

**Eagle River Water & Sanitation District
Upper Eagle Regional Water Authority
Special Joint Meeting
August 24, 2023
MINUTES**

A special joint meeting of the Boards of Directors of the Upper Eagle Regional Water Authority (Authority) and the Eagle River Water & Sanitation District (District) was held August 24, 2023, at 11:00 a.m., in the Walter Kirch Room of the District, 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable statutes of the state of Colorado.

ATTENDANCE

The following Authority Directors were present and acting:

Geoff Dreyer, Arrowhead Metropolitan District
George Gregory, Berry Creek Metropolitan District
Kevin Hillgren, Beaver Creek Metropolitan District
Mike Trueblood, Edwards Metropolitan District
Tamra Underwood, Town of Avon
Kim Bell Williams, EagleVail Metropolitan District

The following District Directors were present and acting:

Kate Burchenal
Dick Cleveland
Steve Coyer
Sarah Smith Hymes
Timm Paxson
Rick Pylman
Robert Warner, Jr.

Also in attendance were:

District Staff	30	
Jason Cowles	31	
Tim Friday	32	
Justin Hildreth	33	<u>Consultants</u>
Jesse Hooker	34	Steve Bushong, Bushong & Holleman PC
Robyn Janssen	35	Kristin Moseley, Somach Simmons & Dunn
Diane Johnson	36	Kathryn Winn, Collins Cole Flynn Winn & Ulmer PLLC
David Norris	37	
Chuck Owen	38	<u>Public</u>
Siri Roman	39	Zoe Goldstein, Vail Daily
Jeffrey Schneider	40	Eric Heil, Town of Avon Alternate
Brian Thompson	41	Mike Towler, Beaver Creek Metropolitan District Alternate
Brad Zachman		

DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST

Each of the respective Boards noted it had received more than 72 hours prior to the meeting certain disclosures of Potential Conflicts of Interest Statements for the following Directors indicating the following conflicts:

For the Authority:

Director Gregory disclosed that he occasionally undertakes minor development and construction activities within the Authority's service area. Director Bell Williams disclosed that she is the Housing Director for Eagle County and works with the Eagle County Housing and Development Authority Advisory Committee. Director Dreyer disclosed that he is a board member and secretary of Bachelor Springs Homeowners' Association.

For the District:

Director Pylman disclosed that he owns a land planning consulting company doing business in the District's service area that has represented entities that have and may do business with the District. Director Warner disclosed that he is a Board Member of Arrowhead Metropolitan District, a former builder/developer in the District, a Member of the Eagle County Planning Commission and Board of Adjustment, and President of McCoy Springs at Arrowhead Homeowners Association. Director Burchenal disclosed that she is an employee of Airborne Snow Observatories, Inc., which does not currently do business with the District but there may be a time in the future when they do business with the District or other partners in the District's service area.

CALL TO ORDER

Having determined there was a quorum, District Chair Cleveland called the meeting to order at 11:10 a.m.

Authority Chair Gregory concurred.

**Eagle River Water & Sanitation District
Upper Eagle Regional Water Authority**

1 **INTRODUCTIONS**

2 Authority Chair Gregory welcomed presenting consultants and staff. Ms. Johnson introduced Vail Daily
3 reporter Zoe Goldstein.

