



MEMORANDUM

TO: Board of Directors
FROM: Brian Thompson, Government Affairs Administrator
DATE: December 1, 2023
RE: December 7, 2023, Board Meeting

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

**Thursday, December 7, 2023
12:00 p.m.**

This meeting will be held at:

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

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

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



BOARD OF DIRECTORS REGULAR MEETING

December 7, 2023

12:00 p.m.

Walter Kirch Conference Room

AGENDA

- | | <u>Attachment Link</u> |
|--|-------------------------------|
| 1. Introductions | |
| 2. Public Comment | |
| 3. Public Hearing Concerning Certification of Delinquent Accounts | |
| 3.1. Res. 2023-13: Resolution Certifying Delinquent Accounts for Collection – Jim Cannava | Action Item |
| 4. Old Business – Nov. 30, 2023, Special Meeting | |
| 4.1. Updates on PFAS class action settlement exclusion – Steve Bushong | |
| 5. Action Items | |
| 5.1. Consideration of Minutes from Oct. 26, 2023, Regular Meeting | Action Item |
| 5.2. Consideration of minutes from Nov. 30, 2023, Special Joint Meeting with UERWA Board | Action Item |
| 5.3. Consideration of Contract Log | Action Item |
| 5.4. Res. 2023-14: Resolution to Adopt 2024 Water Dedication Policy | Action Item |
| 5.5. Consideration of Fund Balance Policy | Action Item |
| 5.6. Sunsetting 2005 Employee Housing Policy | Action Item |
| 6. Information Reports | |
| 6.1. Board committees | Informational |
| 6.2. Authority October meeting summary – draft | Informational |
| 7. Board Member Input | |
| 8. General Manager Report – Siri Roman | |
| 8.1. GM information items | Informational |
| 8.1.1. Eagle County/Town of Avon Work Session | Informational |
| 8.2. Business Administration report – David Norris | |
| 8.2.1. Draft investment policy | Informational |
| 8.2.2. Draft e-mail policy | Informational |
| 8.2.3. Draft identity theft prevention policy | Informational |
| 8.3. Operations report – Brad Zachman | Informational |
| 8.3.1. Backflow Prevention and Cross-Connection Control program update – Shane Swartwout | |
| 8.4. Engineering and Water Resources report – Jason Cowles | Informational |
| 8.4.1. Shoshone Outage Protocol update | |
| 8.4.2. Bolts Lake update – Justin Hildreth | Informational |

Clean Water. Quality Life.™

- 8.5. Communications and Public Affairs report – Diane Johnson Informational
- 8.5.1. Proposed 2024 regular board meeting schedule – Brian Thompson Informational
- 9. **Water Counsel Report – Kristin Moseley**
- 9.1. Eagle Park Reservoir Company stock transfer Informational
- 9.2. Non-Functional Turf Bill Informational
- 10. **General Counsel Report – Kathryn Winn**
- 11. **Executive Session**
- 11.1. Motion to move into executive session pursuant to §24-6-402(4)(a), C.R.S., to discuss the potential purchase of real property at 101 Eagle Road, Unit D2, in EagleVail
- 11.2. Motion to move into executive session pursuant to §24-6-402(4)(b), C.R.S., to receive legal advice regarding Colorado River Cooperative Agreement matters Confidential
- 11.3. Motion to move into executive session pursuant to §24-6-402(4)(b), C.R.S., to receive legal advice regarding the status of active water court cases
- 11.4. Motion to move into executive session pursuant to §24-6-402(4)(b), C.R.S., to receive legal advice regarding diligence in Case Number 17CW3168
- 11.5. Motion to move into executive session pursuant to §24-6-402(4)(f), C.R.S., to discuss personnel matters regarding the annual review of the General Manager
- 12. **Any Action as a Result of Executive Session**
- 13. **Adjournment**



BOARD ACTION REQUEST

TO: Board of Directors
FROM: Brian Thompson, Government Affairs Supervisor
DATE: Dec. 1, 2023
RE: Res. 2023-13: Certifying Delinquent Accounts for Collection by the County Treasurer

Summary: Each year, the board convenes a public hearing and considers a resolution concerning the certification of delinquent accounts for collection by the County Treasurer. Jim Cannava will present Resolution 2023-13 at the Dec. 7 board meeting.

Discussion and Background: Pursuant to § 32-1-1001(1)(e), C.R.S., the District is authorized to certify delinquent accounts to the County Treasurer for collection along with taxes. Similar authorization is provided in § 31-20-105, C.R.S., for the certification of a wide range of delinquent municipal fees and charges, including fees for trash collection services. The District's Rules and Regulations permit the District to collect delinquent fees and charges by certification to the County Treasurer as property taxes.

The District is pursuing collection of accounts delinquent for at least six months and in excess of \$150 per account. Two accounts requiring certification are provided in the resolution's Exhibit A (customer names and addresses have been redacted to protect personally identifiable information). Delinquent account balances paid and received before 11:00 a.m. Dec. 7 will not be included in the certification resolution. Board members will receive an updated list of delinquent accounts at the Dec. 7 public hearing.

Notice of this public hearing was provided via certified USPS mail on Oct. 30. The District's procedures for collections of delinquent accounts are codified in [Section 5.11 of the Rules and Regulations](#).

Res. 2023-13 certifies to the Eagle County Treasurer that the delinquent accounts are fees, rates, penalties, charges, or assessments levied solely for utility services. It also requests that the Eagle County Treasurer collect the delinquencies at the earliest possible date in the same manner as property taxes, pursuant to § 32-1-1101(1)(e), C.R.S. and § 31-20-105 C.R.S, and add to such amount an additional penalty to defray the costs of collection.

Budget Impacts: The two delinquent account balances total \$10,432.86.

Suggested Motion: I move to approve and adopt Resolution 2023-13, certifying to the Eagle County Treasurer that the delinquent accounts listed on Exhibit A constitute such costs, including fees, rates, tolls, penalties, charges, or assessments levied solely for utility services, and that such accounts have been delinquent for at least six (6) months and is in excess of \$150 per account.

Attachments: Resolution 2023-13, Certifying Delinquent Accounts for Certification by the County Treasurer, with its Exhibit A (with redactions)

EAGLE RIVER WATER & SANITATION DISTRICT
RESOLUTION NO. 2023-13
A RESOLUTION CERTIFYING DELINQUENT ACCOUNTS
FOR COLLECTION BY THE COUNTY TREASURER

WHEREAS, the Eagle River Water and Sanitation District (“District”) operates pursuant to the Special District Act, § 32-1-101, C.R.S., et. seq. within a part of Eagle County, Colorado; and

WHEREAS, the District has adopted rates, fees, tolls, penalties, assessments and charges for water and sanitary sewer services furnished, or to be furnished by the District, including but not limited to charges for availability of such service; and

WHEREAS, the District is authorized to collect fees and charges on behalf of the Upper Eagle Regional Water Authority, and the Town of Minturn for water and sanitary sewer services and trash collection (collectively “utility services”); and

WHEREAS, Sections 32-1-1101(1)(e) and 31-20-105, C.R.S., and the District's Rules and Regulations authorize collection of delinquent fees and charges for utility services by certification to the County Treasurer; and

WHEREAS, proper notice of the public meeting at which this Resolution is being adopted has been given to the property owner or owners and all affected parties; and

WHEREAS, the adoption of this Resolution will serve a public purpose and promote the health, safety and general welfare of the inhabitants of the District and the people of the State of Colorado.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Eagle River Water and Sanitation District, Eagle County, Colorado that:

Section 1. The District hereby certifies to the Eagle County Treasurer that the delinquent accounts listed on Exhibit A (as attached hereto and incorporated herein by this reference) are fees, rates, tolls, penalties, charges or assessments levied solely for utility services, including availability of such service, if applicable, and that each account has been delinquent for at least six (6) months and is in excess of \$150 per account.

Section 2. That the District hereby requests that the Eagle County Treasurer collect the delinquent accounts at the earliest possible date in the same manner as property taxes pursuant to Sections 32-1-1101(1)(e) or 31-20-105, C.R.S., as applicable, and add to such amount an additional penalty to be paid by such property owner or affected party to defray the costs of collection.

RESOLVED this 7th day of December, 2023.

EAGLE RIVER WATER AND SANITATION
DISTRICT

By: _____
Dick Cleveland, Chair

ATTEST:

By: _____
Robert Warner, Jr., Secretary

Exhibit A

Account #	Customer Name	Service Address	Town	Total
00175360	<i>Redacted</i>	<i>Redacted</i>	EDWARDS	\$5,458.90
00017270	<i>Redacted</i>	<i>Redacted</i>	AVON	\$4,973.96
Grand Total				\$10,432.86



2023 ERWSD CONTRACT LOG

Contract No.	Date Executed	Change Order Signed On	Project Name	Contractor	Contract Amt.	Project Mgr.	Account No.	Status / Description
23.15.072	10/24/23		Edwards Wastewater Treatment Facility Plant Repairs	E & H Insulation, Inc.	\$1,746.00	K. Nelson	10.3.2.10.13.114	2" Fiberglass insulation and aluminum jacketing for exterior 6" non-potable water line at Edwards WWTF.
23.15.073	10/27/23		Minturn Siphon Project - Investigation	Snowbridge, Inc.	\$10,000.00	M. Harris	10.3.2.10.01.012	Vacuum truck rental, combo jetting truck, and video recording of siphon and two manholes.
23.15.074	11/06/23		Minturn Siphon Project - Investigation	Sunbelt Rentals Pump Solutions	\$20,000.00	M. Harris	10.3.2.10.01.012	Bypass pumping system: Includes complete system rental (including roadway ramp), mobilization/demobilization, bypass pump operations, fuel.
23.15.075	Pending		ArcGIS Enterprise Update	ESRI	\$17,500.00	J. Koenig	10.1.2.00.45.106	Installation of updated software GIS Enterprise platform. New servers and workflows will be created that require ESRI to have one installation expert on site for 3 days.



1155 CANYON BOULEVARD, SUITE 110, BOULDER, CO 80302
OFFICE: 303-449-2834 FAX: 720-535-4921
SOMACHLAW.COM

MEMORANDUM

TO: Eagle River Water & Sanitation District Board of Directors
FROM: Kristin Moseley
SUBJECT: Eagle River Water & Sanitation District Resolution on Water Dedication Policy
for 2024
DATE: November 29, 2023

Attached for your consideration is a revised version of the Eagle River Water & Sanitation District Resolution on Water Dedication Policy for 2024, which incorporates a price escalation of 7.45% based on inflation and increased anticipated costs of construction of Bolts Lake. Accordingly, the cash in lieu fee of \$66,063 per consumptive acre foot charged in 2023 is proposed to be increased to \$70,985 per consumptive acre foot effective January 1, 2024.

**EAGLE RIVER WATER & SANITATION DISTRICT
RESOLUTION ON
WATER DEDICATION POLICY**

Effective January 1, 2024

WHEREAS, the Eagle River Water & Sanitation District (“District”) is a quasi-municipal entity authorized and empowered to supply water for domestic and other public and private purposes; and

WHEREAS, the District’s mission is, among other goals and responsibilities, to provide efficient, effective, and reliable water to its service area, ranging from East Vail to Wolcott; and

WHEREAS, extensive redevelopment is occurring in the District’s service area and such redevelopment is increasing the existing development density and water uses associated with certain redevelopment properties; and

WHEREAS, new development and water uses are occurring within the District’s service area; and

WHEREAS, the District may expand its boundaries and commit to serve properties not currently within its service area; and

WHEREAS, to accommodate the increase in water demands caused by redevelopment projects and new water uses within or outside its current service area, and to continue to provide efficient, effective, and reliable water to its service area as it may from time to time be expanded, the District seeks to establish a uniform water dedication policy for third-party developers seeking (i) increased water service for the redevelopment of property within the District’s service area or seeking new water service for properties not covered by existing taps or zoning, or (ii) water service for properties not currently within the District’s service area (“Developers”); and

WHEREAS, such water dedication policy needs to protect the general welfare of the residents in the service area.

BE IT RESOLVED,

1. **GENERAL POLICY.** The District adopts the general policy of conditioning certain water service upon either a dedication of water rights or a payment of cash in lieu of water rights. This general policy shall apply (A) to all new development or redevelopment within its service area that will require an increase in water use or a new water use not covered by existing taps or zoning that existed as of July 22, 2004, and (B) to all properties not currently within the District’s service area. For any redevelopment, this condition applies only to the difference between the projected increased water demand and the pre-redevelopment water demand. For

example, if the pre-redevelopment demand for a particular parcel of property is five consumptive acre-feet and the projected redevelopment water demand will increase demand to six consumptive acre-feet, the increase of one consumptive acre-foot will be subject to this water dedication policy. The increase may be as a result of increased density, increased landscaping, or any other change in use of the property that increases the water demand from the pre-redevelopment demand.

2. **DEDICATION OF WATER RIGHTS.** The dedication of water rights must provide the District with a dependable legal supply of water equal to one hundred and twenty percent (120%) of the water rights necessary to service the new or increased water requirements associated with the new development or redevelopment, or property not currently within the District's service area. Using the example in Paragraph 1, if the District agrees to accept a dedication of water rights, the Developer would be required to supply a dependable legal supply of water in the amount of 1.2 consumptive acre-feet (120% of the increase in demand of one acre-foot). All water dedication agreements or contracts between Developers and the District that provide water rights to the District under this policy shall be at the discretion of the District. There may also be situations where the water rights dedication or payment of cash in lieu is based on the diversion demand, not just the consumptive use of the water demand.

To the extent the District determines to accept a dedication of water rights, the following criteria shall be used in determining the type of water rights to be dedicated:

- (A) Shares of stock in the Eagle Park Reservoir Company representing the right to the annual release of water from Eagle Park and/or Homestake Reservoirs.
- (B) Water rights that could be used to enhance the yield of Eagle Park Reservoir.
- (C) Interests in consumptive use credits that are already decreed for diversion and use at the District's diversion points.
- (D) Imported/transbasin water that is available for use in the Colorado River basin upstream of the Shoshone Power Plant.
- (E) Other water rights or storage facilities that can be integrated into the District's water system or used to enhance existing exchanges without significant expense.
- (F) All dedicated water rights must be owned in fee and cannot be based on a term limited leasehold interest.
- (G) There shall be a preference for in-basin or imported water.
- (H) Only water rights senior to the 1922 Colorado River Compact shall be accepted.

3. **CASH IN LIEU OF WATER RIGHTS.** All water dedication agreements or contracts between Developers and the District that provide cash in lieu of water rights under this policy shall be at the discretion of the District and shall be subject to the following conditions:

- (A) The District has sufficient water rights to meet the new water service obligation.
- (B) The Developer does not have access to the type of water rights that meet the District's criteria for acceptance of water rights.
- (C) The water rights appurtenant to the land to be served have been previously severed.
- (D) Cash payments based on 120% of the projected new or increased water use shall be valued based on the current market value of firm annual yield of in-basin storage, for example Eagle Park and Homestake Reservoirs, but shall not be less than the amount set forth on the attached Exhibit A.
- (E) Cash payments shall be paid to the District to be used, at the discretion of the District, to develop and/or acquire additional in-basin storage or imported/transbasin water for the District.

Notwithstanding the foregoing provisions of Paragraph 3(D) regarding the percentage of the amount of the cash in lieu fee, the District may choose in its sole discretion to reduce the percentage of the cash in lieu fee to an amount less than 120% where the Developer provides evidence acceptable to the District that the landscape design and water use fixtures of the development provide efficiencies that demonstrate a water use that is less than the District's projected new or increased water use that is used to calculate the cash in lieu fee; provided, however, in no event shall the cash in lieu fee be less than 100% of the amount of the projected new or increased water use.

The District may also choose in its sole discretion to eliminate any cash in lieu fee for the portions of a Developer's property that require the temporary irrigation of native grasses or trees for a period of a maximum of two years if the temporary irrigation is metered separately from other water uses on the property and billed at the District's irrigation rate.

4. **PAYMENT OF COSTS.** All payment of costs regarding water dedication agreements or contracts between Developers and the District under this policy shall be subject to the following conditions:

- (A) In addition to the dedication of water rights under Paragraph 2 or cash payments under Paragraph 3(D), Developers shall be required to pay the District for all legal, engineering, and other costs incurred or which may be incurred by the District to evaluate and/or adjudicate any augmentation plan or other water court application, if necessary, to provide new or increased water service to any Developer's property.

(B) Where an engineering or legal evaluation is required by the District to implement the terms of this Policy, the Developer will be required to deposit with the District an initial fee of no less than \$5,000 to pay for the cost of such evaluation. The initial deposit shall be used to pay the costs of staff, legal consultants, engineering consultants, and other expenses that may be incurred by the District. These costs are separate and distinct from any other Tap Fees and other charges applicable to the development. This cost reimbursement charge is not related or credited to any other fee or the District. Deposit amounts in excess of the actual cost of the analysis will be refunded to the proponents of the development. A good faith effort will be made to generally account for the costs incurred, but the District shall not be obligated to provide a specific accounting of costs, but only a generalized estimate.

(C) Developers requiring an Ability to Serve Letter, as defined in **C.R.S § 29-20-304**, as evidence of sufficient water rights from the District for a land use permit application shall pay a refundable cash in lieu deposit to the District that is equal to twenty-five percent (25%) of the estimated cash payment under Paragraph 3(D). Following the receipt of such cash in lieu deposit, the District will issue a Conditional Capacity to Serve Letter to the relevant government authority that demonstrates the District will serve the project once certain conditions have been met, including the payment in full of cash in lieu fees. The cash in lieu deposit will be credited toward the final cash in lieu fee payment, which shall be calculated at the current value of water rights set forth in Paragraph 3(D) at the time of payment of the full cash in lieu fees. Following the payment in full of cash in lieu fees and the execution of a Water Service Agreement, the District will provide the Developer with an Ability to Serve Letter as defined in **C.R.S § 29-20-304**. In the event water service is no longer required or desired for the Developer's property, any refund of the cash in lieu deposit shall be paid within 120 days of written notice being provided to the District. Any unpaid reimbursement costs described in Paragraphs 4(A) and (B) above owed to the District shall be withheld from the refund. The District will not refund a cash in lieu deposit once the property to which water service has been extended has obtained land use approval unless such land use approval is revoked or otherwise terminated by the relevant governmental authority.

(D) In the event water service is no longer required or desired for Developer's property, any refund of a cash in lieu payment previously paid shall be at the sole discretion of the District. Where the District decides in its sole discretion to refund a cash in lieu payment, the District may charge a cancellation fee. The District will not refund a cash in lieu payment once the property to which water service has been extended has obtained land use approval unless such land use approval is revoked or otherwise terminated by the relevant governmental authority.

5. **APPLICABILITY OF POLICY.** Upon the referral from the Town of Vail or Eagle County for an ability to serve commitment, the District staff shall determine whether this policy is applicable to any property that is currently within the District's service area and that is being developed or redeveloped.

Approved this ____ day of December, 2023.

EAGLE RIVER WATER & SANITATION DISTRICT

By: _____
Dick Cleveland , Chairman of the Board

ATTEST:

By: _____
Robert Warner, Secretary

Exhibit A

The cash in lieu payment under paragraph 3(D) of the Water Dedication Policy shall not be less than seventy thousand nine hundred and eighty-five dollars (\$70,985) per consumptive acre foot of water.



BOARD ACTION REQUEST

TO: Board of Directors
FROM: Brian Thompson, Government Affairs Supervisor
DATE: Dec. 1, 2023
RE: Fund Balance Policy

Summary: The attached Fund Balance Policy was introduced at the Oct. 26 board meeting. The board will be asked to consider this policy for adoption at the Dec. 7 board meeting. Jim Cannava and David Norris will be available to answer questions.

If approved by the board, the policy will become effective immediately. The board will regularly review this policy according to a schedule that will be developed in 2024.

Budget Impacts: N/A

Legal Impacts: N/A

Suggested Motion: I move to approve and adopt the Fund Balance Policy, as presented.

Attachment: Fund Balance Policy



BOARD POLICY

Title: Fund Balance Policy	Department: Business Administration
Effective Date: 12/07/2023	Previous Effective Date(s): N/A

Background:

The purpose of this policy is to establish clear guidelines for maintaining an appropriate level of fund balance in the Wastewater and Water Funds. This policy is designed to ensure prudent financial management, improve creditworthiness, maintain high-quality service, and safeguard the long-term financial stability of the District, contributing to the well-being of the community it serves.

Policy:

To determine appropriate Fund Balance levels, the District will consider the following critical factors:

1. **Maintain Six Months of Operating Funds:** The District shall maintain a reserve equivalent to a minimum of six months' worth of operating expenses to ensure a cushion against unexpected financial challenges.
2. **Hold Reserves to Meet All Bond Covenants:** Sufficient reserves shall be maintained to meet all bond covenants and obligations, providing security to investors.
3. **Provide Flexibility for Unexpected or Emergency Expenditures:** The policy allows for the flexibility to address unexpected or emergency expenditures, including provisions for a contingency fund, which can be accessed in times of need.
4. **Maintain Reserves for Revenue Shortfalls:** Reserves shall be maintained to cover any shortfalls in revenues due to unexpected changes in demand, such as wet weather, drought conditions, or natural disasters, ensuring financial stability during unforeseen circumstances.
5. **Maintain Reserves for Bond Issue Timing Flexibility:** Reserves shall allow flexibility in bond issue timing to better manage the implementation of increased rates, ensuring financial agility in responding to market conditions.

To meet the levels outlined above, this policy establishes the following targets:

- **Fund Balance Floor:** The minimum fund balance shall be set at 6 months of operating expenses to maintain financial security.
- **Fund Balance Ceiling:** The maximum fund balance shall be set at 12 months of operating expenses, preventing excessive accumulation of funds.

In the event that the fund balance falls below the targeted minimum level, District staff will develop a plan through the annual budgetary process to bring the balance to the target level over a reasonable period, not exceeding 3 years. Amounts in excess of the maximum ceiling shall be subject to review by the Board of Directors to determine their appropriate use(s).

While current and projected levels in ERWSD's fund balances appear to satisfactorily meet funding needs, District staff will continue to proactively evaluate factors driving the fund balance strategy and make adjustments as necessary to ensure the District's long-term financial health.



BOARD ACTION REQUEST

TO: Board of Directors
FROM: Brian Thompson, Government Affairs Supervisor
DATE: Dec. 1, 2023
RE: Sunsetting 2005 Employee Housing Policy

Summary: As discussed at the Oct. 26 board meeting, staff has undertaken a comprehensive review of all board-adopted policies to ensure that board direction is aligned with current needs and to facilitate accountability. Part of this process is sunsetting policies that are either outdated, no longer relevant, or incorporated into other rules or methodologies. Staff recommends sunsetting the attached District Owned and Sponsored Employee Housing Policy (“Housing Policy”) as the approach provided in this policy has been integrated into housing program methodologies and this deliberate system is no longer needed. David Norris will provide more details at the Dec. 7 board meeting.

Discussion and Background: The board adopted the Housing Policy on Dec. 22, 2005. This policy emphasized the importance of housing for staff retention and recruitment and outlined goals to meet both immediate and future employee housing needs. It also prioritized conveyance of ownership with deed restrictions to District employees, followed by rental options and further conveyance or rental to other public or any employees. The multi-tiered approach to housing needs outlined in the policy, which was vital at that time, has already been effectively integrated into ongoing housing guidelines and practices. As housing methodologies continue to constantly evolve, this policy has effectively served its purpose and is now redundant. To avoid confusion or outdated direction, it is recommended that this policy be retired given its incorporation into current guidelines and practices.

Budget Impacts: N/A

Legal Impacts: N/A

Suggested Motion: I move to sunset the District Owned and Sponsored Employee Housing Policy effective immediately.

Attachment: District Owned and Sponsored Employee Housing Policy, adopted Dec. 22, 2005

RESOLUTION**DISTRICT OWNED AND SPONSORED
EMPLOYEE HOUSING POLICY****December 22, 2005**

WHEREAS, the Board of Directors of the Eagle River Water and Sanitation District ("Board") ("District") have determined that the employment and retention of employees with the highest possible qualifications is dependent on various quality of life issues, including housing. Since employee housing is extremely limited within Eagle County, the District has moved to build and purchase District sponsored employee housing units; and

WHEREAS, in constructing and administering the District employee housing units, the goal of the District is to not only meet the immediate demand of its employees, but to meet and prepare for the need of District employees as perceived to exist in 5, 10 and 20 years into the future; which may result in temporarily having District employee housing units occupied and owned by employees other than those associated directly with the District; and

WHEREAS, the District believes and concludes that even when other employees occupy the District units, the effect is to make room in the housing market for District employees which choose to occupy units other than the District units; and

WHEREAS, in the interest of the health, safety and welfare of the District's constituents, the Board's priority of goals in developing District Owned and Sponsored Employee Housing Units are determined to be:

- Convey ownership with deed restrictions to District employees.
- Rent to District employees.
- Convey ownership with deed restrictions to other public employees.
- Rent to other public employees.
- Convey ownership with deed restrictions to any employees.
- Rent to any employees.
- Sell at market price without deed restrictions to any purchaser.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Eagle River Water and Sanitation District that the policy applicable to utilization of Owned and Sponsored District Units shall be as follows:

1. The District Manager, or his designee, is delegated and vested with the authority to administer the District Owned and Sponsored Employee Housing Program.
2. The District Manager, or his designee, shall establish an account for Housing purposes, from which purchases and construction costs will be expended, and sale receipts and annual appropriations for Housing purposes shall be recorded.
3. This account established for housing purposes (the "Housing Fund") shall constitute a revolving fund intended to be self-supporting over time, regardless of the level of annual appropriation. This Housing Fund shall be reported on a regular basis, not less than quarterly, to the Board, along with a summary of current inventory and activity related to the District Owned and Sponsored Employee Housing Program.
4. In establishing utilization priority, the District Manager shall utilize the priority use contained in the fourth recital above, to the extent practicable. Deviations from the priority of utilization established herein, shall be reported to the Board in the next Housing Report, again not less than quarterly.

