impactan el futuro.

## Reduzca su uso.



# REGULACIONES PARA EL USO DE AGUA 2023

### REGULACIONES PARA EL USO DE AGUA 2023

- Siga el itinerario programado para el uso de agua al aire libre según el último dígito de su dirección postal.
- Las propiedades con direcciones pares e impares deben comunicarse con Servicio al cliente para determinar el mejor horario de riego.
- Las mangueras deben tener boquillas de cierre para evitar el desperdicio de agua.
- Se suspenden los Permisos Especiales de Riego. Visite [erwsd.org](http://erwsd.org) para obtener más información.
- Las piscinas sólo podrán llenarse una vez al año, salvo que sea necesario vaciarlas para su reparación.
- El agua debe utilizarse únicamente con fines provechosos.

Sus elecciones de diseño de jardines o paisajismo afectan directamente la salud del arroyo local.

Eliminar el desperdicio de agua y reducir su uso al aire libre mantiene más agua en los arroyos y limita la cantidad de contaminantes que fluyen hacia las vías fluviales a través del desperdicio de agua.

### HORARIO PARA EL USO DE AGUA AL AIRE LIBRE

Cada propiedad tiene un máximo de tres días de riego designados. Sólo riegue en el día que tenga asignado. Estas regulaciones están vigentes durante todo el año.

Domingo	Lunes	Martes	Miércoles	Jueves	Viernes	Sábado
PAR	NO USAR AGUA AL AIRE LIBRE	IMPAR	PAR	IMPAR	PAR	IMPAR

En el día designado de su propiedad, solo se puede usar agua al aire libre antes de las 8 a.m. y después de las 6 p.m. El día de riego es de medianoche a medianoche.

### La violación de las Regulaciones para el uso de agua resultará en lo siguiente:

#### 1ra Infracción:

Carta de advertencia, correo electrónico y/o llamada telefónica.

#### 2da Infracción:

Multa de \$500 dólares americanos, carta y visita al lugar.

#### 3ra Infracción:

Multa de \$1000 dólares americanos y desconexión del servicio de agua.

### Todos debemos poner de nuestra parte para conservar nuestros recursos hídricos vitales.

Reducir el uso de agua en interiores y exteriores es un paso importante.

#### Prevenir el desperdicio de agua

- Minimice la evaporación regando cuando los vientos estén en calma y las temperaturas sean frescas.
- Ajuste los horarios de riego mensualmente según el clima y las necesidades de las plantas.

#### Garantizar que los sistemas de riego sean eficientes.

- Revise las líneas y los cabezales de los rociadores en busca de roturas, obstrucciones y fugas.
- Utilice un controlador de riego inteligente
- Ajuste los cabezales de los rociadores para evitar regar el pavimento o las estructuras.
- Verifique la configuración del sistema después de cortes de energía.

#### Reduzca el uso del agua

- Convierta su diseño de jardines en vegetación nativa de aguas bajas.
- Reduzca su consumo de agua ahora para ayudar a estabilizar los aumentos de tarifas en el futuro.
- Realice un seguimiento de su consumo de agua leyendo su factura y accediendo a su cuenta gratuita de WaterSmart.

Verifique su uso de agua en su cuenta WaterSmart gratuita en [erwsd.watersmart.com](http://erwsd.watersmart.com)

Tarifas y niveles de uso de agua para 2023

NIVEL	DESCRIPCIÓN	GALONES POR SFE* POR MES	PRECIO POR 1,000 GALONES	
			ERWSD	UERWA
1	Uso eficiente en interiores	0 - 6,000	\$3.59	\$4.75
2	Uso eficiente en exteriores	6 - 12,000	\$6.52	\$7.39
3	Uso excesivo	12 - 18,000	\$12.89	\$12.89
4	Uso insostenible	18 - 24,000	\$26.86	\$26.86
5		Mayor que de 24,000	\$40.30	\$40.30

### REEMBOLSOS POR CONSERVACIÓN DE AGUA

Ofrecemos los siguientes reembolsos para ayudar a los clientes a reducir permanentemente el uso de agua al aire libre:

- Auditorías de riego
- Controladores de riego inteligentes
- Sensores de humedad del suelo
- Paquetes de eficiencia de riego
- Reemplazo de césped (los clientes en el distrito metropolitano de Edwards son elegibles para un reembolso equivalente a \$1 dólar americano por pie cuadrado).