4 **PUBLIC COMMENT**

5 Public comment was called for and there was none.

6 **BOLTS LAKE PROJECT UPDATE**

7 Mr. Cowles and Mr. Hildreth presented a memorandum and a PowerPoint, copies of which are attached
8 hereto as **Exhibits A** and **B**, respectively, and incorporated herein by this reference. They noted that both
9 boards requested an update on the Bolts Lake reservoir project. Mr. Cowles said the purpose of the
10 reservoir is to provide additional in-basin storage supplies necessary to serve customers while
11 maintaining healthy river flows and building strategic reserves to mitigate against the impacts of a
12 warming climate. He also said the Bolts Lake site was selected for the planned 1,200 acre-foot reservoir
13 because of its proximity to Cross Creek and the Eagle River, its location on private property, and its
14 previous use as a recreational reservoir. Mr. Hildreth said the preliminary design phase is scheduled to
15 begin in 2024 and the permitting phase is scheduled to begin in 2026. He also said the numerous federal,
16 state, and local permits- many of which are sequential and cannot be pursued in parallel- will take at least
17 two years complete. If no unforeseen delays occur, construction could begin in 2027 and will take
18 approximately three years to complete. Mr. Hildreth also said staff and consultants are evaluating two
19 diversion sources: the Eagle River, which would be significantly more expensive due to pumping and
20 piping costs necessary to achieve the desired reservoir yield of 1,200 AF; or gravity-fed from the existing
21 Cross Creek diversion in the Holy Cross Wilderness Area, which will require additional federal permits. He
22 also reported on project expenses, additional grant opportunities, and water rights implications.
23 Discussion ensued regarding agreement provisions with the Town of Minturn. Directors thanked Mr.
24 Cowles and Mr. Hildreth for providing detailed analysis of project timelines.

25 **GORE CREEK FISH KILL SETTLEMENT AGREEMENT**

26 Ms. Roman presented a memorandum, a copy of which is attached hereto as **Exhibit C** and incorporated
27 herein by this reference. She said staff is pleased that the outcome from the September 2021 incident will
28 provide funds to help restore the Gore Creek basin.

29 **GENERAL COUNSEL REPORT**

30 The board noted Ms. Winn's privileged written report. She had no items to discuss in open session.

31 **EXECUTIVE SESSION**

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

34 **RESOLVED** to enter into Executive Session at 12:00 p.m. to discuss matters related to
35 Bolts Lake pursuant to §24-6-402(4)(b), C.R.S., with no electronic record created as Ms.
36 Winn opined the contents of the discussion would contain privileged attorney-client
37 communications.*

**Eagle River Water & Sanitation District
Upper Eagle Regional Water Authority**

1 Ms. Winn requested the board move into Executive Session to receive legal advice of counsel related to the
2 Minturn/Battle North settlement agreement. Upon motion duly made and seconded, it was unanimously

3 **RESOLVED** to enter into Executive Session at 12:01 p.m. to discuss matters related to the
4 Minturn/Battle North settlement agreement pursuant to §24-6-402(4)(b), C.R.S., with no
5 electronic record created as Ms. Winn opined the contents of the discussion would contain
6 privileged attorney-client communications.*

7 Mr. Bushong requested the board move into Executive Session to receive legal advice of counsel related to
8 the Gore Creek fish kill settlement agreement . Upon motion duly made and seconded, it was unanimously

9 **RESOLVED** to enter into Executive Session at 1:03 p.m. to discuss matters related to the
10 Gore Creek fish kill settlement agreement pursuant to §24-6-402(4)(b), C.R.S., with no
11 electronic record created as Mr. Bushong opined the contents of the discussion would
12 contain privileged attorney-client communications.*

13 Ms. Moseley requested the board move into Executive Session to receive legal advice of counsel related to
14 Colorado River Cooperative Agreement matters. Upon motion duly made and seconded, it was
15 unanimously

16 **RESOLVED** to enter into Executive Session at 1:10 p.m. to discuss matters related to
17 Colorado River Cooperative Agreement matters pursuant to §24-6-402(4)(b), C.R.S., with
18 no electronic record created as Ms. Moseley opined the contents of the discussion would
19 contain privileged attorney-client communications.*

20 The open session resumed at 1:13 p.m. During the executive session, the board did not take any formal
21 action or discuss any matters not enumerated in §24-6-402(4), C.R.S.

22
23

Eagle River Water & Sanitation District
Upper Eagle Regional Water Authority

1 **ADJOURNMENT**

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

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

7 **FURTHER RESOLVED**, that the meeting be adjourned at 1:14 p.m.

8
9

10

11

Secretary to the Meeting

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

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

40

41

42

43

44

Kathryn Winn, General Counsel

Kristin Moseley, Water Counsel

45

46

47

48

49

50

Steve Bushong, Special Water Counsel

51