ADOPTED this 22nd day of December, 2005.

Eagle River Water and Sanitation District

By _____
Frederick P. Sackbauer, IV, President

Attest:

Patrick Dauphinais, Secretary



BOARD COMMITTEES

DISTRICT

Audit/Budget Dick Cleveland
Steve Coyer
*Sarah Smith Hymes

Employee Housing Steve Coyer
Rick Pylman
*Robert Warner, Jr.

Retirement Plans Robert Warner, Jr.
Siri Roman
David Norris
*Dick Cleveland

Organizational Development Robert Warner, Jr.
Dick Cleveland
*Timm Paxson

Water Quality Sarah Smith Hymes
Timm Paxson
*Steve Coyer

AUTHORITY

Audit/Budget Geoff Dreyer
George Gregory
*Mike Trueblood

JOINT

Rules and Regulations Kim Bell Williams (A)
Robert Warner, Jr. (D)
*George Gregory (A)
*Rick Pylman (D)

Water Conservation Mike Trueblood (A)
Tamra Underwood (A)
Kate Burchenal (D)
Steve Coyer (D)
*Kevin Hillgren (A)
*Sarah Smith Hymes (D)

(A) = Authority, (D) = District

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



**UPPER EAGLE REGIONAL
WATER AUTHORITY**

GOVERNED BY:

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

The Town of Avon

MEMORANDUM

TO: Board of Directors
FROM: Brian Thompson, Government Affairs Supervisor
DATE: Dec. 1, 2023
RE: Summary of Authority’s Oct. 26, 2023, Board Meeting

The following is a summary of items discussed at the Authority’s Oct. 26, 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. Secretary Bell Williams served as the presiding officer due to Chair Gregory’s remote attendance.

- FY 2024 Budget. Rates and Fees** Public hearings were held concerning the proposed FY 2024 budget, service rates, and fees. The board approved resolutions to adopt the budget, appropriate sums of money, and increase certain rates and fees.
- Water Revenue Bond** The board approved a parameters resolution authorizing the issuance and sale of an enterprise water revenue bond.
- Stock Purchase** The board exercised the Authority’s option to purchase 250 shares of stock in Eagle Park Reservoir Company from the Eagle River Water & Sanitation District, equating to 25 acre-feet of water.
- Water Lease** The board approved negotiating a long-term lease from the Colorado River Water Conservation District.
- Fund Balance Policy** Jim Cannava presented a draft fund balance policy that would set the fund balance target at a minimum of six months and a maximum of twelve months of annual budgeted operating costs. The board will consider it for adoption on Dec. 7.
- Water allocation for State Land Board (SLB) Parcel** Jason Cowles discussed the proposed plan to annex and rezone SLB property in Dowd Junction and a potential allocation of water for workforce housing projects.
- Extended Shoshone Power Plant Outage** The board approved allocating the Authority’s remaining contracted water supplies in Green Mountain Reservoir to support the Shoshone Outage Protocol.
- Draft Water Dedication Policy** Kristin Moseley presented a draft water dedication policy. The policy increases the cash in lieu fees based on inflation, the anticipated construction costs of Bolts Lake, and the elimination of a summer water price. The board will consider the policy for adoption at the Dec. 7 board meeting.
- PFAS Class Action Settlements** The board discussed the Authority’s class member status in certain per- and polyfluorinated (PFAS) class action settlements. Steve Bushong will consult with an attorney specializing in PFAS and report to the board prior to the settlement deadlines with insights into whether the Authority should be included or excluded in these settlements.

Managed by Eagle River Water & Sanitation District

846 Forest Road Vail, Colorado 81657 Tel (970) 476-7480 erwsd.org



MEMORANDUM

TO: Boards of Directors
FROM: Siri Roman, General Manager
DATE: Dec. 1, 2023
RE: General Manager Report

2024 Work Planning

Staff is busy with year-end visioning and work planning. District leadership continues to review 2023 goals and develop 2024 work plans anchored to strategic plan principles. We implemented a new process where each team develops an annual work plan with specific, measurable outcomes aligned to 3-year goals.

Water Conservation & Rate Restructure Outreach

David Norris and I continue to present water conservation and rate change information in the community. Since the October Board meetings, we have presented at the Town of Vail lunch with the locals and to the Avon Town Council and Homestead Homeowners Association. We really appreciate the support that we have gotten from our Directors at every meeting; the message continues to be well received by our community.

We are scheduled to present to Berry Creek Metro District, Cordillera Metro District, and Beaver Creek Property Owners Association in December, and Vail Town Council in January.

Water Supply and Land Use Planning Work Session

On Nov. 8, the Town of Avon hosted a water supply and land use work session with Eagle County and the Authority. The intent of this work session was to provide a clear understanding of the Authority's limited water supply (until Bolts Lake is online) so that the Town and County can align on land use decisions that support community goals and priorities.

District staff gave a brief presentation on the Authority's authorization to purchase and lease additional water supplies, unallocated water, and the "Edwards gap" (in the Eagle River). Discussion ensued regarding affordable housing and water supply, water conservation, rate restructuring, landscaping regulations, and steps to continue collaboration.

Attachments:

- UERWA Water Supply and Land Use Planning Work Session Memo
- Questions on Water, Land Use, and Development Memo



**UPPER EAGLE REGIONAL
WATER AUTHORITY**

GOVERNED BY:

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

The Town of Avon

M E M O R A N D U M

TO: Avon Town Council
Eagle Board of County Commissioners

FROM: Siri Roman, General Manager
Jason Cowles, Director of Engineering & Water Resources

DATE: Nov. 3, 2023

RE: Water Supply and Land Use Planning work session

Background

The Upper Eagle Regional Water Authority’s (Authority) water supply planning was previously based upon historically observed conditions in the Upper Colorado River watershed. To better understand limitations to its current water supply and to prepare for risks associated with an increasingly warmer and variable climate (e.g., extreme dry years, longer and hotter growing seasons, decreasing snowpack, earlier runoff, decreasing streamflows, etc.), the Authority has undergone an extensive water supply modeling effort that considers various climate scenarios and future “buildout” water demand scenarios based upon its current water service commitments. This engineering model contains comprehensive data that replicates existing physical water supplies, senior calling rights and municipal water delivery availability under various scenarios. The results of this model confirm what all utilities in the Colorado River basin know – water supplies are diminishing.

The Authority’s water rights supplies are based on a combination of out-of-basin storage supplies (Green Mountain Reservoir and Wolford Reservoir) that satisfy downstream main-stem Colorado River calls, but do not add physical water supplies to the Eagle River basin; senior historic consumptive use credits associated with turn-of-the century agricultural operations taken out of production; and in-basin storage water that release high in the Eagle River basin headwaters to satisfy senior calling rights and directly supplements Eagle River flows (Eagle Park Reservoir).

The 2020 and 2023 Authority Water Rights Reports concluded that the Authority *has no remaining unallocated in-basin storage available* for new water service commitments and that it should develop a strategic reserve of in-basin storage as a buffer to protect its water supply from future uncertainty.

The Authority and Eagle River Water & Sanitation District (District) are co-developing Bolts Lake, an in-basin 1,210 acre-foot reservoir that will provide additional water supply for community land use needs and priorities and aid in the development of the strategic in-basin storage reserve. However, the Bolts Lake project is very complex and not anticipated to be constructed and operational until at least 2029.

Given the current state of the Authority’s limited water supply, and to bridge the gap until Bolts Lake is online, the Authority recently authorized the purchase of 25 acre feet (AF) of Eagle Park Reservoir (EPR) water from the District and the lease of up to 50 AF of EPR water from the Colorado River District. Eagle County has also dedicated 87.4 AF of EPR water to the Authority for affordable housing, subject to the July 29, 2020, EPR Stock Agreement with the Authority.

The Authority does not possess land use powers (see attached memo); it is required by statute to operate on a first come, first served basis to provide water service for developments that are approved by the underlying land use authorities. In this this case, Eagle County and the Town of Avon.

The intent of this work session is to provide a clear picture of the limited water supply in the Authority's service area so Eagle County and the Town of Avon can make land use decisions that support their comprehensive plans and community goals.

Below are some frequently referenced concepts likely to be mentioned in the work session. Authority staff and counsel will be prepared to review these concepts in more detail if requested.

Unallocated vs. Allocated Water

The Authority was established by Intergovernmental Agreement in 1984 (the "Authority Agreement"). The Authority Agreement, as amended over time, is the contract that establishes the terms for water service to each of the Authority's Member Entities. Each of the Member Entities conveyed and/or leased water rights to the Authority that are used to serve the Member Entities. When EPR was developed in 1996, the Authority allocated additional water supplies from EPR to the Member Entities. The Authority also contracts with the Bureau of Reclamation for out-of-basin water supplies in Green Mountain Reservoir that are allocated to Avon, Eagle-Vail, Edwards, Berry Creek and Arrowhead. These water rights are defined in the Authority Agreement as the "Allocated Water Rights" of the Authority and were intended to be adequate to meet the planned buildout water service requirements of the Member Entities that the Authority has committed to serve. In the Authority's water supply planning model, the Allocated Water Rights are water allotted to meet the existing service commitments of the Member Entities that are not yet fully built out.

The Authority's Unallocated Water Rights are defined as any direct flow water rights, storage water rights, or other water rights that are owned by the Authority and not allocated to a Member Entity. These water rights were collectively purchased or developed by the Authority for the benefit of all Member Entities and are made available for new water service commitments subject to the Authority's Water Dedication and Unallocated Water policies. The Authority's water supply planning model indicates that there are no remaining unallocated in-basin storage supplies to commit to new uses, and that the Authority is at increased risk of future water supply shortages due to the effects of a warming climate. While the Authority is actively purchasing and leasing additional water as mentioned above, supplies are still limited.

Gap in the River

The location of future development in the Authority service area affects the amount of water needed to serve. This is because of the 'gap' in the river that occurs in Edwards.

The Edwards Drinking Water Facility (EDWF) is located east of the CDOT rest area in Edwards. The Edwards Wastewater Treatment Facility is located on Hillcrest Road in west Edwards. Water from the Eagle River is diverted to EDWF approximately 2.5 miles upstream of where the clean water is returned by the wastewater facility. In times of low flow, the Authority must augment its full diversions because of the reduced flows between the point of diversion (EDWF intake) and the point of return (wastewater facility outfall), with this 2.5 mile segment being the "gap."

This is not the case in Avon, where the Authority can divert water at the raw water booster pump station intake is less than 25 feet upstream of the wastewater outfall during times of low flow. In the Avon scenario, the Authority must only augment its consumptive use, which has a much smaller impact on in-basin water supplies.

Thus, water supplies can go a lot further if the development's wastewater is directed to the Avon Wastewater Treatment Facility.

Consumptive Use

Consumptive use is water that is permanently withdrawn from its source (e.g., it is no longer available).

Indoor water use is only about 5% consumptive since it flows down a drain to a District wastewater treatment facility, is cleaned, and then about 95% of what was diverted is returned to local streams.

Outdoor water use is highly consumptive. Only ~25% returns to local streams by filtering through the ground. The remaining ~75% is consumed by landscaping vegetation and evaporation. While our community should focus on conserving all water, outdoor water use has a far greater negative impact on our local water supplies than indoor water use.

Water Conservation

The easiest and cheapest way to improve the resiliency of our supply is to use less water. District and Authority staff have initiated a comprehensive water conservation and rate restructuring effort with the goal to reduce use by 400 AF by 2026.

Attachments:


- Water, Land Use, and Development Memo (dated Oct. 31, 2023)

MEMORANDUM

October 31, 2023

VIA EMAIL

TO: Siri Roman, General Manager
Eagle River Water & Sanitation District

FROM: Kathryn G. Winn 

RE: **Questions on Water, Land Use, and Development**

Questions have been raised as to the roles Eagle River Water and Sanitation District and Upper Eagle Regional Water Authority, as water providers, can and should have in land use determinations. The District and Authority, as water providers, do not possess land use powers, including approving or denying new development/growth; but can work closely with land use authorities on developing policies that support thoughtful growth in an area with a limited water supply.

The District and Authority are political subdivisions of the State with only those powers the State delegates to them. *Board of County Comm'rs v. Pfeifer*, 546 P.2d 946, 947 (Colo 1976); *Board of County Com'rs of Arapahoe County v. Denver Bd. of Water Com'rs*, 718 P.2d 235 (Colo. 1986). The District's grant of powers comes through the Special District Act. Specific water powers include compelling connection, assessing fees, and to acquire water rights. §32-1-1006, C.R.S. The Authority was created and operates via intergovernmental agreement of its member entities, which include a municipality and special districts. While Avon, as a municipality, has both home-rule and land use powers, the District and Authority's special district members do not. An Authority member's municipal land use powers do not transfer to the Water Authority, and there is no separate basis for the Authority to exercise land use powers. Similarly, Vail, as a municipality, has certain home-rule and land use powers, but those powers do not transfer to the District simply because the District serves the Vail area.

The Colorado Supreme Court has ruled that water providers cannot make water availability decisions based on land use determinations. *Robinson v. City of Boulder* 547 P.2d 288 (Colo. 1976). Water providers "must treat all members of the public within its franchise area alike" and "can only refuse to extend its service to landowners for utility-related reasons. Growth control and land use planning considerations do not suffice." *Id.* at 229. As a result, when a development application is before the Towns or County, the District's and Authority's roles are limited to providing (or not providing) a "will-serve" letter, which identifies whether water

service is available and feasible based on existing (or soon available) water supply and infrastructure.

In contrast, municipalities and counties have specific statutory authority to make land planning and zoning determinations. For example, §31-23-301, C.R.S., grants municipalities the following authority: *“for the purpose of promoting health, safety, morals, or the general welfare of the community, including energy conservation and the promotion of solar energy utilization, the governing body of each municipality is empowered to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, the height and location of trees and other vegetation, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes.”* Home-rule municipalities and home-rule counties have even greater authority under the Colorado Constitution to make decisions of local concern.


Avon, Vail and Eagle County possess land use authority and can make decisions about the appropriate use and development of property within their jurisdictional boundaries. The fact that water is provided by separate entities does not change their ability to influence development. Each can create policies and approve development that is consistent with their individual master plans and growth needs. While the District and Authority cannot make land use decisions, your role as water provider and knowledge of water availability and feasibility is an important part of the planning process for Vail, Avon, and Eagle County. Water availability and supplies can and should be a consideration when they revise their master plans and zoning/land use codes, and all entities benefit from working together in this arena.

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M E M O R A N D U M

TO: Board of Directors
FROM: Brian Thompson, Government Affairs Supervisor
DATE: Dec. 1, 2023
RE: Draft Investment Policy

As discussed at the Oct. 26 board meeting, staff has undertaken a comprehensive review of all board-adopted policies to ensure alignment with the current needs and visions of the District and to facilitate accurate accountability. Part of this “clean up” process is updating policies that have become outdated or ineffective.

Staff recommends that the board adopt an updated Investment Policy. Over the past several decades, the board has adopted multiple iterations of a policy prescribing principles for ensuring effective and judicious fiscal and investment management of the District’s funds. The most recent Investment Policy was adopted on Aug. 23, 2012. To meet changing investment considerations, it is apparent that this policy needs to be updated and restructured.

At the Dec. 7 board meeting, Jim Cannava and David Norris will present a draft of an updated Investment Policy and discuss specific changes from the existing policy. No action on this draft policy will be taken at this meeting. Staff requests that board members review the draft policy over the next several weeks and consider it for adoption at the next regular board meeting.

Attachment: Updated Investment Policy (draft)



BOARD POLICY

Title: Investment Policy	Department: Business Administration
Effective Date:	Previous Effective Date(s): 8/23/2012; 8/25/1994

Background:

The purpose of this Investment Policy is to define the investment scope, objectives, delegation of authority, standards of prudence, reporting requirements, internal controls, eligible investments, and diversification requirements of the funds of the District. The key goals of this policy are safeguarding principal amounts, ensuring liquidity for daily cash flow needs, seeking a market rate of return, and delegating proper authority,

Policy:

The Board of Directors has adopted the following Investment Policy:

- I. **Scope:** This Investment Policy shall apply to the investment management of all investable funds under control of the District.
- II. **Objectives:** To provide for the safety of principal, provide liquidity to meet daily cash flow requirements, and, attaining a market rate of return.
- III. **Delegation of authority:** The Board has delegated authority to manage the District's investment program to the Director of Business Administration who may appoint other District employees to assist in managing the District's investment program.
- IV. **Standards of prudence:** The standard of prudence to be used for managing the District's assets is the "prudent investor" standard applicable to a fiduciary that states that a prudent investor "shall exercise the judgment and care, under circumstances then prevailing, which men of prudence, discretion and intelligence exercise in the management of the property of another, not in regard to speculation, but in regard to the permanent disposition of funds, considering the probable income as well as the probable safety of capital." (CRS 15-1-304, Standard for Investments).
- V. **Reporting:** Accounting and reporting on the District's investment portfolio shall conform with Generally Accepted Accounting Principles (GAAP) and the Governmental Accounting Standards Board (GASB) recommended practices.
- VI. **Internal controls:** The internal control structure will be designed to provide reasonable assurance that these objectives are met.
- VII. **Eligible investments:** All investments will be made in accordance with the Colorado Revised Statutes as follows: CRS 11-10.5-101, et seq. Public Deposit Protection Act; CRS 11-47-101, et seq. Savings and Loan Association Public Deposit Protection Act; CRS 24-75-601, et. seq. Funds-Legal Investments; CRS 24-75-603, Depositories; and CRS 24-75-702, Local governments – authority to pool surplus funds. Any revisions or extensions of these sections of the CRS will be assumed to be part of this Investment Policy immediately upon being enacted. Further restrictions will be outlined in the Investment Procedure.
- VIII. **Diversification:** Investments shall be diversified by limiting investments to avoid over concentration in securities from a specific issuer or business sector (excluding U.S. Treasury securities), limiting investment in securities that have higher credit risks, investing in securities with varying maturities, and, Continuously investing a portion of the portfolio in readily available funds such as local government investment pools (LGIPs), money market funds or overnight repurchase agreements to ensure that appropriate liquidity is maintained in order to meet ongoing obligations.
- IX. **Review & Revisions:** This policy will be reviewed annually and updated as needed to reflect any changes in the District's financial environment, regulations, or best practices in investment management



MEMORANDUM

TO: Board of Directors
FROM: Brian Thompson, Government Affairs Supervisor
Justin Way, Information Technology Manager
DATE: Dec. 1, 2023
RE: Draft Electronic Mail Policy

As discussed at the Oct. 26 board meeting, staff has undertaken a comprehensive review of all board-adopted policies to ensure alignment with the current needs and visions of the District and to facilitate accurate accountability. Part of this “clean up” process is updating policies that have become outdated or ineffective.

Staff recommends updating the existing Electronic Mail Policy. The board adopted this policy on July 22, 1999, due to changes in Colorado’s public records law requiring political subdivisions, such as Eagle River Water & Sanitation District, to “adopt a written policy on any monitoring of electronic mail communications and the circumstances under which it will be conducted.” § 24-72-20.45(1), C.R.S. The policy must include a statement that employee e-mails may constitute public records. § 24-72-20.45(2), C.R.S.

While the existing email policy sufficiently meets the District’s needs, updates to the policy would help align with changing technology and security considerations. Justin Way will present an updated policy draft at the Dec. 7 board meeting and discuss specific changes from the existing policy. No action on this draft policy will be taken at this meeting. Staff requests that board members review the draft policy over the next several weeks and consider it for adoption at the next regular board meeting.

Attachment: Updated Electronic Mail Policy (draft)



BOARD POLICY

Title: Electronic Mail Policy	Department: Business Administration
Effective Date: 12/7/2023	Previous Effective Date(s): 7/22/1999

Purpose and Summary:

This policy outlines the acceptable use of The District's electronic ("email") system. It is designed to ensure the efficient and lawful use of email for business communications and to protect The District's information assets and continuity of operations.

Any District that operates or maintains an electronic mail communications system must adopt a written policy on any monitoring of electronic mail communications and the circumstances under which it will be conducted. The policy must include a statement that employee emails may be a public record and may be subject to public inspection.

Authority:

Required by § 24-72-204.5, C.R.S.

Scope:

This policy applies to all employees, contractors, partners, and vendors who are granted access to The District's email system. This includes any email communication sent from a District email address or sent through District email servers.

Policy Statement:

The District's electronic email system is a business tool owned and paid for by the District. As such, the email system is the District's private property. The email system is designed to facilitate the District's business and transactions and is limited to communications solely related to District business related subjects.

Policy

I. Appropriate Use:

Email is an extension of the workplace and abusive and inappropriate language or material is prohibited.

Email is to be used for business-related communication including correspondence with customers, internal team collaboration, and authorized District announcements.

The use of District email for work-related purposes shall align with professional standards and be used in a manner that upholds The District's mission and values.

The email system shall not be used to solicit outside business ventures, political, religious, or other personal causes by the employee.

II. Personal Use:

The email system is not to be used for communications of a personal, private, or non-business nature.

III. Confidentiality

The use of authorization passwords by employees should not be construed as creating a private communication medium.

The District maintains the right to monitor, audit, and review email messages sent and received at any time. By using the District's email system, users expressly consent to the District's monitoring policy, agrees to comply with all limitations on the use of the email system, and understand that the email system is not a private communication method.

All E-Mail messages are subject to discovery orders in litigation matters.

Email correspondence may be public record under the public records law and may be subject to public inspection under § 24-72-203, C.R.S.

IV. Security

Email users are responsible for safeguarding their email credentials and using them only as authorized. Each user is responsible for all email transactions created under their account. Sharing of credentials is prohibited.

Email users are responsible for interacting with District email system in a safe manner, including:

- Verifying the identity and authenticity of a sender prior to clicking on links or opening downloading attachments.
- Not opening attachments or clicking on links from suspicious sources.
- Being vigilant for indicators of phishing attempts, social engineering tactics, and email scams.
- Double-checking email addresses and conducting additional verifications on requests involving financial transactions, confidential information, or sensitive data sharing.

Email users are prohibited from conducting District business using third-party (non-District) email systems or accounts. Likewise, emails shall not be automatically forwarded to third-party email systems.

Policy Compliance:

Failure to comply with this policy may result in disciplinary actions up to, and including termination, at The District's discretion, in accordance with the disciplinary policy.



MEMORANDUM

TO: Board of Directors
FROM: Brian Thompson, Government Affairs Supervisor
Justin Way, Information Technology Manager
DATE: Dec. 1, 2023
RE: Draft Identity Theft Prevention Program

As discussed at the Oct. 26 board meeting, staff has undertaken a comprehensive review of all board-adopted policies to ensure alignment with the current needs and visions of the District and to facilitate accurate accountability. Part of this “clean up” process is updating policies that have become outdated or ineffective.

Staff recommends updating the existing Identity Theft Prevention Program. The board adopted this program as a policy on Oct. 23, 2008, when “red flag rules” were added to the Code of Federal Regulations whereby creditors must “implement a written Identity Theft Prevention Program that is designed to detect, prevent, and mitigate identity theft in connection with the opening of a covered account or any existing covered account.” *16 CFR § 681.1(d)(1)*. Eagle River Water & Sanitation District is a creditor under the Identity Theft Rules by virtue of providing utility services or by otherwise accepting payment for services in arrears. *15 U.S.C. § 1691a*. As an entity that must implement an Identity Theft Prevention Program, one of the required elements is updating the program periodically. *16 CFR § 681.1(d)(2)*.

While the existing Identity Theft Prevention Program sufficiently meets the District’s needs, updates to the policy would help align with changing technology and security considerations. Justin Way will present an updated policy draft at the Dec. 7 board meeting and discuss specific changes from the existing policy. No action on this draft policy will be taken at this meeting. Staff requests that board members review the draft policy over the next several weeks and consider it for adoption at the next regular board meeting.

Attachment: Updated Identity Theft Prevention Program (draft)



BOARD POLICY

Title: Identity Theft Prevention Program Policy	Department: Business Administration
Effective Date: 12/7/2023	Previous Effective Date: 10/23/2008

Purpose and Summary

The Federal Trade Commission's Identity Theft Rules require creditors, as defined by 15 U.S.C. § 1681a(r)(5), to adopt red flag policies to prevent and mitigate identity theft with respect to covered accounts. The District is a creditor under the Identity Theft Rules by virtue of providing utility services or by otherwise accepting payment for services in arrears. As a creditor, the District is subject to the identity theft prevention program policy requirements because it provides services and sales for which payment is made after the product is consumed or the service has otherwise been provided.

Authority:

A policy establishing an identity theft prevention program is required by 16 CFR § 681

Scope:

This policy applies to all employees, contractors, partners, and vendors who have access to Covered Account information, or those who engage in financial transactions on behalf of The District.

Policy Statement:

The Identity Theft Prevention Program Policy exists to establish procedures and guidelines for the detection, prevention, and mitigation of identity theft risks associated with handling customer accounts and personal information of District customers.