Pase por nuestra oficina de Vail para recoger los siguientes artículos gratuitos para la conservación del agua: boquillas de cierre de manguera, medidores de humedad para la tierra, pluviómetros y tabletas detectoras de fugas en el inodoro.

Para obtener más información o para denunciar infracciones al Reglamento de uso del agua, llame al 970.477.5451.

Las propiedades que usan 12,000 galones o más por mes estresan los recursos hídricos y necesitan reducir su consumo de agua. El alto uso continuo aumentará su factura de agua, afectará a otros usuarios de agua y puede estar sujeto a citaciones y multas.

\* Visite [erwsd.org](http://erwsd.org) para obtener detalles completos sobre las tarifas y cargos mensuales de agua.



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## MEMORANDUM

TO: Upper Eagle Regional Water Authority Board of Directors  
FROM: Kristin Moseley  
SUBJECT: Water Rights Appraisal - 2023  
DATE: April 19, 2023

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Attached please find an Appraisal of the Water Rights of the Upper Eagle Regional Water Authority dated April 19, 2023. The Appraisal has been updated to reflect the \$66,063 per acre-foot dedication replacement cost established by the Authority's 2023 Water Dedication Policy. As you know, the 2023 Water Dedication Policy eliminated the distinction between irrigation season and non-irrigation season rates in favor of one consistent \$66,063 per acre-foot rate for future development based on the anticipated cost of construction for Bolts Lake. In order to appraise the value of the Authority's historic consumptive use credits, the irrigation season rate of \$10,500 per acre-foot contained in the 2022 Water Dedication Policy has been applied.



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**APPRAISAL OF THE WATER RIGHTS OF THE  
UPPER EAGLE REGIONAL WATER AUTHORITY  
April 19, 2023**

<b>Water Right</b>	<b>Quantity (a.f.)</b>	<b>Price per a.f.</b>	<b>Appraisal Value</b>
Eagle Park Reservoir	640.68789	\$66,063	\$42,325,764
Homestake Reservoir	256.5	\$66,063	\$16,945,159
Black Lakes Lease	300	\$2,000	\$600,000
Green Mtn. Res. contract	548	\$2,000	\$1,096,000
Wolford Mtn. Res. contract	710.8	\$3,805	\$2,704,594
In-basin consumptive use	2,040.004	\$10,500	\$21,420,042
Beaver Creek (summer)	215	\$10,500	\$2,257,500
Beaver Creek	17	\$66,063	\$1,123,071
Conditional storage	224	\$100	\$22,400
<b>TOTAL</b>			<b>\$88,494,530</b>

Eagle Park Reservoir

The value of Eagle Park Reservoir is based on the Authority’s dedication replacement cost of \$66,063 per acre-foot. That replacement cost is established by the Authority’s 2023 water dedication policy, which is the basis by which water service is approved for and provided to all new development in the Authority’s service area.

Homestake Reservoir

The value of Homestake Reservoir storage is based on the Authority’s dedication replacement cost of \$66,063 per acre-foot. That replacement cost is established by the Authority’s 2023 water dedication policy, which is the basis by which water service is approved for and provided to all new development in the Authority’s service area.

Black Lakes Lease

The Authority has a lease with the Eagle River Water & Sanitation District to use 425 a.f. of water that is released for instream flow purposes from Black Lakes. While the Authority cannot command when the water is released, it does have an approved augmentation plan for 300 a.f. of this water. Thus, a value of \$2,000 per acre-foot is given to this water for that 300 a.f..