Policy:

Red Flags Identification Program

I. Red Flags Definitions

Red flags are indicators of possible identity theft. The District defines the following categories as red flags:

- Alerts, notifications, and warnings from consumer reporting agencies
- Suspicious documents or discrepancies in identifying information provided by customers
- Unusual account activity or unauthorized access to customer accounts
- Alerts from law enforcement or other sources regarding identity theft incidents
- Notices from customers or victims of identity theft regarding possible identity theft
- Evidence of compromised systems that contain store, process, or transmit

II. Red Flags Detection and Response

- Employees in relevant departments shall be trained to recognize red flags indicating potential identity theft
- Procedures shall be established to verify the identity of customer in cases where red flags are detected
- Appropriate actions shall be taken to mitigate identity theft risks, including monitoring of accounts, contacting customers when red flags are detected, and restricting account access

Identity Theft Prevention Measures

I. Customer Verification

- Customer identities shall be verified through reliable sources, following established procedures, when creating new accounts or modifying existing accounts
- Procedures shall be in place to authenticate customers prior to providing access to accounts or sensitive information

II. Information Security Program

- The District shall maintain a comprehensive information security program to protect customer information against unauthorized access, use, or disclosure
- Access controls, encryption, and secure storage practices shall be implemented to safeguard customer data

Program Administration

I. Oversight and Compliance

- A designated individual shall be tasked with oversight, implementation, and ongoing maintenance of the Identity Theft Program and related policies and procedures
- The Identity Theft Program shall be subject to monitoring and evaluation to ensure compliance and program effectiveness

II. Staff Training

- Employees who operate within the scope of this policy shall receive periodic training to understand red flags, identify theft risks, and procedures for responding to said risks

III. Reporting and Response

- Suspected incidents of identity theft or detected red flags shall be reported according to the prescribed reporting procedure
- Reports of identity theft or detected red flags shall be promptly investigated and mitigated by responsible parties

Policy Compliance:

Failure to comply with this policy may result in disciplinary actions up to, and including termination, at the District's discretion, in accordance with the disciplinary policy.

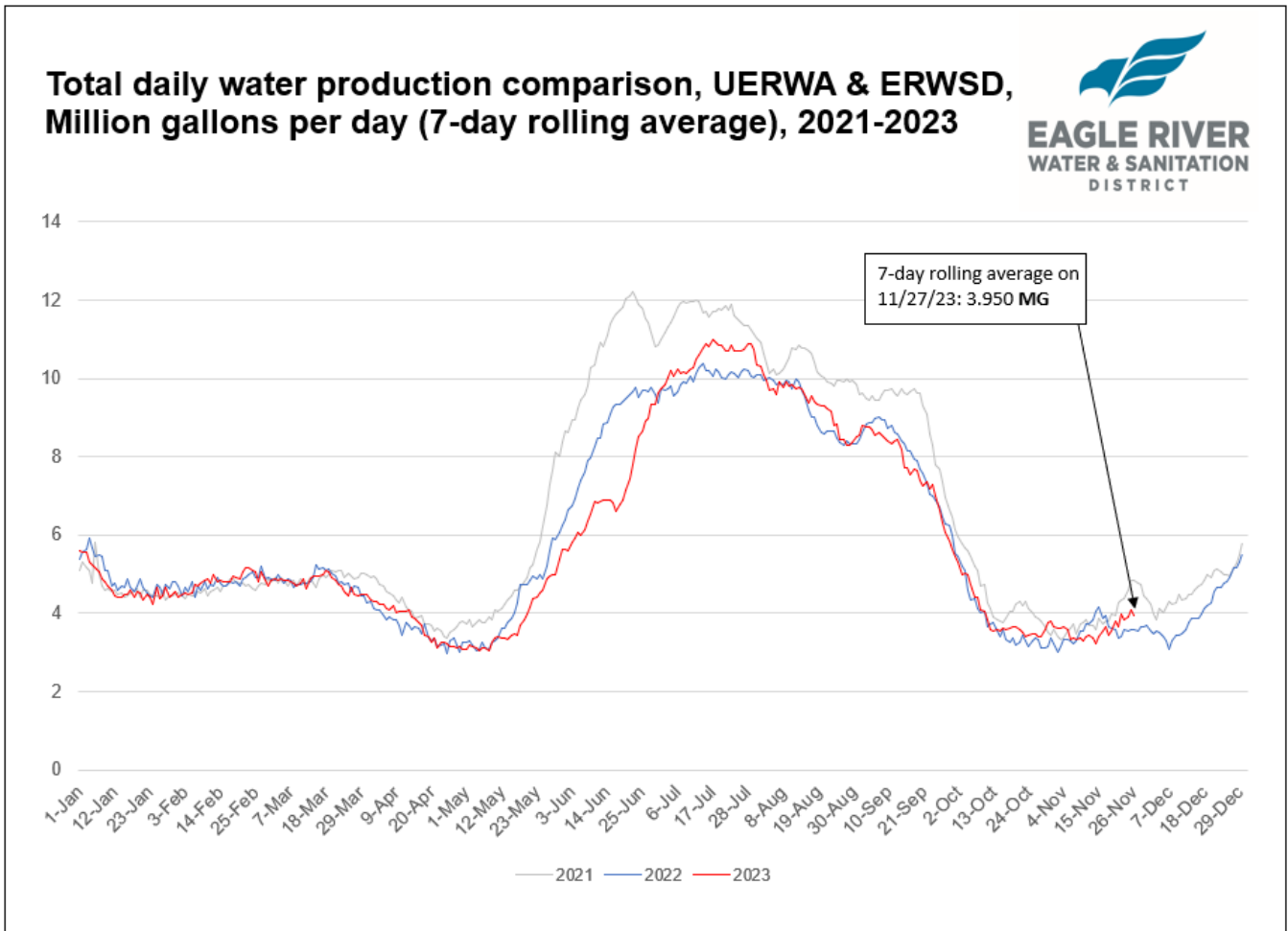


OPERATIONS MONTHLY REPORT
DECEMBER 2023

WATER

Kailey Rosema

The system-wide water production comparison was updated through Nov. 27. Production is normal for this time of year.

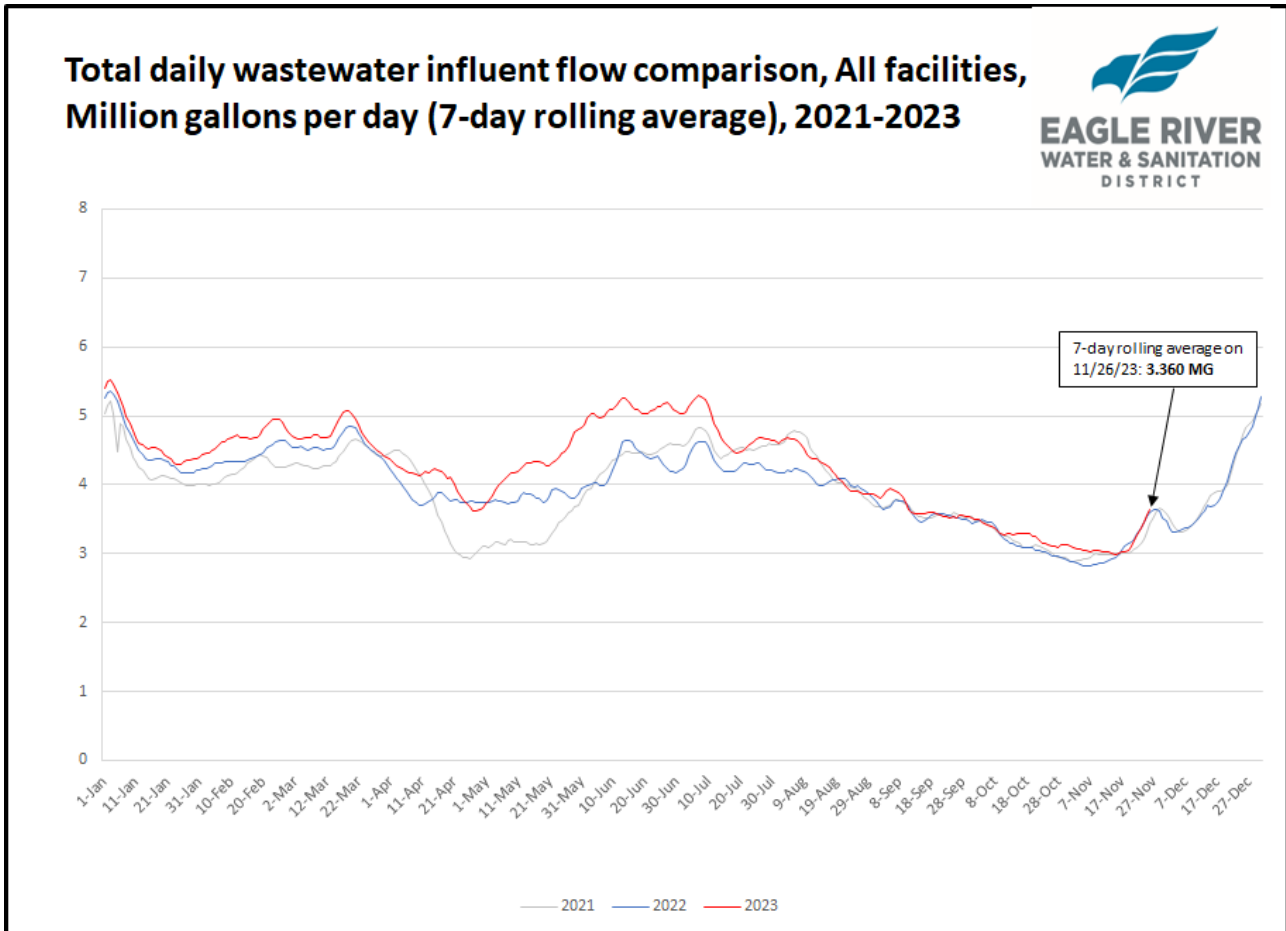


The programmable Logic Controller (PLC) upgrade project at the Avon Drinking Water Facility (ADWF) has reached substantial completion and the facility is back online. This project involved major coordination work from multiple departments including CIP, IT, OTS, and Water.

WASTEWATER

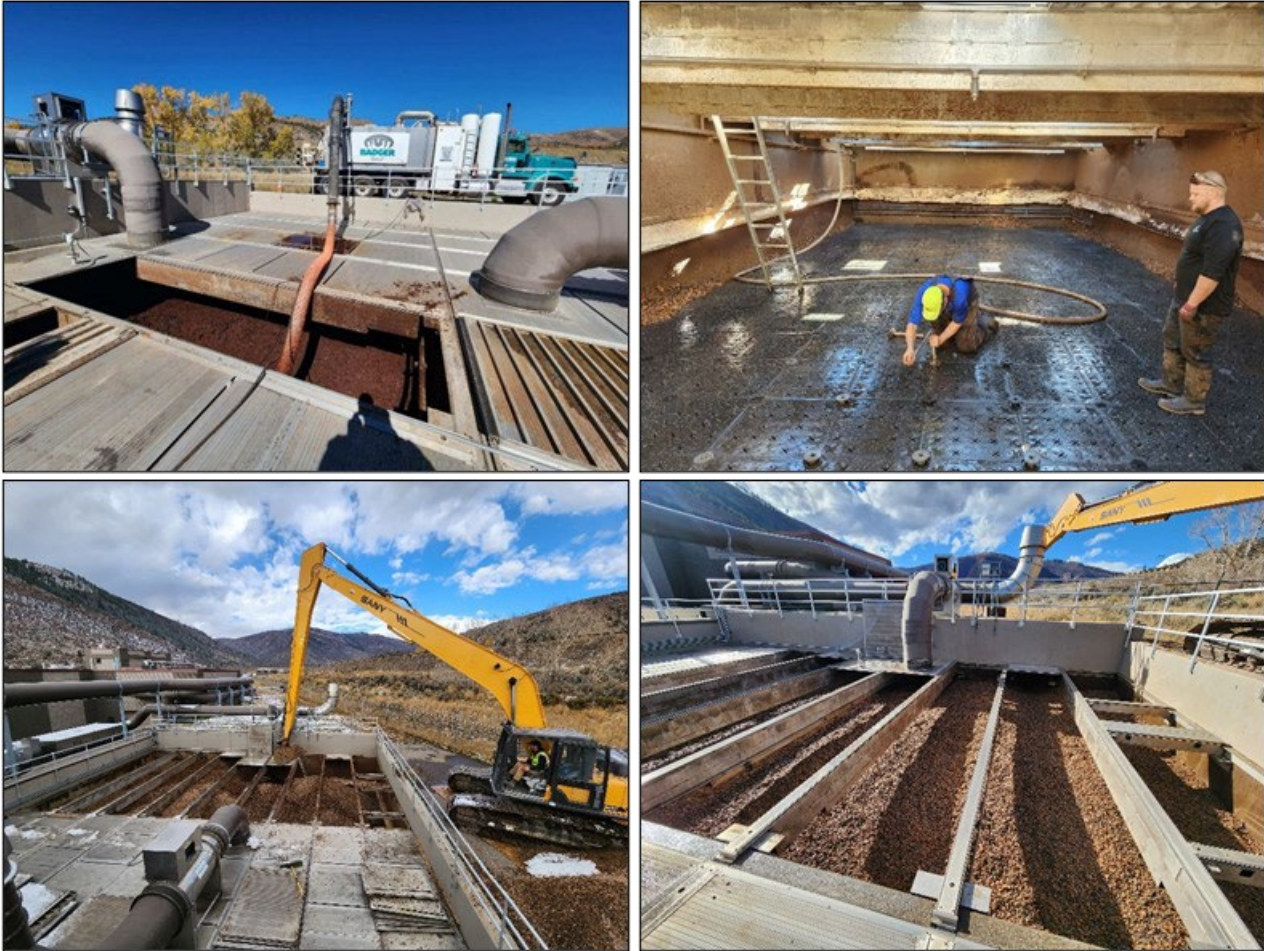
Chris Giesting

Cumulative influent wastewater flow and organic loading is normal for this time of year.



The entire wastewater team is focused on preparing for CDPHE’s Compliance Evaluation Inspection (CEI), which is scheduled for Dec. 12-13.

Wastewater and CIP staff have initiated a project to replace the media in two biofilter odor control units at the Edwards Wastewater Facility (EWW). The work involves removal and disposal of organic wood media, removal and cleaning the inorganic rock media, inspection, cleaning, air flow verification of the units, and re-installation of a larger quantity of inorganic rock media. The media replacement work in the west biofilter unit was completed Oct. 27. Work in the east unit is currently ongoing and is expected to be completed by the end of the year. The new media has an expected lifespan of 15 to 25 years compared to the 5- to 7- year lifespan of the organic media previously installed.



Media removal from EWW odor control biofilter

FIELD OPERATIONS

Niko Nemcanin

On Oct. 30, Field Operations and Water Department staff responded to a water leak on the Berry Creek Well #2 raw water conveyance pipe. The cause of the leak was a longitudinal crack along the pipe that spanned approximately 10 linear feet. The repair was completed Nov. 1.



*Berry Creek Well #2 raw water pipe repair (Oct. 30 – Nov. 1)
Sinkhole damage near the pedestrian path (left); completed repair (right)*

On Nov. 19, Field Ops staff responded to a water service line leak at Coyote Court in Eagle Vail. The cause of the leak was a pinhole-sized hole located on the District-side of the curbstop. The repair was made Nov. 20.



*Water service line repair in Eagle Vail (Nov. 19-20)
Water surfacing in driveway (left); hole in copper service pipe (right)*

On Nov. 8, CIP and Field Operations staff performed a condition assessment of the Minturn siphon, which is a section of gravity sewer pipe that passes under the Eagle River. The work required extensive coordination with nearby businesses, CDOT, and the Town of Minturn. Temporary bypass pumps were mobilized and used to pump flow around the siphon so it could be dewatered, vacuumed, and video inspected. The data obtained from the inspection is still being analyzed, but the early indication is that the siphon is in better physical condition than originally anticipated. There were no obvious signs of infiltration at pipe joints. As the next steps, the team will complete its review the video inspection reports and begin planning a future rehabilitation project.



Bypass pump setup on Highway 24 in Minturn



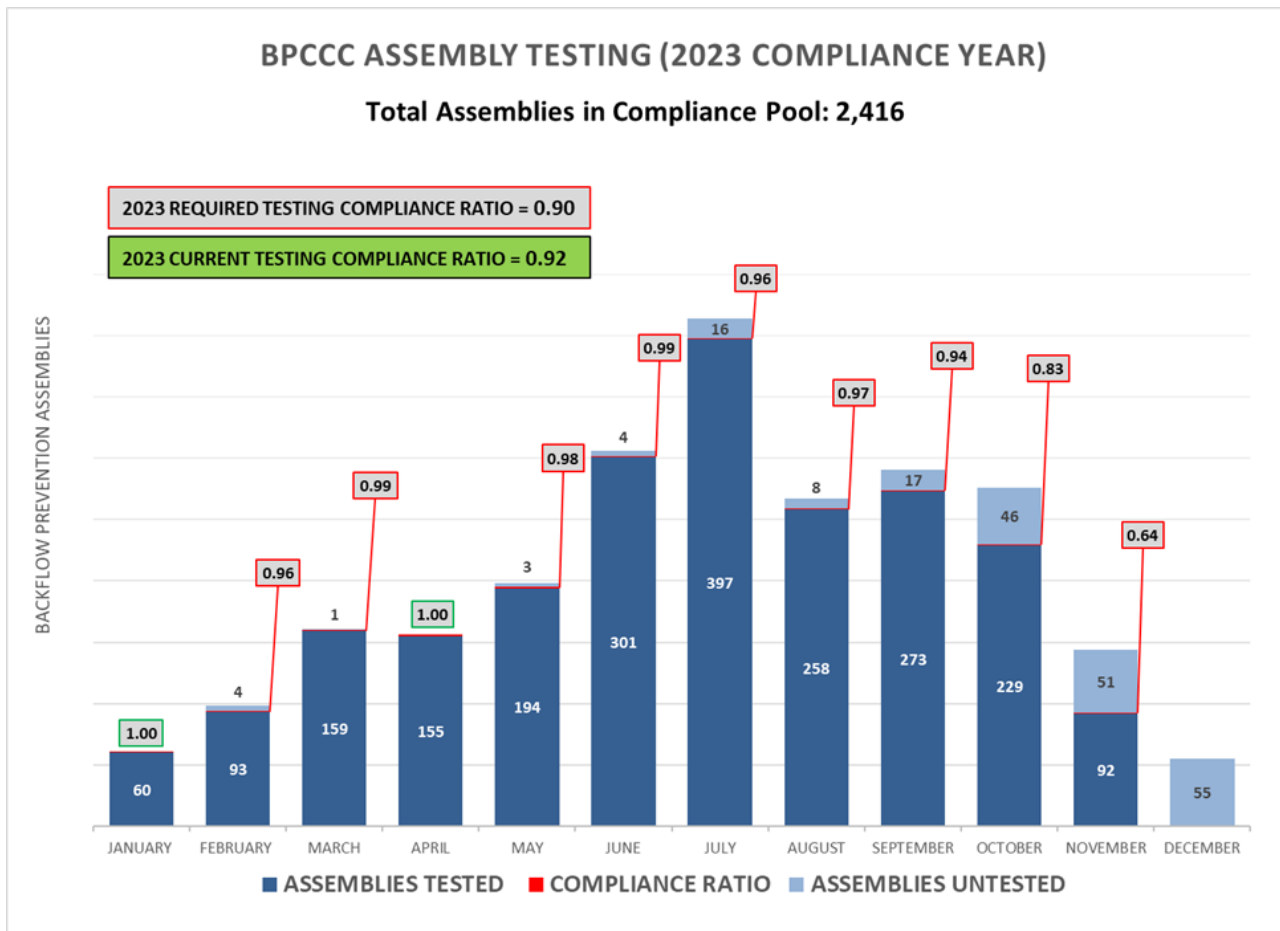
Siphon manhole with both barrels visible

UTILITY SERVICES

Shane Swartwout

BPCCC Program

The BPCCC team has successfully reached the required testing compliance ratio of 0.90 in both the District and the Authority for calendar year 2023. This was accomplished approximately one month earlier than last year. The team is now contacting the remaining customers who have assemblies due for testing in December and will recommend postponing testing until early next year. The goal is to reduce the number of assemblies that are due for testing in the later months of the year. A progress update is provided below:



Meter Services

The Meter Services team continues to work towards 100% AMI conversion in the Authority. A progress report is provided below.

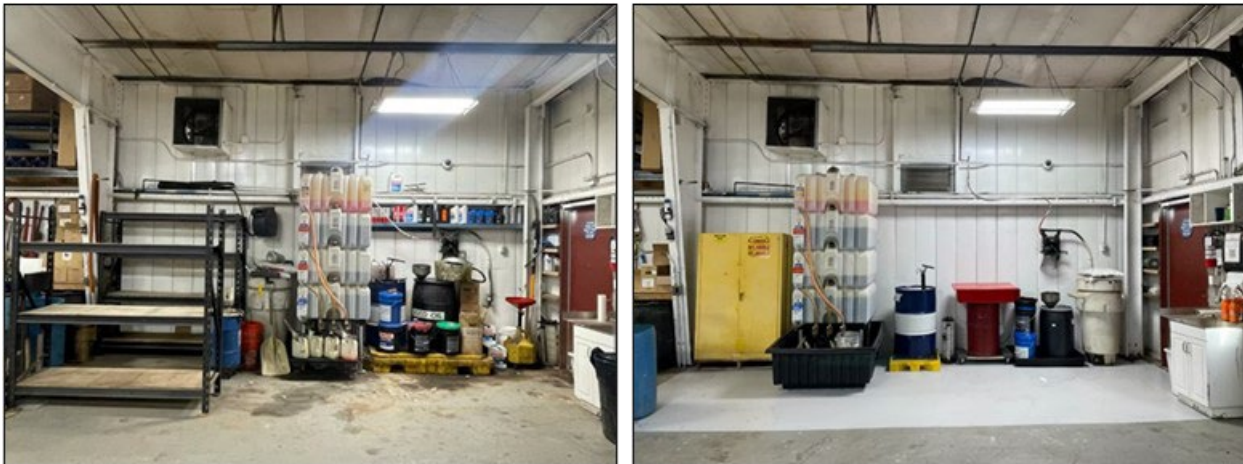
Report Date:	11/28/2023
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AMI SYSTEM STATUS	ERWSD	UERWA	TOTAL
(1) Total No. of Meters	3201	6851	10052
(2) No. of AMI Meters	3201	6264	9465
(3) System Percentage of AMI Meters	100%	91%	95%
Meters Remaining to Reach 100% AMI	0	587	587

Meter Services – Advanced Metering Infrastructure (AMI) Status (Updated 11-28-2023)

Fleet and Facilities

The Fleet and Facilities team re-organized a portion of the fleet shop to properly contain oil and lubricant totes. Staff cleaned and painted a dedicated area and installed new spill containment systems. Oil spill containment systems are a requirement of the District's Spill Prevention, Control, and Countermeasure (SPCC) plan.



Oil spill containment installation in fleet shop (before and after)

CAPITAL IMPROVEMENT PROGRAM (CIP)

Jeff Schneider

WATER PROJECTS

Avon Drinking Water Facility (ADWF) PLC Upgrades

Jenna Beirsto

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

Project Update: The project team completed a successful startup and ADWF is now running on the new PLC's. Project closeout is ongoing, with minor programming modifications and screen

improvements ongoing. The project will be completely closed out by the end of 2023. ADWF operational staff have been training on the new screens and new process logic. The Information Technology group is beginning its transition into the new server room.



PLC #1 cable and wire installation

Fenno Wellhouse and Raw Water Conveyance

Carter Keller

General Project Scope: The project includes 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 piping that serve the new facility.

Project Update: Well inspections have been suspended until 2024 due to winter conditions and access. All well inspections have been completed except one. The project team is continuing to work through a challenging easement access/encroachment issue with Fenno F7 but expects to have the issue resolved in time for the 2024 construction season.

Water Production and Treatment Masterplan

Jenna Beirsto

General Project Scope: The masterplan will be a wholistic look at all production and treatment facilities system-wide including treatment plants and wells. The goal is to identify future capital project priorities. The project will include a detailed condition assessment of existing assets and will evaluate treatment and production threats from climate change, low stream flows, wildfires, etc. The masterplan will be completed using in-house staff. The major work will begin at the end of 2023, after the end of the busy construction and operation seasons.

Project Update: The project will resume in December. As first steps, the team will complete its evaluation of the chapters that have been drafted to date and develop a plan and schedule to complete the work.

Wildridge BPS, PRV, and Tank Improvements

Carter Keller

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

Project Update: The construction team completed installation of the bypass pump connections at Booster Pump Station 1. The contractor is currently reviewing submittals and is working to obtain building permits for the three pump stations.

Avon Drinking Water Facility (ADWF) Roof Replacement

General Project Scope: This project includes replacement of the ballasted and fully adhered sections of the roof at ADWF. The existing roof is over twenty years old and has developed several major leaks.

Project Update: The new roof installation is complete. Permanent ladders were installed on the building for safer roof access. Final closeout and warranty sign off for the roof installation is pending.



ADWF roof installation

WASTEWATER PROJECTS

Dowd Junction Collection System Improvements

Jenna Bearsto

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

Project Update: Exterior siding work at the new lift station has been completed. Roofing installation is ongoing. The electricians set the new generator on the east side of the new building and a fence was installed around the generator. The asphalt trail realignment behind the lift station was completed and concrete was poured for the sidewalk to the lift station door and generator fence.. Coating installations in the wet well and lift station are ongoing. Electricians are currently installing lighting in the lift station. A power outage is scheduled for the existing lift station on Nov. 30 to allow Holy Cross to replace pole-mounted utility transformers and tie in the service for the new lift station. Process piping in the lift station was pressure tested and start up of the first two pumps is scheduled on Dec 6. The engine driven emergency backup pump will be delivered the week of Dec. 11. Emergency pump and full station startup is anticipated for late December and early January. A punch list walk was held for the force main and trail on Nov. 13.



Lift station siding and generator installation



Process piping tie-in after a successful pressure test



Preparation for the upcoming electrical service tie-in

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 contractor is troubleshooting an issue with the controller on the makeup air unit that conditions the lab space. A new controller will be installed once it arrives. All other parts of the project have been completed, inspected, and accepted.

Vail Wastewater Treatment Facility (VWW) Master Plan Improvements

Mark Mantua

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

Project Update: The installation of the diffusers in the final aeration basin has been completed and basin startup is scheduled for Dec. 1. The new slide gate, actuator and interior components of the flow control vault are currently being installed. The front plaza concrete replacement has been completed and the plaza drains are scheduled to be installed in early December. The electrical gear for the new backup generator was installed. The new backup generator is expected to be delivered in May 2024. The new UV channel concrete was formed and poured. Installation of new UV equipment is underway. Installation of the new bar screen has been completed and the new bar screen is operational.



Installation of new barscreen

Wastewater Master Plan

Madeleine Harris

General Project Scope: This Master Plan update builds on the 2017 master planning effort by evaluating and updating previous flow and load projections, current and future plant performance, biosolids, and will inform the scope and scale of the design for the upcoming Edwards Wastewater Treatment Facility (EWW) Nutrient Upgrades Project, which will be required to meet upcoming Regulation 85 nitrogen and phosphorous nutrient limits, as well as provide additional volume to meet existing rated capacity.

Project Update: The project team is currently focused on drafting the overall future CIP program for all three wastewater plants. The District's internal team is reviewing draft chapters of the master plan final report. Jar testing of potential metal salt options for phosphorous binding will be performed at EWW in December.



MEMORANDUM

TO: District and Authority Boards of Directors
FROM: Jason Cowles, P.E. and Justin Hildreth, P.E.
DATE: November 29, 2023
RE: Engineering & Water Resources Report

Development Report

We received a new request for water service to the Gracious Savior Church property at the corner of Hwy 6 and Lake Creek Road in Edwards. The Church is planning to convert 3 modular classroom buildings into 6 apartments that will be leased to the Eagle County School District for employee housing. Staff is investigating the history of the property and the existing uses to determine the water dedication requirement for the increased use.

We've included an attachment tracking the Authority's remaining unallocated in-basin storage supplies. The tracking sheet only applies to projects that we learned about after we modeled available water supplies for the 2023 water rights report update. Many of the projects included in the Authority Development Report were already baked into the modeling. We currently project 71.77 acre feet of water remaining from the Eagle County workforce housing water and 25 acre feet of option water to be purchased from the District. We'll update to include the lease of Colorado River District water once their Board approves the lease.

Extended Shoshone Power Plan Outage Update

At last month's meeting we discussed a last-minute request from the Division 5 Engineer and United States Bureau of Reclamation (USBR) to commit the District and Authority's Green Mountain Reservoir contract supplies to support flows on the Colorado River through the winter due to an extended outage of the Shoshone Power Plant. The only potential concern that we identified was the ability to use Wolford Mountain Reservoir contract water in-place of Green Mountain Reservoir water if the Shoshone call came on for any reason this winter. Dan Gillham of Helton & Williamsen reviewed the Authority's augmentation plans and determined that the Authority's Wolford Mountain Reservoir water can already be used throughout the Authority under existing augmentation plans, so it would not be necessary to request an administrative substitution for the Authority.

Kristin, Dan, and I met with Division 5 Engineer James Heath to discuss the potential of an administrative substitution by the Division Engineer to allow the District to use its Wolford Mountain Reservoir supplies to meet its snowmaking obligations to Vail Resorts under the 1987 Snowmaking Agreement if the Shoshone call was to come back on over the winter for any reason. We learned that the Division Engineer is only authorized by statute to approve administrative substitutions on a 1:1 basis (i.e. he is not authorized to quantify depletions per augmentation plans). This aligns with snowmaking as snowmaking diversions are 100%

depletive to the stream at the point of diversion, which requires augmentation on a 1:1 basis. James indicated that he could approve an administrative substitution for the Authority with about 48 hours' notice. Therefore, we believe that the District and Authority's risk from the Shoshone call coming on during the winter is sufficiently covered by Wolford Mountain Reservoir contracts and we can proceed as planned with the plan to commit the Green Mountain Reservoir water to the Shoshone Outage Protocol. Dan will coordinate the release of the Green Mountain Reservoir water with the USBR.

Water Scarcity Plan Update

The existing Drought Response Plan (DRP) was initially crafted in 2012 in response to a water supply emergency that occurred that year. Over the past 11 years, the Colorado Water supply community has garnered a more profound understanding of how to effectively manage and enhance drought response efforts and we have gained a greater understanding of our water supply through our modeling efforts. This project aims to formulate a new Water Scarcity Plan, superseding the DRP, and integrating updated information and recent experiences to address the diverse risks associated with drought response and water supply.

The Colorado Water Conservation Board has granted \$59,586 to support the project's total cost of \$79,448. On November 1st, the CWCB issued the Notice to Proceed, enabling us to advance with the project. We are presently conducting a drought vulnerability assessment, and the findings will be presented to the internal Drought Response Committee (DRC). The internal DRC comprises relevant District personnel and members of the Water Conservation Committee. This information will be instrumental in formulating drought stages, triggers, and response measures. A preliminary draft of the Water Scarcity Plan will be presented to the Boards for review and comments within the next 8 to 12 months.

Attachments:

1. Authority Unallocated In-Basin Supply, November 2023
2. ERWSD and UERWA New Development Reports, November 2023

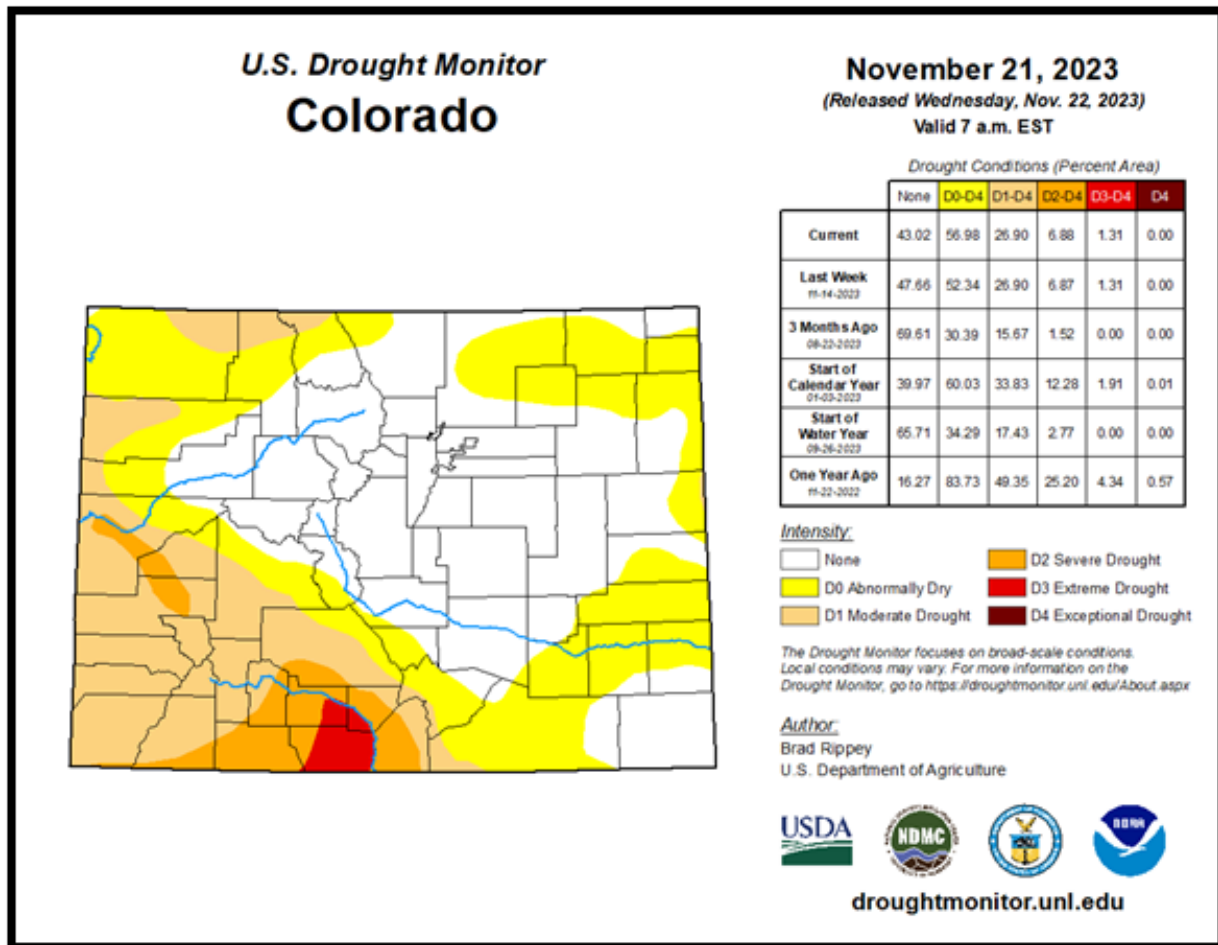
Water Resources Report

Justin Hildreth

Drought Conditions

November 21, 2023, U.S. Drought Monitor continues to categorize Eagle County along with eastern Colorado as not in a drought condition. The drought intensity for the southwest portion of the state remained moderate and extreme and the northwestern portion of the state remained in abnormally dry to moderate drought conditions.

Figure 1: U.S. Drought Monitor – Colorado. November 21, 2023 (National Drought Mitigation Center)



Temperature and Precipitation Forecasts

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

Figure 2: 8-14 Day Temperature Outlook – November 26, 2023 (NOAA Climate Prediction Center)

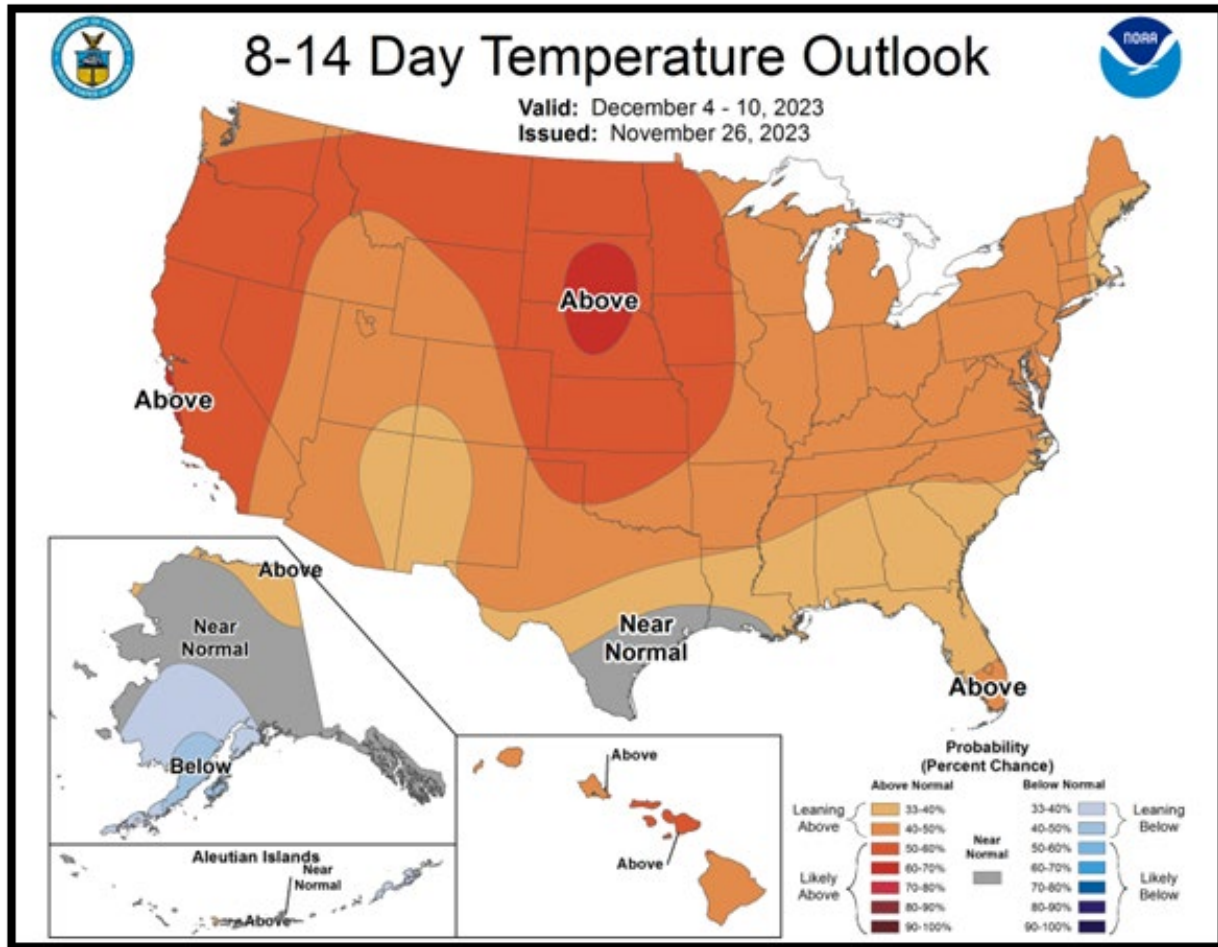
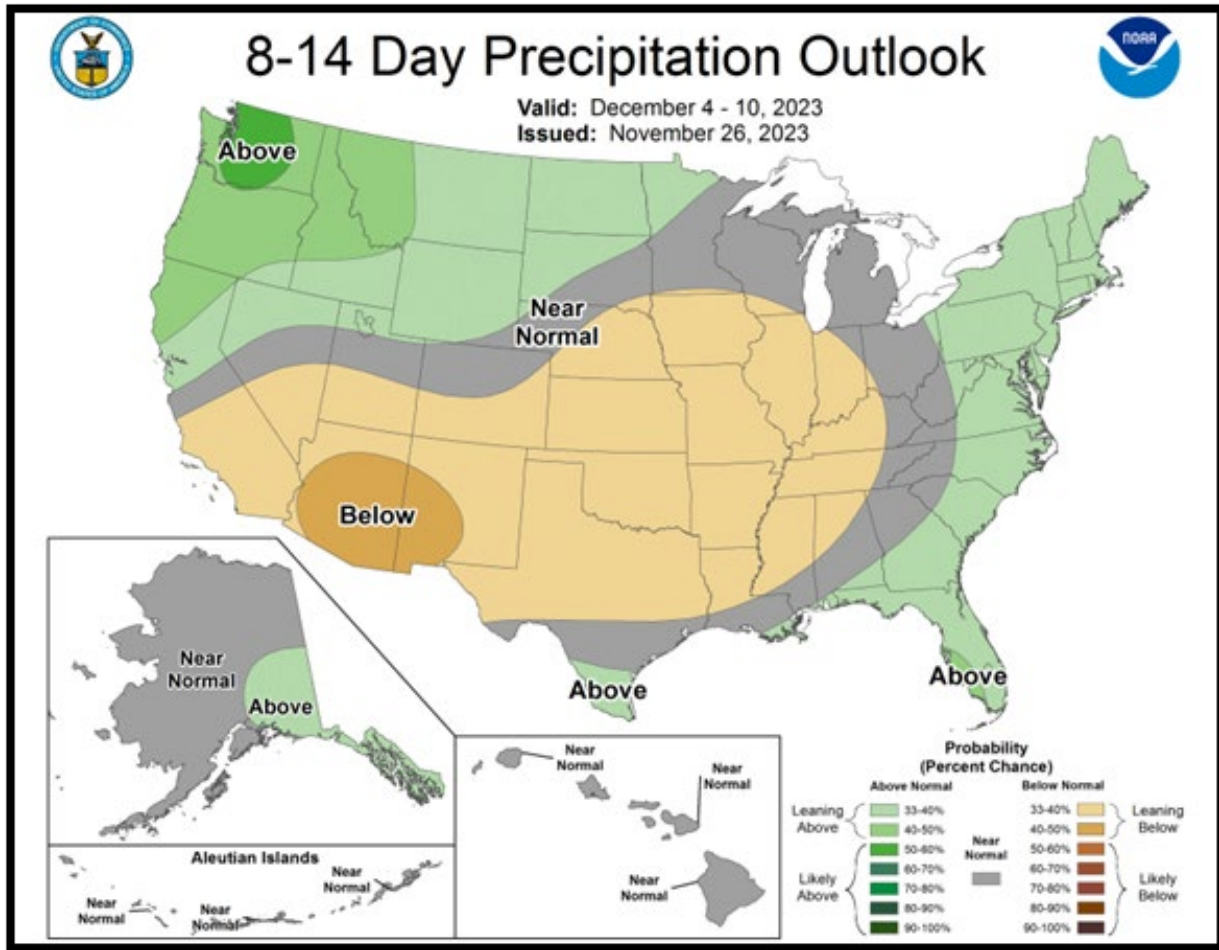


Figure 3: 8-14 Day Precipitation Outlook – November 26, 2023 (NOAA Climate Prediction Center)



Precipitation Conditions

Figures 4 and 5 show the snow water equivalent (SWE) at Vail Mountain and Fremont Pass respectively. As of November 28, 2023, Vail Mountain has 2.4” of SWE, 60% of the median. Fremont Pass has 2.0” of SWE, 60% of the median. There has only been 0.6” of additional SWE at Vail Mountain since the October report.

Figure 4: Accumulated Precipitation at Vail Mountain SNOTEL station, November 28, 2023 (USDA)

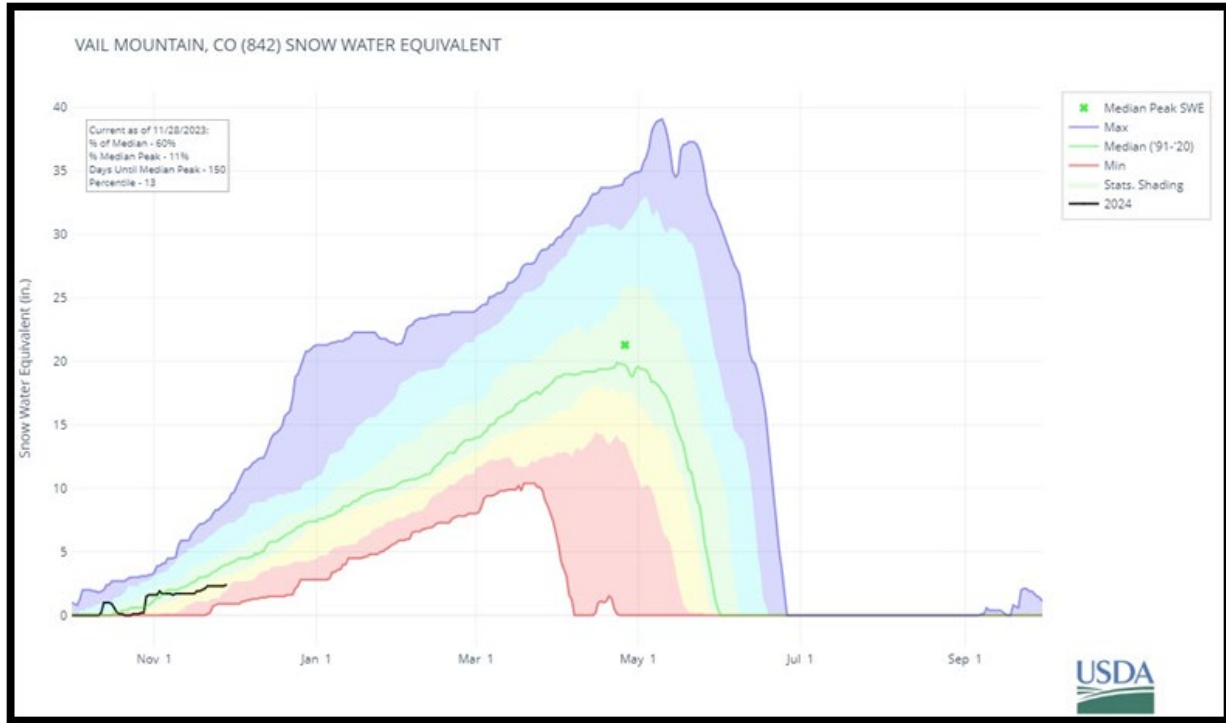
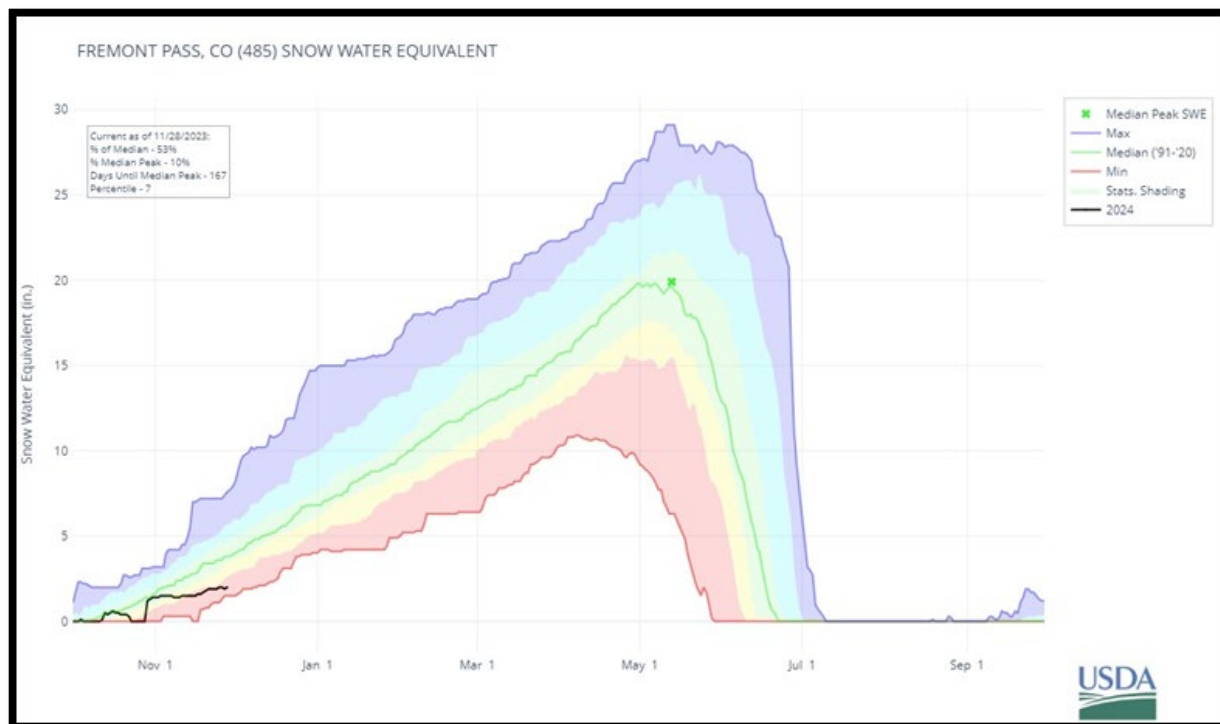


Figure 5: Accumulated Precipitation at Fremont Pass SNOTEL station, November 28, 2023 (USDA)



Reservoir Volumes

Table 1 summarizes the reservoir storage accounts and demonstrates that the reservoir storage accounts are nearly full. Eagle Park reservoir is not currently releasing because there is no call from the Shoshone Power Plant and the Eagle River is above minimum stream flows.