Green Mountain Reservoir

The Authority has the right to 548 a.f. of water from Green Mountain Reservoir pursuant to the following Contracts:

- (1) Contract No. 9-07-60-W0413, executed on July 17, 1989, for 220 acre-feet. This contract has a 40-year lease term expiring on July 16, 2029, with an option to renew for an additional 40 years.
- (2) Contract Amendment to Contract No. 9-07-60-0413 to reflect the assignment from Kensington Partners of 255 acre-feet per year from Contract No. 4-07-60-1015. This contract has a 40-year lease term expiring on July 16, 2029, with an option to renew for an additional 40 years.
- (3) Contract No. 9-07-60-W0401 (as amended), for 73 acre-feet of water per year. This contract has a 40-year lease term expiring January 10, 2029, with an option to renew for an additional 40 years. The contract was assigned to Squaw Creek Metropolitan District and Cordillera Metropolitan District by Kensington Partners, and assigned to the Authority by Squaw Creek Metropolitan District and Cordillera Metropolitan District.

Green Mountain Reservoir contract water value is based on the fact that Green Mountain Reservoir is a finite pool, that there are effectively no new contracts being let by the U.S. Bureau of Reclamation for this pool, but also reflecting its lower value compared with Wolford Mountain Reservoir contract water due to less reliability and transfer issues with the Bureau. The term of the Green Mountain Reservoir contract is also less than the term of the Wolford Mountain Reservoir contract.

#### Wolford Mountain Reservoir

The Authority has the right to 710.8 a.f. of water from Wolford Mountain Reservoir pursuant to the following Contracts:

- (1) Contract No. CW08011, for 500 acre-feet of water per year. This contract has a 75-year lease term expiring February 9, 2084, with a right of first refusal on renewal and a price escalation provision linked to the Consumer Price Index plus New Growth Index.
- (2) Contract No. CW02020, for 200 acre-feet per year. This contract has a 40-year lease term expiring December 12, 2042, with an option to renew and a price escalation provision linked to the Consumer Price Index plus New Growth Index. The contract was initially executed by Squaw Creek Metropolitan District and assigned to the Authority in 2004.
- (3) Contract No. CW03005, for 10.8 acre-feet per year. This contract has a 40-year lease term expiring December 12, 2042, with an option to renew and a price escalation provision linked to the Consumer Price Index plus New Growth Index. The contract was initially executed by Traer Creek Metropolitan District and assigned to the Authority in 2003.

Wolford Mountain Reservoir contract water value is based on a ten (10) year cost at \$380.50 per acre-foot per year, or a total of \$3,805 per acre-foot. A ten year lease cost is an approximation of the purchase value of this water.

#### In-Basin Consumptive Use

The Authority owns or has a perpetual contractual right to in-basin consumptive use water rights (650.35 a.f.). In-basin consumptive use credits are valued at the Authority's dedication replacement cost of \$10,500 per acre-foot of irrigation season water. This irrigation season water replacement cost is established by the Authority's 2022 water dedication policy.

#### In-Basin Consumptive Use – Perpetual Lease

The Authority has leased in-basin consumptive use water rights (1,389.654 a.f.) from its members. This does not include the 302.8 leased to the Authority and committed to the fill of Eagle Park Reservoir. The essential terms a.f. of the leases are that the members lease these water rights at no cost to the Authority for so long as the Authority exists and provides water service to these members. In-basin consumptive use credits are valued at the Authority's dedication replacement cost of \$10,500 per acre-foot of irrigation season water. This irrigation season replacement cost is established by the Authority's 2022 water dedication policy.

#### Beaver Creek

The Authority has leased in perpetuity at no cost to the Authority the water rights owned by the Beaver Creek Metropolitan District. The Beaver Creek direct flow summer rights are valued at the Authority's dedication replacement cost of \$10,500 per acre foot of irrigation season water, and the Beaver Creek direct flow winter rights are valued at the Authority's dedication replacement cost of \$66,063 per acre foot of non-irrigation season water.

#### Conditional Storage

Conditional in-basin storage was given a nominal value (\$100 per acre-foot) due to the high cost of developing these storage rights.