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

November 1, 2023 Volumes in Storage (acre-feet) and Percentages of Full:

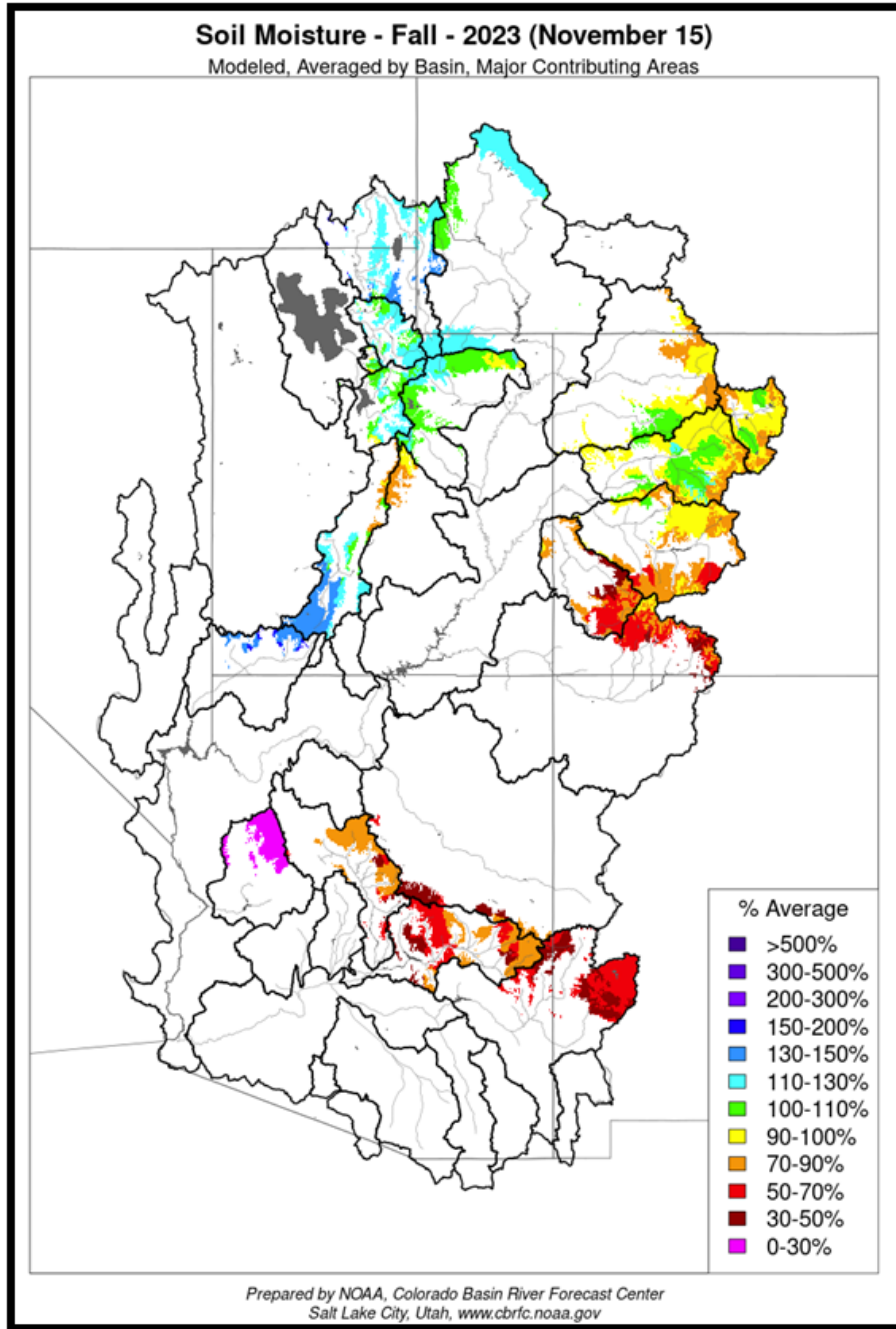
Reservoir	ERWSD		UERWA		Total	
Green Mountain	934	100%	475	87%	1409	95%
Black Lakes	425	100%	300	100%	425	100%
Eagle Park	431.36	100%	648.86	95%	1080.22	97%
Homestake Res	250	100%	256.50	100%	506.50	100%
Wolford Mtn	500	100%	708.13	100%	1208.13	100%

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

Soil Moisture

The NOAA Colorado Basin River Forecast Center models soil moisture across the Colorado River Basin. This soil moisture significantly influences the volume of stream flow absorbed by the riparian zone during spring runoff. Lower soil moisture levels diminish the quantity of stream flow accessible to downstream water users and the environment. In the Eagle River Basin, soil moisture levels vary from average in the lower elevations to 70% to 100% in the higher elevations.

Figure 6: November 25, 2023, Soil Moisture



Authority Unallocated In-Basin Storage Supply

Updated: 11/29/2023 by JEC

	In-basin Reservoir Storage, acft Affordable Housing Reserve ²	In-basin Reservoir Storage, acft Unrestricted ³
Available Unallocated In-Basin Storage¹	87.40	25.00
Dedication Requirements for New Projects		
State Land Board (Avon)	15.48	--
Eagle-Vail Presbyterian Church Employee Housing	0.16	--
Total Pending Dedications	15.63	0.00
Remaining Unallocated In-Basin Storage	71.77	25.00

Notes:

1) Available Unallocated In-Basin Storage based on modeling for February 2023 Water Rights Report using Buildout Demands with Conservation and 95th Percentile Dry Year Hydrology under Median Climate Change Scenario.

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

3) Unrestricted In-basin Reservoir Storage includes 25 acft option to be purchased from ERWSD.



UERWA New Development Report, November 2023

Project Location	Type of Use	Water Source	SFEs Proposed	Augmentation Requirement (acre-feet)	Application Initiation Date	Development Approval Process Step:	Construction Approval Process Step:	
Gracious Savior Lutheran Church and Eagle County School District Housing Project	Residential	Unallocated	6	TBD	November 22, 2023	1. Connection Application	0. Conceptual	
State Land Board Parcels Avon	Mixed	Unallocated	700 + 60,000 SF Com	12.9	August 7, 2023	2. Water Analysis	0. Conceptual	
Eagle River Presbyterian Church Housing Unincorporated ECO	Residential	Unallocated	2	0.17	June 20, 2023	2. Water Analysis	1. Plan Review	
Margaux PUD Edwards	Residential	Unallocated	32	3.56	October 11, 2021	3. Cond. Capacity Expires October 9, 2023	0. Conceptual	
Edwards River Park PUD Edwards	Mixed	Unallocated	440 + Com	70.2	December 2, 2016	3. Cond. Capacity Expire December 31, 2023	0. Conceptual	
Projects not requiring or that have completed Water Rights Dedication								
Vail Valley Foundation Childcare Center Traer Creek	Mixed	Traer Creek Water Service Agreement	TBD		October 13, 2023	1. Connection Application	0. Conceptual	
Slopeside Housing Avon	Residential	Avon SFE Guarantee	TBD		October 5, 2023	1. Connection Application	0. Conceptual	
Eagle County - Freedom Park Project Edwards	Mixed	Berry Creek Allocated Water Rights	20 + Com	3.28	June 7, 2023	2. Water Analysis	1. Plan Review	
140 W BC BLVD Hotel Avon	Residential	Avon SFE Guarantee	79		May 16, 2023	N/A	1. Plan Review	
Tract Y- Metcalf Road Avon	Residential	Avon SFE Guarantee	53		February 16, 2023	5. Ability to Serve Letter	2. Plan Approval	
CMC Student Housing (Phase I & II) Berry Creek	Residential	Berry Creek Allocated Water Rights	72		February 16, 2022	5. Ability to Serve Letter	4. Final Acceptance	
Avon Dual Brand Hotel Traer Creek - Tract J	Commercial	Traer Creek Water Service Agreement	85.05		February 4, 2022	5. Ability to Serve Letter	3. Under Construction	
ECO School District Housing Berry Creek	Residential	Berry Creek Allocated Water Rights	37		August 12, 2021	5. Ability to Serve Letter	3. Under Construction	
McGrady Acres Avon	Residential	Avon SFE Guarantee	24		August 5, 2021	5. Ability to Serve Letter	3. Under Construction	
Riverfront Lot 1 Avon	Residential	Avon SFE Guarantee	53		December 22, 2020	N/A	3. Under Construction	
Maverik Gas Station Traer Creek	Commercial	Traer Creek Water Service Agreement	2.6		November 11, 2020	5. Ability to Serve Letter	4. Final Acceptance	
NorthStar PUD Amendment Edwards	Commercial	Unallocated	TBD	3.7	November 3, 2020	5. Ability to Serve Letter	3. Under Construction	
West End PUD Amendment Edwards	Residential	Unallocated	275	34.25	February 27, 2019	3. Cond. Capacity Reissued Nov. 15, 2023	1. Plan Review	
Frontgate (CO World Resorts) Avon	Mixed	Unallocated	84	2.6	December 12, 2017	5. Ability to Serve Letter	3. Under Construction	
Fox Hollow Amended PUD Edwards	Mixed	Unallocated	108	14	February 28, 2017	5. Ability to Serve Letter	3. Under Construction	
Projects Completing Construction Warranty Period								
185 Elk Tract, Piedmont Apartments, Riverfront Village, Stillwater								
Development Approval Process Steps:	1. Connection Application			2. Water Demand Worksheet Analysis	3. Conditional Capacity to Serve Letter	4. Water Rights Allocation & Service Agreement		5. Ability to Serve Letter
Construction Approval Process Steps:	0. Conceptual			1. Plan Review	2. Plan Approval	3. Under Construction		4. Final Acceptance



ERWSD New Development Report, November 2023

Project Location	Type of Use	SFEs Proposed	Additional Water Rights Required	Application Initiation Date	Development Approval Process Step:	Construction Approval Process Step:
Timber Ridge II Redevelopment	Residential	294 (195.4 net increase)	2.2	July 25, 2023	2. Water Analysis	1. Plan Review
Maloit Park ECO School District Housing Minturn	Residential	138		July 21, 2023	N/A	0. Conceptual
Midtown Village PUD Minturn	Mixed	42 + Com		October 13, 2022	N/A	1. Plan Review
North Minturn PUD Minturn	Residential	36		October 10, 2022	N/A	0. Conceptual
Middle Creek Lot 4,5 Vail	Mixed	64	0.72	June 28, 2022	0. Conceptual	0. Conceptual
Wolcott PUD Wolcott	Mixed	360 + Com		May 11, 2022	0. Conceptual	0. Conceptual
The Residences at Main Vail Vail	Residential	72	0.81	February 11, 2021	5. Ability to Serve Letter	4. Final Acceptance
Belden Place (1200 Block Main St) Minturn	Residential	41		December 23, 2020	N/A	2. Plan Approval
Highline (Double Tree Expansion) Vail	Residential	43.65	0.79	July 11, 2019	5. Ability to Serve Letter	2. Plan Approval
500 E Lionshead Circle - Legacy Vail	Residential	20	0.29	August 29, 2018	4. Water Rights Allocation & Service Agreement	3. Under Construction
Alura (Miradoro) Vail	Residential	10	0.405	May 29, 2018	4. Water Rights Allocation & Service Agreement	3. Under Construction
534 E Lionshead Circle - Elevation Vail	Residential	12	0.31	May 14, 2018	1. Connection Application	0. Conceptual
Booth Heights East Vail	Residential	TBD	TBD	August 23, 2017	1. Connection Application	0. Conceptual
Projects Completing Warranty Period						
3010 Basingdale (Phase II), 841/851 Main St Minturn, Red Sandstone Parking Garage, VVMC Phase II-East Wing, Vail Marriot Residence Inn						
Development Approval Process Steps:	1. Connection Application	2. Water Demand Worksheet Analysis	3. Conditional Capacity to Serve Letter	4. Water Rights Allocation & Service Agreement	5. Ability to Serve Letter	
Construction Approval Process Steps:	0. Conceptual	1. Plan Review	2. Plan Approval	3. Under Construction	4. Final Acceptance	



MEMORANDUM

TO: Boards of Directors

FROM: Jason Cowles, Director of Engineering and Water Resources
Justin Hildreth, Water Resources Engineer

DATE: November 29, 2023

RE: Bolts Lake Update

This memorandum provides an update on the Bolts Lake project and the project schedule.

Bolts Lake Background

Bolts Lake is a 1200-acre-foot reservoir planned on property owned by the District and Authority (D&A) south of Minturn, situated between Maloit Park and Tigiwon Road (refer to Figure 1). The D&A water demand projections which include future growth and climate change impacts highlighted the necessity for additional in-basin storage to augment depletions primarily for the benefit of the Authority. A feasibility study confirmed the Lake's technical viability and Cross Creek and Eagle River diversions can fill the reservoir. The D&A subsequently purchased the site from the Battle North developers.

Project Status

The D&A retained Shannon and Wilson, Inc. (S&W) and LRE Water to complete the preliminary design, scheduled for completion in early 2024. This design phase includes geotechnical studies, grading plans, groundwater modeling, soil borrow investigations, water diversions analysis, headgate assessment, and permitting assistance.

Schedule

There are no major changes to the schedule presented in the October Board report (see Attachment A). The preliminary design and cost estimate will be completed in February, and we will present them to the Boards at the March 2024 meeting. Upon completing the preliminary design and selecting the Construction Program Manager, we will initiate the federal, state, and local permitting process.

We anticipate that the permitting and design phase will span a minimum of two years, possibly extending further due to the inherent risk of delays during permitting. Construction by the contractor is scheduled to commence in 2027 after finalizing the design and obtaining permits. The reservoir's construction will take approximately three years, with the earliest feasible completion projected to be in 2029, subject to permitting and project funding.

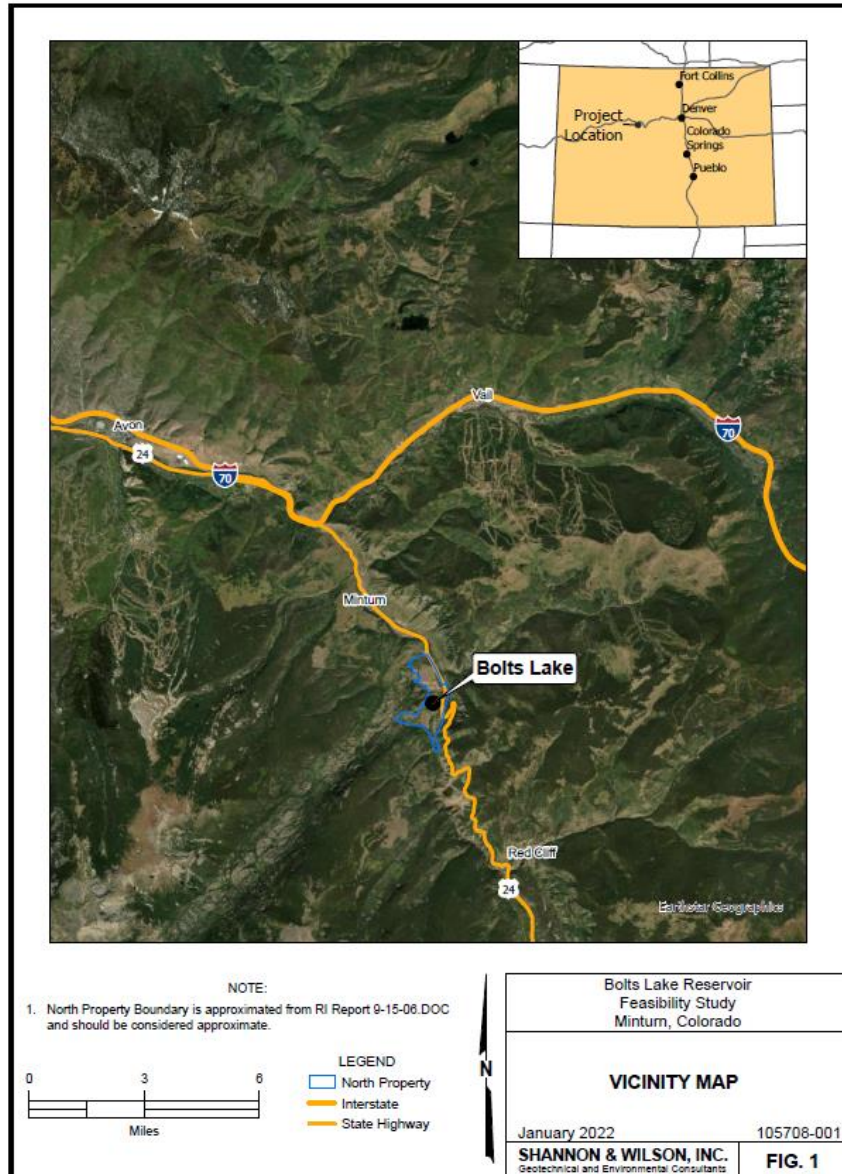


Figure 1: Vicinity Map

United States Bureau of Reclamation Small Storage Program

The United States Bureau of Reclamation (USBR) mandates that Small Storage Program grant applicants complete a feasibility study before applying for funds. S&W is finalizing the study, and we will submit the study to USBR before December 1st. We plan to apply for the USBR small storage program grant in the fall 2024 grant cycle to offset the estimated \$8,000,000 permitting and design expenses. The program offers funding up to 25%, potentially amounting to \$2,000,000.

Program Manager

The Program Manager will be responsible for overseeing and managing the project to completion, including final design, permitting, and construction. Their role involves coordinating all aspects of the construction process, ensuring the contractor adheres to the schedule, stays within budget, and meets quality and safety standards.

We are advertising a Request for Qualifications (RFQ) for Program Manager services, and a Statement of Qualification from interested firms is due on December 7th. There was an optional pre-submittal site visit on November 16 attended by two interested firms. The solicitation process is expected to be completed in January 2024. The Program Manager should be under contract before the completion of the preliminary design phase in early 2024.

Water Supply Alternatives

There are two potential water sources to fill Bolts Lake: Eagle River and Cross Creek (Figure 2). The Cross Creek diversion is the most efficient and cost-effective way to fill the reservoir because it will be a gravity-based system. The preliminary hydrologic models indicate that Cross Creek has adequate flows to fill the reservoir in average to wet years not accounting for long-term climate change impacts. The stream channel geomorphology limits available yield from the Cross Creek diversion in dry years and its location within the Holy Cross Wilderness Area prevents significant modifications to the diversion.

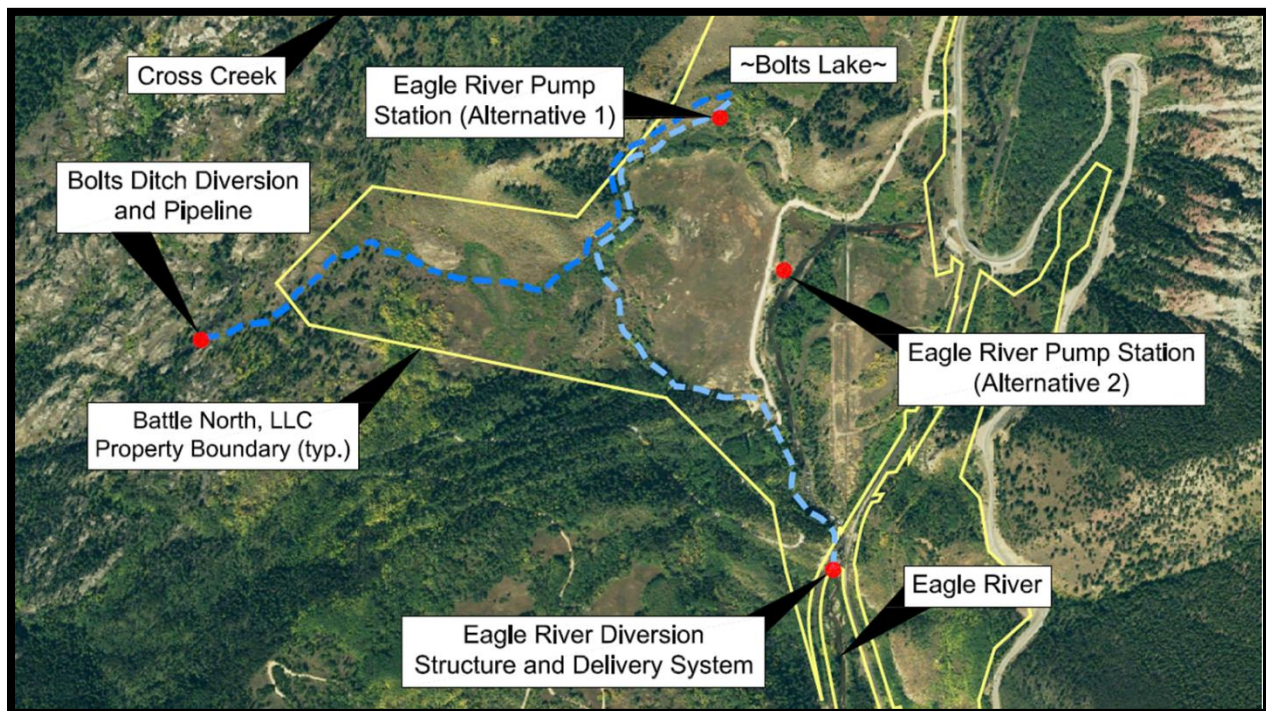


Figure 2: Bolts Lake Water Supply Alternatives

There are two options to divert water from the Eagle River, the first is a 4,930-LF diversion starting south of the site, flowing through a ditch past the old tailings pile, and pumping the water over the dam crest into the reservoir. The Eagle River gravity flow ditch scenario was included in the original Bolts Lake concept, but we have determined the diversion cannot fill the

reservoir to the crest of the dam without pumping. The dam height was raised in the design process to ensure the reservoir has a 1200 AF capacity. The second option is to divert water from the Eagle River just upstream of the reservoir and pump directly to the reservoir. This scenario includes 1,130-FT of 24-IN diameter pipeline, pumphouse, intake structure, and 240-LF access road (Figure 3). The second option requires more pumping but has a smaller construction footprint and consequently lower construction costs.

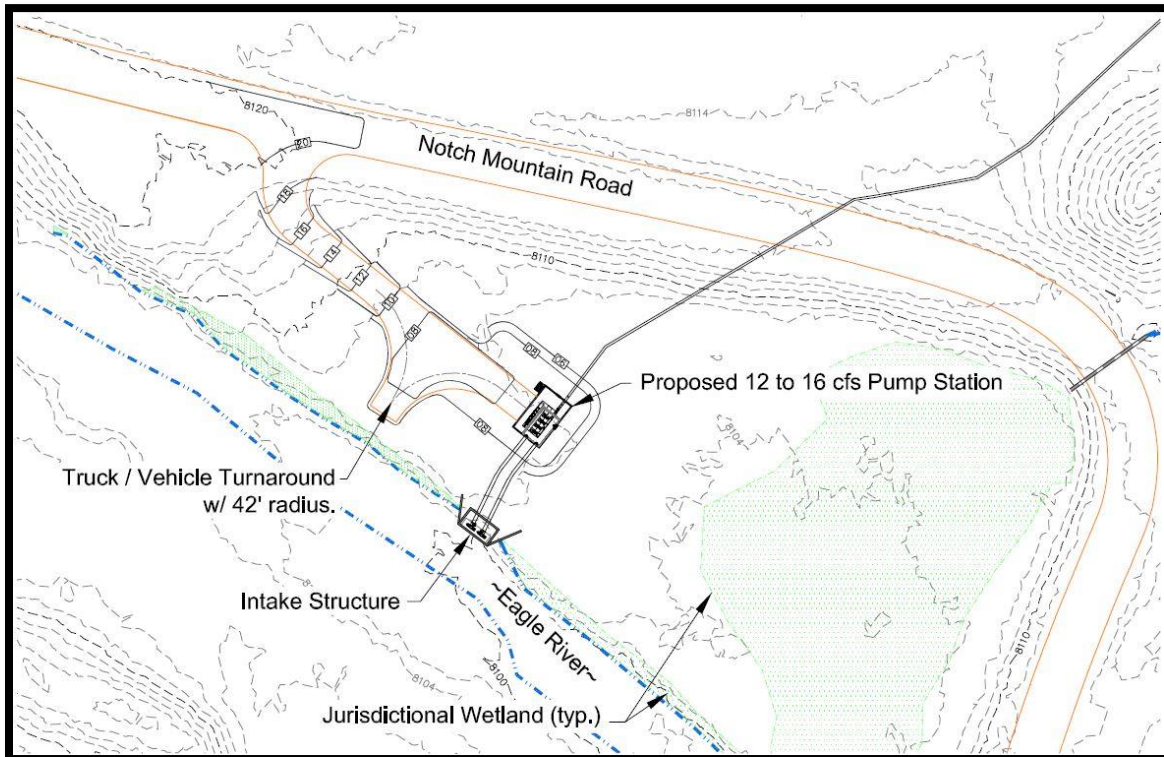


Figure 3: Eagle River Pump Station Layout

We recommend constructing the Cross Creek diversion and Eagle River pump station for three reasons:

1. The Eagle River pump station can assist in filling the reservoir when Cross Creek flows are not adequate because of drought or climate change. The difficult topography and geologic constraints limit the Cross Creek diversion capacity during low flows.
2. It will provide for redundancy if the Cross Creek diversion is not operating properly.
3. It will offer operational flexibility in case of catastrophic watershed impact such as a wildfire.

Firm Yield

The design team modeled the firm yield of the reservoir from Cross Creek and the Eagle River. The historical yield modeling indicates Cross Creek can provide 1,085 AF and Eagle River pump station can provide 995 AF in an average year. The modeling analyzes the diversion's yield based on Eagle River and Cross Creek yearly runoff, existing legal water rights, and senior

downstream water rights calls. The models project that climate change will reduce the yearly runoff from the Eagle River basin by 5% to 20%.

Three recent critical drought sequences were modeled to analyze the reservoir performance (Figure 4). The model results indicate that using only Cross Creek as a water source in the 1990, 2003, and 2022 drought years would not be adequate without the supplemental diversion from the Eagle River.

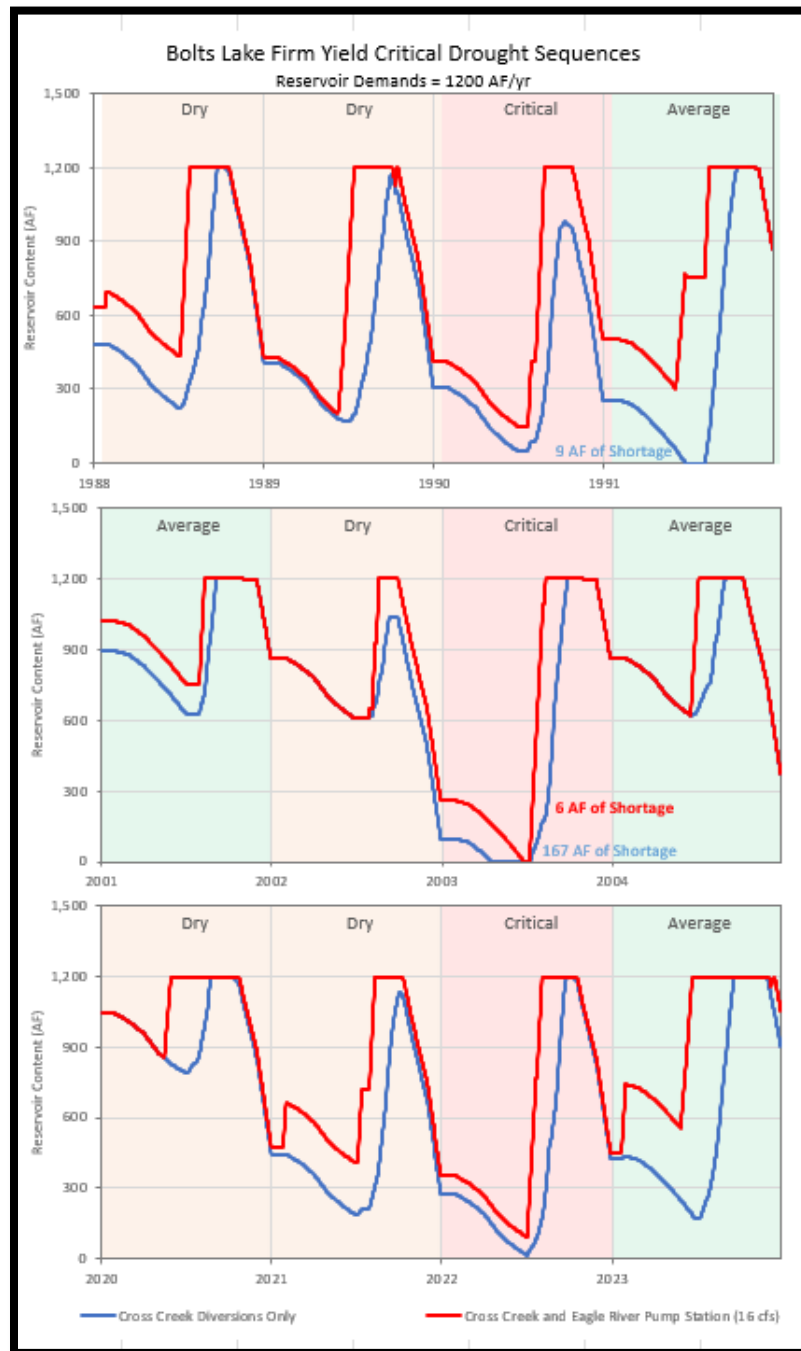


Figure 4: Bolts Lake Firm Yield in Critical Drought Sequences

Groundwater Modeling

Groundwater levels can impact the stability of the reservoir and the liner. A liner system is an essential component of the reservoir, ensuring minimal leakage and enhancing its yield. The liner system will consist of impermeable clay, geomembrane, or a combination of both materials. If the groundwater levels rise above the bottom of the reservoir when reservoir levels are low, it will add upward pressure to the liner system, potentially damaging it and reducing its long-term effectiveness.

The District has historical data from monitoring wells drilled by the Battle North development. The historical well data and groundwater modeling indicate the potential for groundwater levels to rise above the reservoir bottom.

Recognizing the potential impacts of rising groundwater levels, it becomes crucial to implement systems that safeguard the reservoir and its liner. There are two approaches that will prevent the groundwater levels from rising and damaging the liner system, a cutoff trench or a well system. A cutoff trench, while effective, involves excavating a trench along the uphill side of the reservoir, making it a significantly more expensive solution compared to a well system. The model indicates that 3 to 5 pumping wells will be adequate to prevent the groundwater level from rising above the bottom of the reservoir. Well-pumping tests conducted as part of the next design phase will confirm the number and spacing of the wells. The groundwater model guides our understanding of potential challenges, and the upcoming well-pumping tests in the next design phase will further refine our approach to ensure the stability and longevity of the reservoir.

Bolts Lake Design and Grading Plan Update

The most recent Bolts Lake design confirms that a 1200 AF reservoir can fit within the physical constraints of the site (Attachment 2). The physical site constraints include the US HWY 24 right-of-way, steep soil slopes to the north, OTP to the west, bedrock outcropping to the south, shallow groundwater because of proximity to Cross Creek and the Eagle River, and the highly permeable soils. The reservoir requires a 59-FT tall dam on the east side parallel to US HWY 24 and a smaller 25-FT tall dam on the southwest corner. The dam crest elevation will be at 8,153 and the water surface elevation at 8,150. The State Engineer's Office will likely classify the dam as a high hazard because of its height and proximity to the Town of Minturn. The classification increases the design review and ongoing monitoring and maintenance requirements. The classification is common for dams in developed areas and includes Black Lake #1 and Eagle Park Reservoir.

Attachments:

1. Bolts Lake Reservoir Project Schedule
2. Bolts Lake Reservoir Grading Plan, November 27, 2023

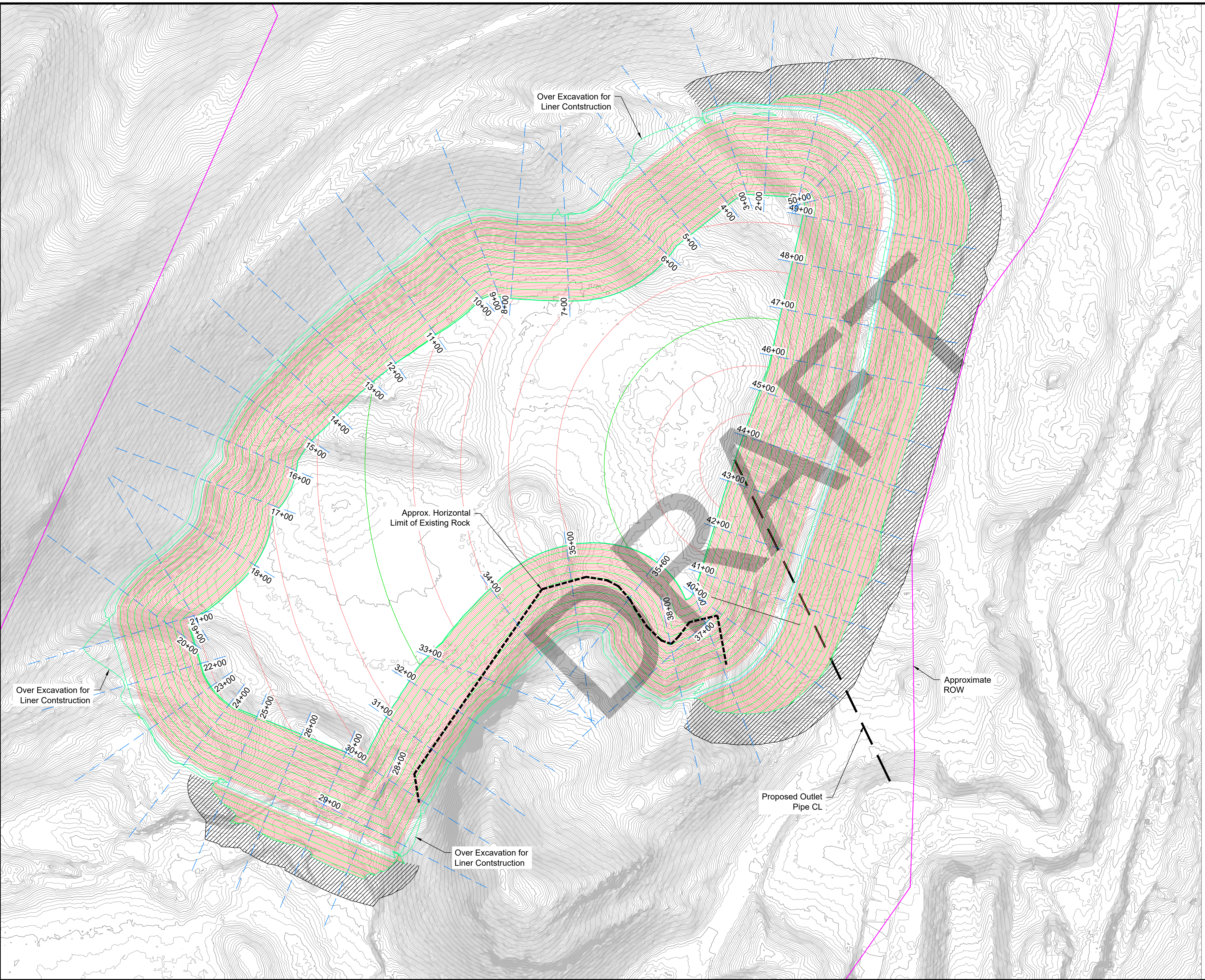
BOLTS LAKE RESERVOIR PROJECT SCHEDULE

EAGLE RIVER WATER AND SANITATION DISTRICT
UPPER EAGLE REGIONAL WATER AUTHORITY



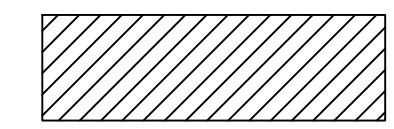
PREPARED DATE 10/16/23

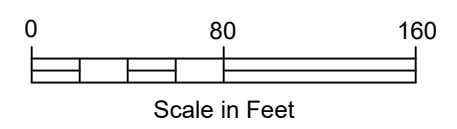
TASK	Duration	2023				2024				2025				2026				2027				2028				2029				2030				2031			
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
9	Prepare Cat Ex/EA or EIS																																				
13	Section 7 Endangered Species Consultation with US Fish and Wildlife																																				
14	Permit Approvals and Decision Documents																																				
PROGRAM MANAGER																																					
1	Prepare Request for Qualifications																																				
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4	Program Manager Assists with Project Development, Final Design & Permitting																																				
5	Program Manager Manages Construction																																				
CONSTRUCTION MANAGER (CONTRACTOR) SELECTION AND CONSTRUCTION																																					
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7	Construction Manager Obtains State and Local Construction Permits																																				
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9	Warranty																																				

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LEGEND

-  PROPOSED CONTOURS (1' & 5')
-  EXISTING CONTOURS (2' & 10')
-  Property Ownership Easement per rules and Regulations for Dam Safety and Dam Construction (7.9.3.1)





MEMORANDUM

TO: Boards of Directors
FROM: Diane Johnson, Communications & Public Affairs Manager
DATE: December 7, 2023
RE: Communications and Public Affairs Report

2024 rates and conservation outreach

The billing comparison / 2024 rates mailer began arriving to customers about Nov. 15. Customer Service has received a manageable number of calls and website analytics show an increase in page views of the rates and conservation pages.

Water and urban landscapes media series

Former longtime Vail Trail reporter and editor Allen Best researched and wrote a [five-part series about water and urban landscapes](#) in a collaboration with Aspen Journalism, which began releasing the series on Nov. 9 to the Vail Daily and other Colorado news outlets. The district is prominently featured in Part 2, [At Colorado River's headwaters, questions about whether there's enough water for lawns](#), (also attached). Part 3 focuses on homeowners' associations and Part 4 examines what it takes for a homeowner to kill their existing lawn in favor of something more water-wise.

Colorado River Operations

The Bureau of Reclamation released its Revised draft Supplemental Environmental Impact Statement (Draft SEIS), [Near-term Colorado River Operations](#) on Oct. 25. The 700-page revised Draft SEIS designates the Lower Basin plan as its proposed action, although the no-action alternative is still on the table. As a reminder, the Lower Basin committed to conserve at least 1.5 million acre-feet of water by the end of 2024 and planned to conserve the rest of the 3 million acre-feet by 2026.

Reclamation started its near-term planning process in 2022 and released its first draft proposal in April. People have until Dec. 11 to submit comments in response to the revised proposal, after which the Bureau of Reclamation will release its final plan. A variety of media reports are attached or linked below.

District in the news:

1. Nov. 16, Vail Daily: [At Colorado River's headwaters, questions about whether there's enough water for lawns](#)
2. Oct. 26, Vail Daily: [Some Eagle County residents will see their water rates increase in 2024](#)
3. Oct. 24, Vail Daily: [Colorado River water commissioner visits Vail to share insights on how to protect local resource](#)

Attachments (and/or hyperlinks):

1. Nov. 19, Colorado Sun: [Colorado River crisis: How did the nation's two largest reservoirs nearly go dry?](#)
2. Nov. 16, Colorado Sun: [A small hydroelectric plant with big water rights is the center of a proposal to keep Colorado River water flowing west](#)
3. Nov. 15, LA Times: [Colorado River in Crisis: A Los Angeles Times documentary](#) (46 min film)

4. Nov. 10, Big Pivots: [Colorado squeezing water from urban landscapes, an overview](#)
5. Nov. 9, Colorado Sun: [New Douglas County water commission includes former state official, real estate developer](#)
6. Nov. 9, ProPublica: [The 20 Farming Families Who Use More Water From the Colorado River Than Some Western States](#)
7. Nov. 6, Colorado Sun: [Prohibition on thirsty, decorative grasses in Colorado gains early support among legislators](#)
8. Nov. 6, Colorado Sun: [How \\$500M in federal infrastructure money is being spent in Colorado](#)
9. Nov. 3, Colorado Sun: [Federal government's short-term Colorado River stabilization plan paints a "rosy" picture](#)
10. Nov. 2, Colorado Sun: [Western Slope water interests make \\$98.5M play to buy some of the Colorado River's oldest water rights from Xcel](#)
11. Oct. 26, Colorado Sun: [Feds favor Lower Basin water cuts as part of short-term plan to stabilize Colorado River reservoirs](#)

At Colorado River's headwaters, questions about whether there's enough water for lawns

The Western Slope delivers 70% of the Colorado River water. So why do Aspen, Vail, Grand Junction and others want to replace thirsty turf?

News [FOLLOW NEWS](#) | Nov 16, 2023



Allen Best

[FOLLOW](#)



The Yampa River, shown here in 2018, was reduced to a trickle that year because of drought and high temperatures, shutting down fishing, boating and other uses. John Russell/Steamboat Pilot & Today

Editor's note: This story, a collaboration of Big Pivots and Aspen Journalism, is the second part of a series that examines the intersection of water and urban landscapes in Colorado.

If you've ever slipped and spun your way across Vail Pass through a wet, heavy snowstorm, you can be excused for wondering how Eagle River Valley communities could ever have too little water.

Vail and its neighbors do have that problem, though. It has become evident in the growing frequency of drought years in the 21st century. [↗](#)

First came 2002. Water officials, verging on panic, restricted outdoor water use. The drought was believed to be the most severe in 500 years. Fine, thought water officials as rain and snow resumed, we're off the hook for at least our lifetimes.

In 2012 came another drought, one nearly identical in severity. More bad years followed in 2018 and 2021. The Eagle River normally chatters its way down the valley through Avon and to a confluence with the Colorado River near Glenwood Canyon. In those bad drought years, it sulked. The shallow water was hot enough to endanger fish.



Colorado River flows have declined 20% since 2000. Having water rights is not enough. And the future looks even hotter and, because of that heat, drier. Brad Udall, a senior scientist and scholar at Colorado State University, warns of up to 20% additional flow loss by midcentury.

Average temperatures in the Colorado River Basin are projected by the [U.S. Bureau of Reclamation](#) to rise 5 to 6 degrees Fahrenheit during the 21st century. The agency projects slightly greater increases in Colorado and other Upper Basin states.

In Vail, managers of the Eagle River Water and Sanitation District have decided they need more storage. They plan a 1,200-acre-foot reservoir near Minturn called Bolts Lake. That compares with the 257,034-acre-foot storage of Dillon Reservoir. At that capacity, this new reservoir will be the most cost-effective way to ensure resilience as the climate becomes more variable. With the reservoir, they hope to capture water during high-runoff years for use in the district's service territory from Vail through Edwards.

Demand reduction will be another tool of growing importance in a hotter, sometimes drier climate. Managers hope to reduce water demand in the district 5% by 2026 even as new housing, especially more affordable units, gets built. That's 400 acre-feet per year.

The most productive place to wring these savings will be in water used for outdoor landscapes. Only 25% – or even less – of water applied to lawns returns to streams and rivers compared with 95% of water used indoors.

Siri Roman, the district's general manager, said short-term change, such as restricted lawn watering in drought years, can be a strategy. But her district wants to effect permanent change.

"It's not about drought years," she said. "It's about a drying climate. We have to get people to shift their attitudes, to know that water is getting to be more scarce."

Roman's district, like other water utilities in Colorado, is targeting nonfunctional turf. Precise definitions vary, but nonfunctional generally refers to grasses that require large volumes of water to irrigate but rarely see human feet except when mowed. It is also described as aesthetic turf.

Three years ago, the Eagle River Water and Sanitation District began offering rebates of \$1 per square foot to customers willing to replace thirsty lawns with landscapes that use less water. Using state aid, the district this year bumped up the incentive to \$2.

"We are not saying it needs to be stone and look like Arizona," Roman said.

Directors of the district in October also agreed to new tiered rates that will discourage high-volume consumption.

Other Western Slope communities have also set out to discourage thirsty landscape choices. Motivations vary, but for many, there is also an acknowledgment of the need to walk the talk of water conservation expected of Front Range communities. "That is something I hear a lot from communities I am working with," said Marjo Curgus, a consultant.



Siri Roman, general manager of the Eagle River Water and Sanitation District, has been trying to reduce demand while increasing storage in expectation of a hotter, drier future.

Courtesy photo

'Lawn Begone' in Durango

Almost a decade ago, Steve Harris, a water engineer in Durango, summoned the local news media to his house to watch him remove sod from his front yard. He also had bumper stickers produced: "Lawn Gone." In an editorial, the Durango Herald offered an alternative: "Lawn Begone."

Harris believed that Colorado needed to make clear that decorative lawns had less value than agriculture. He worked with his state legislators to draft a bill that would have limited transfers of agricultural water to cities if that water went to lawns. As for his own lawn, Harris thought that he and others on the Western Slope couldn't just pay lip service to this idea.

At the Colorado Capitol, the bill that was introduced in 2014 by then-Sen. Ellen Roberts and then-Rep. Don Coram was quickly shelved. Local governments objected. So did ag producers who thought state legislators had no business blocking their abilities to sell water rights.

Instead, the idea was directed to an interim committee for further study. Bills sometimes get sent there to die. In this case, the conversation continued, as Roberts had intended.

Since then, legislators have adopted several laws. A bill that passed in 2022, [House Bill 22-1151](#), does not institute a prohibition but instead allocated \$2 million to the Colorado Water Conservation Board, \$1.5 million of which went to local jurisdictions to spur voluntary replacement of irrigated turf.

The law asserts that for every 100 acres of turf converted to water-wise landscaping, up to 200 acre-feet of water can be conserved. The act defines water-wise landscaping as a water- and plant-management practice that emphasizes using plants with lower water needs.

Whether that much water gets saved also depends upon whether irrigation systems are changed to match the lesser water needs of the new landscapes. Grass that needs 12 inches of supplemental water per year need not continue to get 25.

All that funding has now been allocated. On the Western Slope, the municipalities of Cortez, Glenwood Springs and Frisco were awarded funds as was the Eagle County Conservation District. The state agency said 25% of turf-replacement funds were for Western Slope entities.

Rep. Marc Catlin of Montrose and then-Rep. Dylan Roberts of Frisco, two of the four prime sponsors, are from the Western Slope. Another prime sponsor, Sen. Cleave Simpson of Alamosa, now has a district that encompasses southwest Colorado, while Roberts has become a senator.

Without state funding, Montrose County approved grants for seven turf-replacement projects.

“From the start, I thought this initial effort might have more value from an education and outreach perspective than actual water savings,” said Justin Musser, the county’s natural resources manager.

Projects were chosen based on various objectives. For example, do the new landscapes provide energy savings or wildlife benefits? “We are not overly prescriptive,” said Musser. “If you have a good plan that references standards from the Colorado State University Extension or another reputable source, the application gets a higher ranking.”



An irrigation canal in Grand Junction. The Western Slope's largest city wants to see more careful use of water for urban landscaping.
Allen Best/Big Pivots

Why would Montrose County be interested in yanking sod to save water?

“It’s important that we look at these types of things across the Colorado River basin,” Musser said. “We would want people in California and Arizona and Nevada to be looking at these types of programs, too. I think it makes sense for a place like Montrose County to be conserving water as much as we can, too.”

But, he added, this is “one part of a very complex issue.”

Droughts versus aridification

The Western Slope of Colorado produces 70% of the water in the Colorado River, according to the Colorado River Water Conservation District. Some of that water stays in Colorado. About half of the water for Front Range cities comes from the Western Slope. Yet more of the Colorado River gets diverted to farms in the South Platte and Arkansas river valleys.

And, of course, water from the Western Slope flows downstream to farms and cities in Arizona, California and Nevada.

The Colorado River has infamously been falling short of meeting all demands. The river first failed to reach the Sea of Cortez in the 1960s and, as diversions in Arizona and elsewhere expanded, has ceased to reach the sea altogether since the 1990s — save for an especially engineered pulse in 2014.

In 1922, when delegates of the seven states met to negotiate the Colorado River Compact, they assumed that flows of the early 20th century would be the norm, delivering more than 20 million acre-feet. As Eric Kuhn and John Fleck explain in their book, "Science Be Dammed: How Ignoring Inconvenient Science Drained the Colorado River," it had been a wet period.

It didn't stay that wet, and in the 21st century, it has been delivering far less water, an average 13.2 million acre-feet through 2022. Andy Mueller, general manager of the Glenwood Springs-based Colorado River District, and others have warned that continued warming could depress flows to 9 million acre-feet during coming decades. Or even less.

Grand Junction more recently adopted regulations curbing water needed for urban landscaping. The city has adopted sustainability goals, "and water plays a big part of that," said Randi Kim, utilities director for the city of 69,000 people.

Cost savings enter into the city's calculation as it prepares for a projected 91,000 residents by 2040. The municipal utility taps high-quality water from Kannah Creek, which originates on Grand Mesa. When that is insufficient to meet demands, as the city utility projects will be the case by 2040, the city will tap the Gunnison River but will need to pay more to treat the dirtier water.

Rising heat can also drive higher demand. Grand Junction in July reached 107 degrees, tying the record that had been set just two years before. The city's 13 highest temperatures have occurred this century.

This is but one aspect of the changing and drying climate, a process that many – including Kim – describe as aridification. "I think people realize that we have to change the way we use and manage water, and it really affects every aspect of our lives," she said.

Grand Junction's new regulations apply to new developments. Turf that does not meet the city's definition of "functional" cannot exceed 15% of landscaping. The new regulations also require low-water vegetation in traffic medians and some other common areas.

Steamboat Springs, although cooler and wetter than Grand Junction, faces similar challenges. It gets 24 inches of precipitation a year, compared with 10 inches for Grand Junction. Some years, the snow along the streets of Steamboat gets piled higher than the head of a rim-rattling professional basketball player.

These prodigious snowfalls have not been yielding equally impressive runoffs in the Yampa River. Several times during the longer, hotter summers of the 21st century, the river slunk to such shallow depths that water officials decreed a temporary end to fishing. It almost happened again in July before temperatures cooled and rain arrived.

"We were one day from the river being shut down again," said Madison Muxworthy of the Yampa Valley Sustainability Council, a nonprofit. "It was crazy."

Muxworthy calls the Yampa River the "life beat of our community." The description is apt. Kayakers paddle amid the waves during runoff months, and anglers drop lines every season. There are always people along the river banks.

In 2021, heeding local sentiment, the sustainability council launched a water conservation program focused on outdoor use. Working with the city government and Mount Werner Water and Sanitation District, the group created a guidance document for landscapes called "Yampascaping." Four educational workshops this year were well attended.

"Citizens are really interested in this because they see the impacts from climate change that we're already having," said Muxworthy, her organization's soil moisture, water and snow program manager. "It's really easy for them to make the connection and want to do something about it."

The Mount Werner district, which serves the base of the city's bigger ski area, offers rebates of \$1 per square foot for turf removal.

Eighty miles south of Steamboat, at a 131-unit multifamily project along the Eagle River called The Reserve, turf-removal incentives of \$2 per square foot have also helped the homeowners association replace a half-acre of thirsty grasses with native vegetation. The homeowners hope to replace another 60% of the more

than 4 acres of common area.

Saving water is paramount in the mind of Deb Forsline, a director of the homeowners association. She sometimes lulls her grandchildren to sleep with the soothing sound at the river's edge and, at other times, accompanies her husband on fishing expeditions, knitting while he dangles lines. "It's about saving water for the river, not the money," she said of the efforts to reduce water for landscaping.

Diane Johnson, communications and public affairs manager at Eagle River Water and Sanitation District, concurs. The \$2 per square foot "helps move the thinking of people who have already been thinking about it," she said.

Roman, the district's general manager, points to the innate connection that most of her district's 31,000 consumers have with the outdoors. "A lot of people who live here year-round know that it is irresponsible to overuse."



A house in downtown Steamboat Springs demonstrates what is possible with alternatives to turf grass.
Allen Best/Big Pivots

A steeper staircase of water rates

After the 2002 drought, the Eagle River district adopted an inclining block rate structure. The more you use, the more you pay. The district got inconsistent results. Larger homes and those with more expansive and water-intensive landscaping dropped their use in smaller percentages than smaller homes. The rate structure had been flawed, allowing larger homes to pay less per 1,000 gallons than smaller homes for the same volume of water. Different rates were needed to snag the attention of high-volume consumers.

Aspen had the same problem. It adopted tiered water rates in 2005. Managers thought the rates would discourage high volumes of consumption. But even in drought years, some properties continued stubbornly high volumes.

In 2017, Aspen adopted a new approach. The regulations require reduced water use in the landscape and irrigation plans for new and redeveloped projects. Such caps are called budgets. Like Denver and Boulder, Aspen has almost no new development of raw land. The law imposes a hard cap of 7.5 gallons per square foot of landscape. That's about a foot of water, or roughly half of the supplemental water required in Colorado for Kentucky bluegrass. The law also requires so-called "smart" irrigation systems and alternative plants but leaves some flexibility in how developers and their consultants stay within the water budgets.

So far, 110 to 120 projects in Aspen have been reviewed, but only 15 to 20 have been executed – still too soon to discern clear results in water savings for the city, said Rob Gregor, utilities permit coordinator. Still, the city has leveled its water use and hopes to achieve even greater efficiencies in water devoted to residential and commercial landscapes. That could leave more water in Castle Creek and the Roaring Fork River, one of the goals of the program.

Durango, with 19,000 people and a projected population of 25,000 by 2035, has considered using rates to nudge high-volume users to less demanding landscapes. Justin Elkins, utilities manager, said the city hopes to encourage voluntary reductions in water use by allowing water users to monitor the volume of their use and compare it to consumption by their neighbors.

The Ute Water Conservancy District has successfully used rates to encourage water conservation. The Grand Junction-based district delivers water to rural and exurban areas of the Grand Valley from Cameo to the Utah border. Customers tend to be more responsive “when it hits them in the pocketbook,” said Andrea Lopez, the district’s external affairs manager. “As they use more water and enter into tiers that become steeper with the more they use, we usually see a reduction in use.”

That’s what Eagle River Water has done. Like Aspen, the Vail Valley has some wealthy homeowners. Under the old tier system, somebody in a smaller home paid more per gallon than somebody in a larger home, if they both used the same large volume.

Beginning in January, Roman was on the agenda of everybody from Rotary clubs to Eagle County commissioners. “Really, this is targeting our excessive users,” she told the Vail Town Council at a June meeting. “They’re the ones that are going to feel this.”

District directors in October approved the new tiered rates that intend to discourage high-volume consumption.



Aspen Journalism

In Wildridge, a neighborhood on the south-facing slopes of Avon, Linn Brooks has shown what is possible in landscape conversions. Fifteen years ago, before she started transitioning her landscape, her home used 15,000 to 25,000 gallons a month. Now, it uses, at most, 7,000 gallons a month and her landscape is commanding.

The takeaway, she said, is that communities can have vibrant landscapes and protect property values – and still use less water.

Allen Best, a longtime Colorado journalist, publishes *Big Pivots*, which tracks the energy and water transitions in Colorado and beyond. Aspen Journalism is a nonprofit, investigative news organization covering water, environment and community. This story is part of a five-part series produced in a collaboration between Big Pivots and Aspen Journalism. Find more at <https://bigpivots.com> and at <https://aspenjournalism.org>

WATER

A small hydroelectric plant with big water rights is the center of a proposal to keep Colorado River water flowing west

A coalition of anglers, growers and water districts in the region say preserving the water right would aid them long into the future, but a major state water agency has big questions



Shannon Mullane

3:47 AM MST on Nov 16, 2023



Shoshone Dam, here on August 13, 2021, near Glenwood Springs, is generating electricity through its turbines on the Colorado River. The dam and power plant near the Hanging Lake parking area was constructed in the early 1900s. (Hugh Carey, The Colorado Sun)

A Western Slope coalition is making a play to **buy the water rights of a small hydropower plant** with a big role in how water moves across Colorado. If the group succeeds, farmers, water providers, anglers and rafters say they could sleep more easily for years into the future.

“Any kind of an agreement that would take the unknown out of the situation is a relief and allows me to sleep at night,” said Ken Murphy, who owns the rafting company Glenwood Adventure Company. “Recreation is only one aspect to this, and we’re just a small aspect of this, but a very important aspect in our local community.”

The Shoshone Power Plant, owned by Xcel Energy, is small compared with some of the company’s other power plants, but its right to water on the Colorado River is one of the oldest and largest within state lines. Local economies and communities from Glenwood Springs to Grand Junction are dependent on consistent flows out of the plant and have been worried for decades about another entity snapping up the Shoshone water rights and siphoning off their water supply.

The coalition, led by the Colorado River Water Conservation District, wants to **buy the water rights for \$98.5 million** and lease them back to Xcel, a move it believes would protect the water and keep it in the river forever. The negotiations are in the early stages, and state officials are weighing some fundamental questions about the agreement. But the decadeslong effort to purchase the rights seems to be experiencing a moment of “convergence” that has Western Slope water users feeling hopeful.

“Today, we really are at a historic moment in our pursuit of Shoshone permanency,” said Peter Fleming, general counsel for the Colorado River District. His comments came Wednesday at a meeting of the Colorado Water Conservation Board, or CWCB. The coalition has asked the water agency for a \$20 million grant to help fund the purchase.

The partners have a willing seller in Xcel, support from 17 municipalities and water providers across Western Colorado and access to “incredible” federal and state funding opportunities, he said.

“This is a big convergence that, in my long time at the river district, we’ve never come close to,” Fleming said.

Some board members asked how they could show support without tying up \$20 million during a tight budget year. Others said they understood just how important Shoshone was to water on the Western Slope.

When you live along the main stem of the Colorado River, Shoshone is central to how the whole river system is managed.

“It’s how we all live,” said **Paul Bruchez, a board member and rancher near Kremmling.**



Rancher Paul Bruchez stands at data collection point in a field near Kremmling as part of a research project known as the Upper Colorado Conservation Project. (Jason Houston/Special to The Colorado Sun)

Colorado Attorney General Phil Weiser questioned how the agreement would work, especially the portion related to instream water rights. State law says the CWCB is the only entity in Colorado that can own that type of water right. But as proposed, the river district would hold the title to the right, while assigning its management to CWCB in perpetuity. That’s not how things are ordinarily done, Weiser said.

“An alternative structure could easily be: Xcel doesn’t sell the right, which would then be held by the state as an instream flow right, until it’s done with it,” Weiser said during the meeting. “That would achieve the same result.”

“If we could convince the seller,” Fleming responded.

The board did not vote on the deal or discuss whether it would help fund the effort Wednesday. The deal is still in draft form, but the river district staff hopes it will be able to finalize the purchase and sale agreement in January.

It could take one or two years to wrap up the whole process. After the purchase agreement comes consultation with the Colorado Public Utilities Commission and a water court case to legally update the water right — not to mention pulling together millions of dollars.

Why fight for Shoshone

Western Slope water users are hopeful that the deal will go through. They'll support anything that keeps water flowing west, many said.

"It would guarantee there's going to be water available for Western Slope agriculture in the mainstream of the Colorado Basin," said Steve Child, a rancher and Pitkin County commissioner. "To me, it's as close as you could come to a guarantee that we could keep irrigated agriculture going in this part of Western Colorado."

The Shoshone Power Plant, about 8 miles east of Glenwood Springs, has been sitting on the Colorado River since the early 1900s, although the generating station and its two turbines are easily ignored by drivers speeding down Interstate 70.

The power plant **helps bring consistent flows to hundreds of downstream users.**

There are approximately 140 water diversions that have over 600 combined water rights on the Colorado River main stem below the Shoshone Power Plant and above the Cameo Diversion where the Grand Valley Canal and Grand Valley Project water rights are taken, according to the state Department of Natural Resources.

Glenwood Adventure's Murphy said his business depends on the river. He runs rafting trips on the Colorado River downstream from Shoshone. The flows are consistent enough for him to be able to book trips a year or two in advance, which is key for his business.

The rafting season is also long, sometimes lasting from late March to the end of October. That's helpful for his employees, many of whom work the ski slopes in the winter and want to work in the recreation industry year-round.

"Mother Nature is our boss, and there's nothing consistent these days with Mother Nature," Murphy said. "Any conversations or agreements that can come out to give us consistent flows, then we can manage our operations a little bit easier."

For water providers, more water in the river equals better water quality, which makes it easier to treat for drinking water or to comply with wastewater treatment standards.

 [READ MORE](#)

Colorado River crisis: How did the nation's two largest reservoirs nearly go dry?

4:00 AM MST on Nov 19, 2023

How Democrats are using Colorado's special session to steer tax relief toward the working poor

12:26 PM MST on Nov 18, 2023

Drama, tempers and parliamentary maneuvering at the Colorado Capitol as lawmakers race to offer property tax relief

8:09 AM MST on Nov 18, 2023

The Ute Water Conservancy District **pulls from the river as a backup water source for 88,000 people in the Grand Junction area.** The district, which drew water from the river for the first time in 50 years in 2021, joined the coalition to purchase the Shoshone water rights to keep the status quo and to preserve water flows for the Western Slope.

“It’s important because it provides the flow of water through all of Western Colorado,” said Larry Clever, the district’s general manager. “The big advantage to us is, it helps the irrigators down here with water quality and volume.”



Chemist Allison Dederick checks water quality in the lab at Ute Water Conservancy District in Grand Junction. The district began drawing water from the Colorado River on June 10, 2021, which will require the district to treat its supply differently. (Handout)

Downstream, steady flows are vital for the **Upper Colorado River Endangered Fish Recovery Program**, which runs along a 15-mile stretch of the river near Palisade.

The Colorado River District estimated that, in dry years, Shoshone sends 41,000 acre-feet to 86,000 acre-feet of water through the reach that wouldn’t otherwise be there. That equates to about 17% to 50% of the actual flow on that stretch of the river, Mueller said.

One acre-foot can provide a yearlong supply of water for two to three households.

Colorado water users are required to comply with the Endangered Species Act, and Andy Mueller, general manager of the river district, said Shoshone’s water rights can help Colorado fulfill that obligation.

“Keeping those fish thriving and being successful with that program as we have been over the last 40 years really rests on the back of the Shoshone Power Plant,” he said.

Ryan Davis, owner of Hookers Fly Shop, books trips on the Colorado River from Glenwood Canyon to Rifle.

When water is low and warm, the company can’t use the Colorado River at all because it is closed to protect fish populations, Davis said. During closures, all of the outfitters head to the Roaring Fork River, which leads to lines of boats waiting to launch and overfishing on the river, he said.

He and his team end up telling customers about the river conditions and leave it up to them to confirm the booking. Sometimes customers choose not to, he said.

“A lot of our customers only want to fish on the Colorado, so we book them to take them on the Colorado. If it’s too low or too warm, we can’t take them there,” Davis said. “It does cut into our business quite a bit.”

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MEMORANDUM

TO: Board of Directors
FROM: Brian Thompson, Government Affairs Supervisor
DATE: Dec. 1, 2023
RE: 2024 Proposed Regular Board Meeting Schedule

At the Dec. 7 board meeting, we will be seeking consensus on the 2024 Regular Board Meeting Schedule.

In 2023, the board approved a schedule consisting of 11 regular meeting, one each month January-October and December. There was no meeting in November so that staff could prioritize end-of-year evaluations and work plans. We propose the same cadence for 2024.

Upon direction from the board, this schedule will be incorporated into the 2024 Transparency Notice and the annual Resolution Designating Location to Post Notice, which the board will consider at the first meeting in 2024 per §24-6-402(2)(c), C.R.S.

Additional special meetings, including joint meetings with the Authority board, will be scheduled and noticed as needed.

Please see the Proposed 2024 Regular Meeting Schedule below. Meetings are scheduled for the fourth Thursday of each month except where denoted:

Date	Regular Meeting Time
January 25	12:00 p.m.
February 22	12:00 p.m.
March 28	12:00 p.m.
April 25	12:00 p.m.
May 23	12:00 p.m.
June 27	12:00 p.m.
July 25	12:00 p.m.
August 22	12:00 p.m.
September 26	12:00 p.m.
October 24	12:00 p.m.
December 5*	12:00 p.m.

*meeting scheduled for first Thursday



1155 CANYON BOULEVARD, SUITE 110, BOULDER, CO 80302
OFFICE: 303-449-2834 FAX: 720-535-4921
SOMACHLAW.COM

MEMORANDUM

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

FROM: Kristin Moseley

SUBJECT: Eagle Park Reservoir 25 Acre Foot Option Conveyance from the District to the Authority

DATE: November 29, 2023

As you know, the Authority has informed the District that it wishes to move forward with exercising the Eagle Park Reservoir 25 acre feet purchase option granted pursuant to the Option Agreement entered into between the District and Authority on December 17, 2020. Accordingly, the District has transferred 250 Class A Series 2 shares of Eagle Park Reservoir Company (EPRC) stock to the Authority, which amounts to 25 acre feet of water. The Option Agreement provides that the per acre foot sales price is equal to the current cash in lieu fee outlined in the Water Dedication Policy at the time that the option is exercised. The 2023 Water Dedication Policy provides a cash in lieu fee of \$66,063 per acre foot of water. Accordingly, the total price for the Authority's 25 acre foot option purchase is \$1,651,575.

Attached is a memorandum from District and Authority board chairs, Dick Cleveland and George Gregory, to Brian Thompson, in his capacity as Eagle Park Reservoir Company Board Secretary, providing notice of the stock transfer pursuant to Section 2.3 of the Amended and Restated Bylaws of the Eagle Park Reservoir Company.

Also attached is an executed Special Warranty Deed and Assignment transferring ownership of the 250 shares, which are included within the District's 2334 shares of Class A, Series 2 stock represented by Certificate No. 66. Certificate No. 66 is proposed to be cancelled, and a new stock certificate 68 has been prepared to reflect the District's remaining 2084 shares of Class A, Series 2 stock associated with the former Certificate No. 66 after the 250 share transfer. The Authority's Certificate No. 65 in the amount of 2311 of Class A, Series 2 shares is proposed to be cancelled and replaced with Certificate No. 67 to reflect 2561 shares after the Authority's acquisition of the 250 shares from the District. It is anticipated that this stock transfer process will be completed at the Eagle Park Reservoir Company's upcoming board meeting on December 5, 2023.



November 15, 2023

Brian Thompson, Secretary
The Eagle Park Reservoir Company
846 Forest Road
Vail, Colorado 81657

Dear Secretary Thompson,

Pursuant to Section 2.3 of the Amended and Restated Bylaws of The Eagle Park Reservoir Company, this letter serves as notice to the Secretary of The Eagle Park Reservoir Company ("Corporation") that **Eagle River Water and Sanitation District** ("Transferor") has transferred to **Upper Eagle Regional Water Authority** ("Transferee") two-hundred fifty (250) shares of the Corporation's Class A, Series 2, stock.

The name and addresses of the Transferor and Transferee are provided below:

Name and Address of Transferor

Eagle River Water and Sanitation District
846 Forest Road
Vail, Colorado 81657


Name and Address of Transferee

Upper Eagle Regional Water Authority
846 Forest Road
Vail, Colorado 81657

Attached to this notice is a copy of the Corporation's Stock Certificate #66, representing 2,334 shares of Class A, Series 2, stock owned by Transferor, of which 250 shares will be transferred to Transferee. Also attached to this notice is a duly executed stock power in the form of a Special Warranty Deed from the Transferor to the Transferee.



Dick Cleveland, Board Chair
Eagle River Water & Sanitation District



George Gregory, Board Chair
Upper Eagle Regional Water Authority

SPECIAL WARRANTY DEED AND ASSIGNMENT

For ten dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Eagle River Water and Sanitation District (“Grantor”) hereby sells, grants, transfers, and assigns to the Upper Eagle Regional Water Authority (“Grantee”), whose address is 846 Forest Road, Vail, Colorado 81657, 250 shares of Class A Series 2 stock (the “Subject Shares”) in the Eagle Park Reservoir Company (“Company”), which are included within the 2334 shares of Class A Series 2 stock represented by Certificate No. 66 (copy attached as Exhibit 1), together with all associated water rights, rights for the use of water, and other rights represented by the Subject Shares, and warrants title to the same against all persons claiming under Grantor. Grantor does hereby irrevocably constitute and appoint the Secretary of the Company to transfer said Subject Shares upon the books of the Company with full power of substitution in the premises.

Executed as of this ____ day of _____, 2023.

GRANTOR:

EAGLE RIVER WATER AND
SANITATION DISTRICT

Dick Cleveland, Board Chair

Attest:

By:

Robert Warner, Jr, Secretary

INCORPORATED UNDER THE LAWS OF

COLORADO

NUMBER

65

SHARES

2311

EAGLE PARK RESERVOIR COMPANY

Shares are with \$1.00 par value

This Certifies that Upper Eagle Regional Water Authority, acting by and through its water activity enterprise *is the owner of*
2311 Class A, Series 2 *Shares of the Capital Stock of*

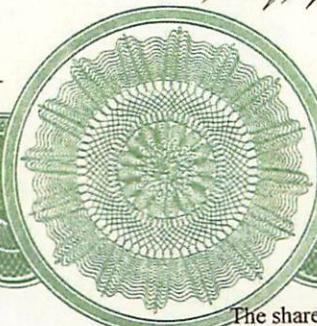
FULLY PAID AND
NON-ASSESSABLE

transferable only on the books of the Corporation by the holder hereof in person or by Attorney upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed this 26th day of March A.D. 20 21

Catherine L Hayes
Secretary

George Dugory
President



The shares represented by this Certificate are subject to Article 11.2 of the Articles of the Incorporation of the Eagle Park Reservoir Company.

No shareholder shall object to another shareholder's use of water from Eagle Park Reservoir or other water to which such other shareholder is entitled by virtue of its ownership of common stock in the Corporation by direct use, augmentation, exchange, replacement or substitution.

CERTIFICATE
FOR

SHARES
OF
CAPITAL STOCK

ISSUED TO

DATED

For Value Received _____ *being sold, assign and transfer*

Shares _____ *of the Capital Stock represented by the within*
Certificate, and do hereby irrevocably constitute and appoint
to transfer the said Stock on the books of the within named
Corporation with full power of substitution, in the premises.
Dated _____ *in presence of*

NOTICE: THE SIGNATURE OF THIS ASSIGNMENT
MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE
FACE OF THE CERTIFICATE, IN EVERY PARTICULAR, WITHOUT
ALTERATION OR ENLARGEMENT, OR ANY CHANGE WHATSOEVER.

INCORPORATED UNDER THE LAWS OF

COLORADO

NUMBER

66

SHARES

2334

EAGLE PARK RESERVOIR COMPANY

Shares are with \$1.00 par value

This Certifies that Eagle River Water & Sanitation District, acting
by and through its water activity enterprise *is the owner of*
2334 Class A, Series 2 *Shares of the Capital Stock of*

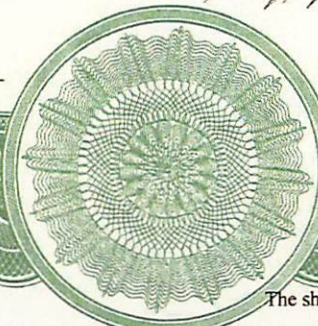
FULLY PAID AND
NON-ASSESSABLE

*transferable only on the books of the Corporation by the holder hereof in
person or by Attorney upon surrender of this Certificate properly endorsed.*

*In Witness Whereof, the said Corporation has caused this Certificate to be signed
by its duly authorized officers and its Corporate Seal to be hereunto affixed
this 26th day of March A.D. 20 01*

Catherine L Hayes
Secretary

Deana Dugan
President



The shares represented by this Certificate are subject to Article 11.2 of the Articles of the Incorporation of the Eagle Park Reservoir Company.

No shareholder shall object to another shareholder's use of water from Eagle Park Reservoir or other water to which such other shareholder is entitled by virtue of its ownership of common stock in the Corporation by direct use, augmentation, exchange, replacement or substitution.

CERTIFICATE
FOR

SHARES
OF
CAPITAL STOCK

ISSUED TO

DATED

For Value Received, hereby sell, assign and transfer
into _____ *Shares*
of the Capital Stock represented by the within
certificate, and do hereby irrevocably constitute and appoint
to transfer the said Stock on the books of the within named
Corporation with full power of substitution in the premises.
Dated _____ *Attorney*
in presence of _____

NOTICE: THE SIGNATURE OF THIS ASSIGNMENT
MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE
FACE OF THE CERTIFICATE, IN EVERY PARTICULAR WITHOUT
ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATSOEVER.

INCORPORATED UNDER THE LAWS OF COLORADO

NUMBER

67

SHARES

2561

EAGLE PARK RESERVOIR COMPANY

\$1.00

This Certifies that

Upper Eagle Regional Water Authority, acting
by and through its water activity enterprise

is the owner of

2561 Class A, Series 2

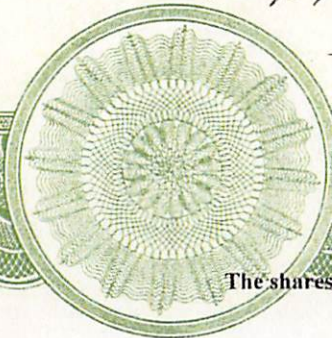
Shares of the Capital Stock of

*transferable only on the books of the Corporation by the holder hereof in
person or by Attorney upon surrender of this Certificate properly endorsed.*

*In Witness Whereof, the said Corporation has caused this Certificate to be signed
by its duly authorized officers and its Corporate Seal to be hereunto affixed
this _____ day of _____ A.D. 20____*

Secretary

President



The shares represented by this Certificate are subject to provisions on the reverse side.

The shares represented by this Certificate are subject to Article 11.2 of the Articles of the Incorporation of the Eagle Park Reservoir Company.

No shareholder shall object to another shareholder's use of water from Eagle Park Reservoir or other water to which such other shareholder is entitled by virtue of its ownership of common stock in the Corporation by direct use, augmentation, exchange, replacement or substitution.

CERTIFICATE
FOR

SHARES
OF
CAPITAL STOCK

ISSUED TO

DATED

For Value Received _____ *hereby sell, assign and transfer*
unto _____ *Shares*
of the Capital Stock represented by the within
certificate, and do hereby irrevocably constitute and appoint _____ *Attorney*
to transfer the said Stock on the books of the within named
Corporation with full power of substitution in the premises.
Dated _____ *at*
the presence of _____

NOTICE: THE SIGNATURE OF THIS ASSIGNMENT
MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE
FACE OF THE CERTIFICATE, IN EVERY PARTICULAR WITHOUT
ALTERATION OR ENLARGEMENT, OR ANY CHANGE WHATSOEVER.

INCORPORATED UNDER THE LAWS OF COLORADO

NUMBER

68

SHARES

2084

EAGLE PARK RESERVOIR COMPANY

\$1.00

This Certifies that

Eagle River Water & Sanitation District, acting
by and through its water activity enterprise

is the owner of

2084 Class A, Series 2

Shares of the Capital Stock of

transferable, only on the books of the Corporation, by the holder hereof, in person or by Attorney upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers, and its Corporate Seal, to be hereunto affixed this _____ day of _____ A.D. 20__

Secretary

President

The shares represented by this Certificate are subject to provisions on the reverse side.

The shares represented by this Certificate are subject to Article 11.2 of the Articles of the Incorporation of the Eagle Park Reservoir Company.

No shareholder shall object to another shareholder's use of water from Eagle Park Reservoir or other water to which such other shareholder is entitled by virtue of its ownership of common stock in the Corporation by direct use, augmentation, exchange, replacement or substitution.

CERTIFICATE
FOR

SHARES
OF
CAPITAL STOCK

ISSUED TO

DATED

For Value Received _____ *lawfully assign and transfer*
into _____ *Shares*
of the Capital Stock represented by the within
Certificate, and do hereby irrevocably constitute and appoint _____ *attorney*
to transfer the said Stock on the books of the within named
Corporation with full power of substitution in the premises.
Dated _____ *at* _____
In presence of _____

NOTICE: THE SIGNATURE OF THIS ASSIGNMENT
MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE
FACE OF THE CERTIFICATE, IN EVERY PARTICULAR, WITHOUT
ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATSOEVER.



November 15, 2023

Brian Thompson, Secretary
The Eagle Park Reservoir Company
846 Forest Road
Vail, Colorado 81657

Dear Secretary Thompson,

Pursuant to Section 2.3 of the Amended and Restated Bylaws of The Eagle Park Reservoir Company, this letter serves as notice to the Secretary of The Eagle Park Reservoir Company ("Corporation") that **Eagle River Water and Sanitation District** ("Transferor") has transferred to **Upper Eagle Regional Water Authority** ("Transferee") two-hundred fifty (250) shares of the Corporation's Class A, Series 2, stock.

The name and addresses of the Transferor and Transferee are provided below:

Name and Address of Transferor

Eagle River Water and Sanitation District
846 Forest Road
Vail, Colorado 81657


Name and Address of Transferee

Upper Eagle Regional Water Authority
846 Forest Road
Vail, Colorado 81657

Attached to this notice is a copy of the Corporation's Stock Certificate #66, representing 2,334 shares of Class A, Series 2, stock owned by Transferor, of which 250 shares will be transferred to Transferee. Also attached to this notice is a duly executed stock power in the form of a Special Warranty Deed from the Transferor to the Transferee.



Dick Cleveland, Board Chair
Eagle River Water & Sanitation District



George Gregory, Board Chair
Upper Eagle Regional Water Authority

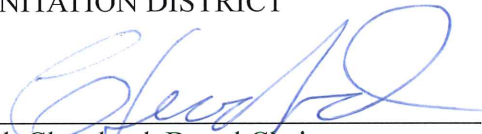
SPECIAL WARRANTY DEED AND ASSIGNMENT

For ten dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Eagle River Water and Sanitation District (“Grantor”) hereby sells, grants, transfers, and assigns to the Upper Eagle Regional Water Authority (“Grantee”), whose address is 846 Forest Road, Vail, Colorado 81657, 250 shares of Class A Series 2 stock (the “Subject Shares”) in the Eagle Park Reservoir Company (“Company”), which are included within the 2334 shares of Class A Series 2 stock represented by Certificate No. 66 (copy attached as Exhibit 1), together with all associated water rights, rights for the use of water, and other rights represented by the Subject Shares, and warrants title to the same against all persons claiming under Grantor. Grantor does hereby irrevocably constitute and appoint the Secretary of the Company to transfer said Subject Shares upon the books of the Company with full power of substitution in the premises.

Executed as of this 27 day of November, 2023.

GRANTOR:

EAGLE RIVER WATER AND
SANITATION DISTRICT



Dick Cleveland, Board Chair

Attest:

By:



Robert Warner, Jr, Secretary

INCORPORATED UNDER THE LAWS OF

COLORADO

NUMBER
65

SHARES
2311

EAGLE PARK RESERVOIR COMPANY

Shares are worth \$1.00 par value

This Certifies that Upper Eagle Regional Water Authority, acting
by and through its water activity enterprise *is the owner of*
2311 Class A, Series 2 *Shares of the Capital Stock of*

FULLY PAID AND
NON-ASSESSABLE

*transferable only to the books of the Corporation by the holder hereof, in
person or by Attorney upon surrender of this Certificate properly endorsed.*

*In Witness Whereof, the said Corporation has caused this Certificate to be signed
by its duly authorized officers, and its Corporate Seal to be hereunto affixed
this 26th day of March A.D. 20 21*

Arthur L Hayes
Secretary

George Gregory
President



The shares represented by the Certificate are subject to Article 11.2 of the Articles of the Incorporation of the Eagle Park Reservoir Company.

No shareholder shall object to another shareholder's use of water from Eagle Park Reservoir or other water to which such other shareholder is entitled by virtue of its ownership of common stock in the Corporation by direct use, augmentation, exchange, replacement or substitution.

CERTIFICATE

SHARES
OF
CAPITAL STOCK

ISSUED TO

DATED

For Value Received hereby sell, assign and transfer
into _____ shares

of the Capital Stock represented by the within
Certificate, and do hereby irrevocably constitute and appoint
to transfer the said Stock in the books of the within named
Corporation, with full power of substitution, in the premises.
Dated _____
In presence of _____
Attorney

NOTICE: THE SIGNATURE OF THIS ASSIGNMENT
MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE
FACE OF THE CERTIFICATE, IN EVERY PARTICULAR, WITHOUT
ALTERATION OR ENLARGEMENT, OR ANY CHANGE WHATSOEVER.

CANCELLED

INCORPORATED UNDER THE LAWS OF

COLORADO

NUMBER

66

SHARES

2334

EAGLE PARK RESERVOIR COMPANY

Shares are worth \$1.00 par value

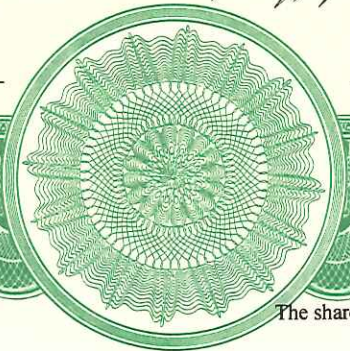
This Certifies that Eagle River Water & Sanitation District, acting by and through its water activity enterprise is the owner of 2334 Class A, Series 2 Shares of the Capital Stock of

FULLY PAID AND NON-ASSESSABLE

transferable only to the holders of the Corporation by the holder hereof, in person or by Attorney upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed this 26th day of March A.D. 20 01

Ruthenel Hayes Secretary



Deane Longway President

CANCELLED

The shares represented by this Certificate are subject to Article 11.2 of the Articles of the Incorporation of the Eagle Park Reservoir Company.

No shareholder shall object to another shareholder's use of water from Eagle Park Reservoir or other water to which such other shareholder is entitled by virtue of its ownership of common stock in the Corporation by direct use, augmentation, exchange, replacement or substitution.

CERTIFICATE

SHARES OF CAPITAL STOCK

ISSUED TO

DATED

For Value Received hereby sell, assign and transfer

into _____
of the Capital Stock represented by the within Certificate, and do hereby irrevocably constitute and appoint _____ *Attorney*
to transfer, the said Stock, on the books of the within named Corporation, with full power of substitution, in the premises.

Dated _____
the presence of

NOTICE: THE SIGNATURE OF THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE FACE OF THE CERTIFICATE. IN EVERY PARTICULAR WITHOUT ALTERATION OR ENLARGEMENT, OR ANY CHANGE WHATSOEVER.

CANCELLED

INCORPORATED UNDER THE LAWS OF COLORADO

NUMBER
67

SHARES
2561



EAGLE PARK RESERVOIR COMPANY
\$1.00

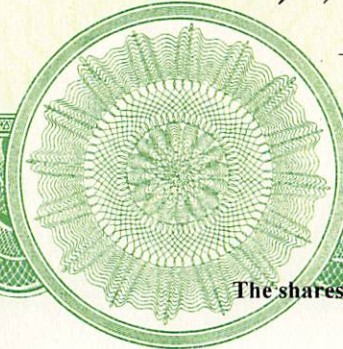
This Certifies that Upper Eagle Regional Water Authority, acting
by and through its water activity enterprise _____ *is the owner of*
_____ 2561 Class A, Series 2 _____ *Shares of the Capital Stock of*

transferable only on the books of the Corporation by the holder hereof in person or by Attorney upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed this _____ day of _____ A.D. 20__

Secretary

President



The shares represented by this Certificate are subject to provisions on the reverse side.

The shares represented by this Certificate are subject to Article 11.2 of the Articles of the Eagle Park Reservoir Company.

No shareholder shall object to another shareholder's use of water from Eagle Park Reservoir or other water to which such other shareholder is entitled by virtue of its ownership of common stock in the Corporation by direct use, augmentation, exchange, replacement or substitution.

CERTIFICATE

FOR

SHARES

OF

CAPITAL STOCK

ISSUED TO

DATED

For Value Received, hereby sell, assign and transfer
into _____ *Shares*
of the Capital Stock represented by the within
Certificate, and do hereby irrevocably constitute and appoint
to transfer the said Stock on the books of the within named
Corporation with full power of substitution in the premises.
Dated _____ *30*
In presence of

NOTICE: THE SIGNATURE OF THIS ASSIGNMENT
MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE
FACE OF THE CERTIFICATE, IN EVERY PARTICULAR WITHOUT
ALTERATION OR ENLARGEMENT, OR ANY CHANGE WHATSOEVER.

INCORPORATED UNDER THE LAWS OF COLORADO



EAGLE PARK RESERVOIR COMPANY
\$1.00

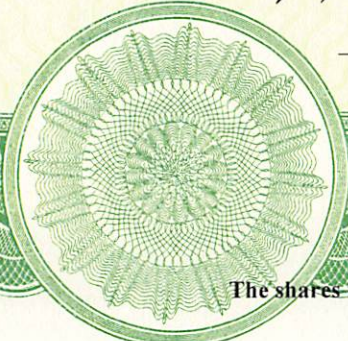
This Certifies that Eagle River Water & Sanitation District, acting
by and through its water activity enterprise _____ *is the owner of*
_____ 2084 Class A, Series 2 _____ *Shares of the Capital Stock of*

transferable only on the books of the Corporation by the holder hereof, in person or by Attorney upon surrender of this Certificate properly endorsed.

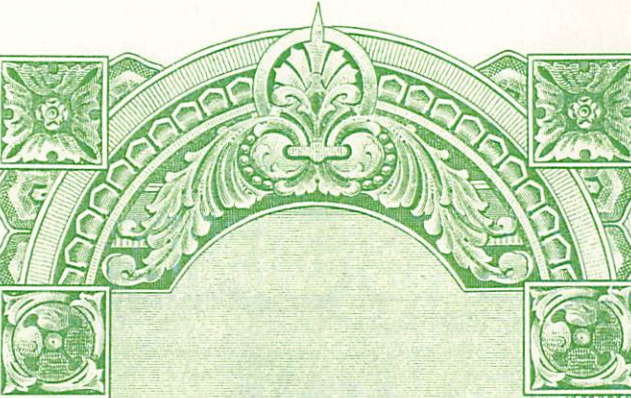
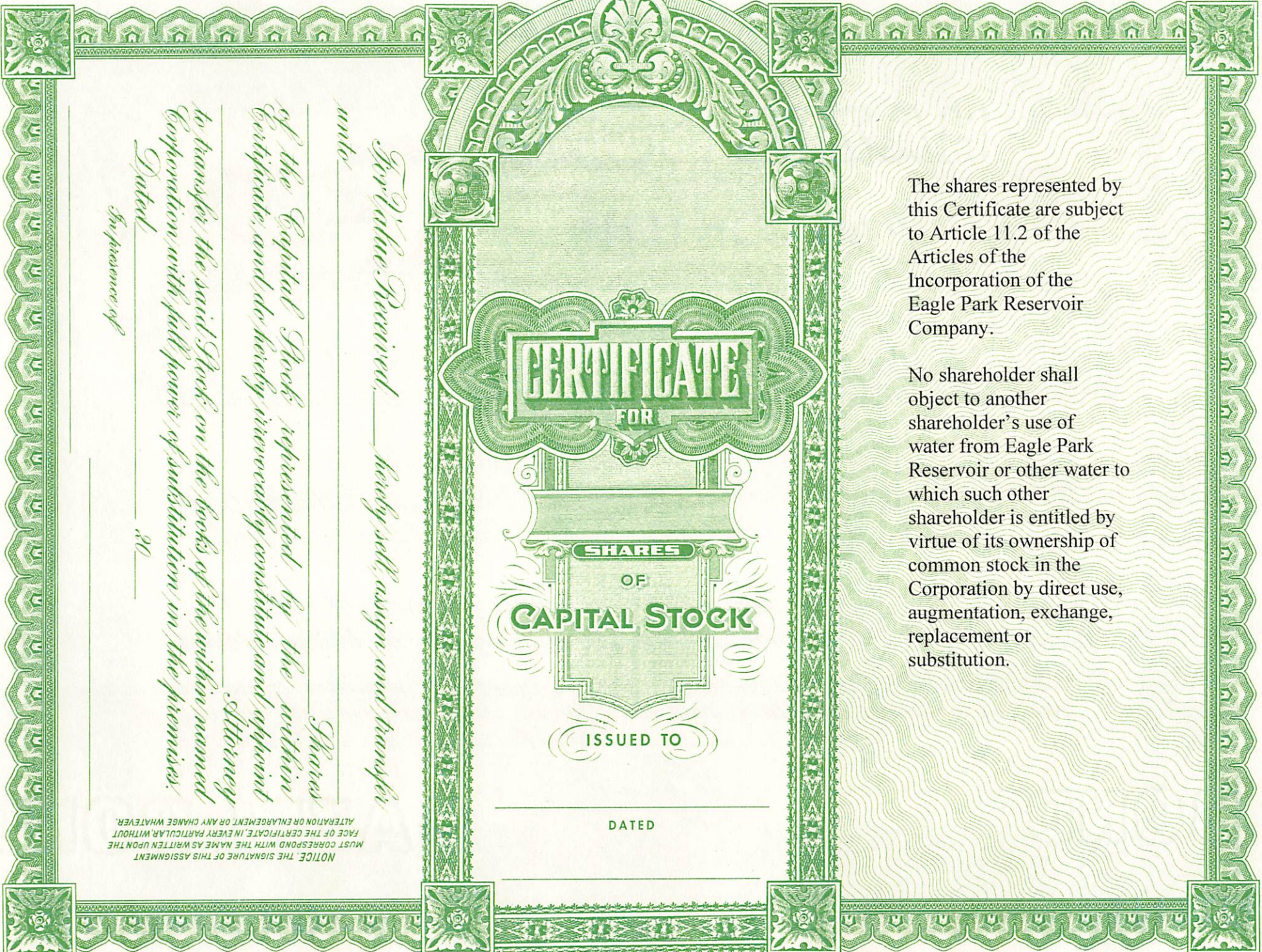
In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers, and its Corporate Seal to be hereunto affixed this _____ day of _____ A.D. 20____

Secretary

President



The shares represented by this Certificate are subject to provisions on the reverse side.



CERTIFICATE
FOR
SHARES
OF
CAPITAL STOCK
ISSUED TO

DATED _____

The shares represented by this Certificate are subject to Article 11.2 of the Articles of the Incorporation of the Eagle Park Reservoir Company.

No shareholder shall object to another shareholder's use of water from Eagle Park Reservoir or other water to which such other shareholder is entitled by virtue of its ownership of common stock in the Corporation by direct use, augmentation, exchange, replacement or substitution.

To Value Received _____ *being sold, assign and transfer*

into _____ *Shares*

of the Capital Stock represented by the within

Certificate, and do hereby irrevocably constitute and appoint

to transfer the said Stock on the books of the within named

Corporation, with full power of substitution in the premises.

Dated _____ *20* _____

In presence of _____

NOTICE: THE SIGNATURE OF THIS ASSIGNMENT
 MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE
 FACE OF THE CERTIFICATE, IN EVERY PARTICULAR, WITHOUT
 ALTERATION OR ENLARGEMENT, OR ANY CHANGE WHATSOEVER.



1155 CANYON BOULEVARD, SUITE 110, BOULDER, CO 80302
OFFICE: 303-449-2834 FAX: 720-535-4921
SOMACHLAW.COM

MEMORANDUM

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

FROM: Kristin Moseley

SUBJECT: Water Resources and Agriculture Review Committee – Prohibit Landscaping Practices for Water Conservation (Draft Bill for 2024 Legislative Session)

DATE: November 29, 2023

On October 31, 2023, the Colorado General Assembly’s Water Resources and Agriculture Review Committee (the “Committee”) held a meeting to preview matters that will be addressed in the upcoming legislative session, which runs from January to May. Among the water-related bills of interest to the District and Authority, a draft bill “Concerning the Conservation of Water in the State Through the Prohibition of Certain Landscaping Practices” passed the Committee and seeks to prohibit non-functional turf in certain areas to support water conservation. A draft of the bill dated October 10, 2023, is included with this memorandum. Specifically, the draft bill would prohibit local governments and unit owners’ associations of common interest communities from allowing installation, planting, or placement of nonfunctional turf, artificial turf, or an invasive plant species on any commercial, institutional, or industrial property beginning on January 1, 2025. Several parties testified in support of the draft bill, including Denver Water, Aurora Water, the Colorado Municipal League, and Western Resource Advocates.

The draft bill cites the ongoing impacts of climate change and the need to conserve Colorado’s water resources as reason to cease the overuse of nonnative grasses for landscaping purposes, particularly in areas that receive little if any use, and recommends replacement with water-wise landscaping. The draft bill cites the negative environmental impacts of artificial turf, such as exacerbating heat island effects in urban areas and releasing harmful chemicals into the environment and watersheds. The draft bill acknowledges appropriate and important uses for turf, including for civic, community, or recreational purposes, such as in parks, sports fields, and playgrounds. Accordingly, the draft bill defines “nonfunctional turf” as turf that is predominantly ornamental and located in an area on, or adjacent to, a street, sidewalk, driveway, parking lot, frontage area, or median that is not regularly used for civic, community, or recreational purposes, and explicitly exempts turf that is located in a park, sports field, or playground from restriction.

The Committee voted 8 to 2 in favor of moving forward with the draft bill, which will begin in the Senate. Senators Roberts and Simpson will serve as prime sponsors in the Senate, and Representatives McCormick and McLachlan will serve as prime sponsors in the House.

We recommend that the District and Authority consider supporting the draft bill given the impact on water conservation that non-functional turf and inefficient irrigation practices have on the District's and Authority's water supply. *The Vail Daily* has published two articles regarding this issue, available [here](#) and [here](#). The second article includes an excellent interview with Siri on water conservation and Bolts Lake.

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

DRAFT
10/10/23

Bill 6

LLS NO. 24-0362.02 Sarah Lozano x3858

INTERIM COMMITTEE BILL

Water Resources and Agriculture Review Committee

BILL TOPIC: Prohibit Landscaping Practices For Water Conserv

A BILL FOR AN ACT

101 **CONCERNING THE CONSERVATION OF WATER IN THE STATE THROUGH**
102 **THE PROHIBITION OF CERTAIN LANDSCAPING PRACTICES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Water Resources and Agriculture Review Committee. On and after January 1, 2025, the bill prohibits local governments and unit owners' associations of common interest communities from allowing the installation, planting, or placement of nonfunctional turf, artificial turf, or an invasive plant species on any commercial, institutional, or industrial property. The bill also prohibits the department of personnel from

*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words indicate deletions from existing law.*

allowing the installation, planting, or placement of nonfunctional turf, artificial turf, or invasive plant species as part of a project for the construction or renovation of a state facility, which project commences on or after January 1, 2025.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 99 to title
3 37 as follows:

4 **ARTICLE 99**

5 **Prohibition of Nonfunctional Turf,**
6 **Artificial Turf, and Invasive Plant Species**

7 **37-99-101. Legislative declaration.** (1) THE GENERAL ASSEMBLY
8 HEREBY FINDS THAT:

9 (a) AS COLORADO CONTINUES TO GRAPPLE WITH THE IMPACTS OF
10 CLIMATE CHANGE, GREEN URBAN SPACES, SUCH AS URBAN TREE CANOPIES,
11 ARE A VITAL ADAPTATION TOOL FOR MITIGATING THE IMPACTS OF CLIMATE
12 CHANGE, ESPECIALLY FOR MITIGATING THE URBAN HEAT ISLAND EFFECT,
13 WHICH CAN INCREASE ENERGY COSTS, AIR POLLUTION, AND HEAT-RELATED
14 ILLNESSES AND DEATHS;

15 (b) HOWEVER, WATER SUPPLY IN THE WESTERN UNITED STATES IS
16 UNDER INCREASING PRESSURE DUE TO CLIMATE CHANGE AND INCREASING
17 DEMAND;

18 (c) MANY COMMUNITIES IN THE STATE OVERUSE NONNATIVE
19 GRASS FOR LANDSCAPING PURPOSES, WHICH REQUIRES LARGE AMOUNTS
20 OF WATER TO MAINTAIN;

21 (d) WHILE THERE ARE APPROPRIATE AND IMPORTANT USES FOR
22 TURF, INCLUDING FOR CIVIC, COMMUNITY, OR RECREATIONAL PURPOSES
23 SUCH AS USE IN PARKS, SPORTS FIELDS, AND PLAYGROUNDS, MUCH OF THE

1 TURF IN THE STATE IS NONFUNCTIONAL, LOCATED IN AREAS THAT RECEIVE
2 LITTLE, IF ANY, USE, AND COULD BE REPLACED WITH WATER-WISE
3 LANDSCAPING WITHOUT ADVERSELY IMPACTING QUALITY OF LIFE OR
4 LANDSCAPE FUNCTIONALITY;

5 (e) PROHIBITING THE INSTALLATION, PLANTING, OR PLACEMENT OF
6 NONFUNCTIONAL TURF IN COMMERCIAL, INSTITUTIONAL, OR INDUSTRIAL
7 PROPERTY IN THE STATE CAN HELP CONSERVE THE STATE'S WATER
8 RESOURCES; AND

9 (f) ADDITIONALLY, ARTIFICIAL TURF CAN CAUSE NEGATIVE
10 ENVIRONMENTAL IMPACTS, SUCH AS EXACERBATING HEAT ISLAND EFFECTS
11 IN URBAN AREAS AND RELEASING HARMFUL CHEMICALS INTO THE
12 ENVIRONMENT AND WATERSHEDS.

13 (2) THE GENERAL ASSEMBLY THEREFORE DECLARES THAT
14 PREVENTING THE INSTALLATION, PLANTING, OR PLACEMENT OF
15 NONFUNCTIONAL TURF, ARTIFICIAL TURF, AND INVASIVE PLANT SPECIES IN
16 COMMERCIAL, INSTITUTIONAL, OR INDUSTRIAL PROPERTY IS:

17 (a) A MATTER OF STATEWIDE CONCERN; AND

18 (b) IN THE PUBLIC INTEREST.

19 **37-99-102. Definitions.** AS USED IN THIS ARTICLE 99, UNLESS THE
20 CONTEXT OTHERWISE REQUIRES:

21 (1) "ARTIFICIAL TURF" MEANS AN INSTALLATION OF SYNTHETIC
22 MATERIALS DEVELOPED TO RESEMBLE NATURAL GRASS.

23 (2) "COMMERCIAL, INSTITUTIONAL, OR INDUSTRIAL" HAS THE
24 MEANING SET FORTH IN SECTION 37-60-135 (2)(b).

25 (3) "DEPARTMENT" MEANS THE DEPARTMENT OF PERSONNEL
26 CREATED IN SECTION 24-1-128 (1).

27 (4) "INVASIVE PLANT SPECIES" HAS THE MEANING SET FORTH IN

1 SECTION 37-60-135 (2)(e).

2 (5) "LOCAL ENTITY" MEANS A:

3 (a) HOME RULE OR STATUTORY CITY, COUNTY, CITY AND COUNTY,
4 TERRITORIAL CHARTER CITY, OR TOWN;

5 (b) SPECIAL DISTRICT; AND

6 (c) UNIT OWNERS' ASSOCIATION.

7 (6) "MAINTAIN" OR "MAINTAINING" MEANS AN ACTION TO
8 PRESERVE THE EXISTING STATE OF NONFUNCTIONAL TURF, ARTIFICIAL
9 TURF, OR INVASIVE PLANT SPECIES THAT HAS ALREADY BEEN INSTALLED,
10 PLANTED, OR PLACED.

11 (7) (a) "NONFUNCTIONAL TURF" MEANS TURF THAT IS:

12 (I) PREDOMINANTLY ORNAMENTAL; AND

13 (II) LOCATED IN AN AREA ON, OR ADJACENT TO, A STREET,
14 SIDEWALK, DRIVEWAY, PARKING LOT, FRONTAGE AREA, OR MEDIAN THAT
15 IS NOT REGULARLY USED FOR CIVIC, COMMUNITY, OR RECREATIONAL
16 PURPOSES.

17 (b) "NONFUNCTIONAL TURF" DOES NOT INCLUDE TURF THAT IS
18 LOCATED IN A PARK, SPORTS FIELD, OR PLAYGROUND.

19 (8) "SPECIAL DISTRICT" HAS THE MEANING SET FORTH IN SECTION
20 32-1-103 (20).

21 (9) "TURF" HAS THE MEANING SET FORTH IN SECTION 37-60-135
22 (2)(i).

23 (10) "UNIT OWNERS' ASSOCIATION" HAS THE MEANING SET FORTH
24 IN SECTION 38-33.3-103 (3).

25 **37-99-103. Prohibition of nonfunctional turf, artificial turf,**
26 **and invasive plant species - local entities - construction or renovation**
27 **of state facilities.** (1) ON AND AFTER JANUARY 1, 2025, A LOCAL ENTITY

1 SHALL NOT INSTALL, PLANT, OR PLACE, OR ALLOW ANY PERSON TO
2 INSTALL, PLANT, OR PLACE, ANY NONFUNCTIONAL TURF, ARTIFICIAL TURF,
3 OR INVASIVE PLANT SPECIES ON ANY PORTION OF A COMMERCIAL,
4 INSTITUTIONAL, OR INDUSTRIAL PROPERTY WITHIN THE LOCAL ENTITY'S
5 JURISDICTION.

6 (2) THE DEPARTMENT SHALL NOT INSTALL, PLANT, OR PLACE, OR
7 ALLOW ANY PERSON TO INSTALL, PLANT, OR PLACE, ANY NONFUNCTIONAL
8 TURF, ARTIFICIAL TURF, OR INVASIVE PLANT SPECIES AS PART OF A PROJECT
9 FOR THE CONSTRUCTION OR RENOVATION OF A STATE FACILITY, WHICH
10 PROJECT COMMENCES ON OR AFTER JANUARY 1, 2025.

11 (3) NOTHING IN THIS SECTION PROHIBITS A LOCAL ENTITY OR THE
12 DEPARTMENT FROM:

13 (a) MAINTAINING, OR ALLOWING ANY PERSON TO MAINTAIN, ANY
14 NONFUNCTIONAL TURF, ARTIFICIAL TURF, OR INVASIVE PLANT SPECIES
15 INSTALLED, PLANTED, OR PLACED BEFORE JANUARY 1, 2025; OR

16 (b) INSTALLING, OR ALLOWING ANY PERSON TO INSTALL,
17 ARTIFICIAL TURF ON ATHLETIC FIELDS OF PLAY.

18 **SECTION 2.** In Colorado Revised Statutes, 38-33.3-106.5, **add**
19 (3) as follows:

20 **38-33.3-106.5. Prohibitions contrary to public policy -**
21 **patriotic, political, or religious expression - public rights-of-way - fire**
22 **prevention - renewable energy generation devices - affordable**
23 **housing - drought prevention measures - child care - definitions.**

24 (3) NOTWITHSTANDING SUBSECTIONS (1)(i) AND (1)(i.5) OF THIS SECTION,
25 AN ASSOCIATION SHALL NOT INSTALL, PLANT, OR PLACE, OR ALLOW ANY
26 PERSON TO INSTALL, PLANT, OR PLACE, ANY NONFUNCTIONAL TURF,
27 ARTIFICIAL TURF, OR INVASIVE PLANT SPECIES, AS THOSE TERMS ARE

1 DEFINED IN SECTION 37-99-102, IN A COMMON INTEREST COMMUNITY IN
2 A MANNER THAT VIOLATES SECTION 37-99-103.

3 **SECTION 3. Act subject to petition - effective date -**
4 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
5 the expiration of the ninety-day period after final adjournment of the
6 general assembly; except that, if a referendum petition is filed pursuant
7 to section 1 (3) of article V of the state constitution against this act or an
8 item, section, or part of this act within such period, then the act, item,
9 section, or part will not take effect unless approved by the people at the
10 general election to be held in November 2024 and, in such case, will take
11 effect on the date of the official declaration of the vote thereon by the
12 governor.

13 (2) This act does not apply to projects approved by the department
14 of personnel or a local entity before the effective date of this act.