



## MEMORANDUM

**TO:** Board of Directors  
**FROM:** Brian Thompson, Government Affairs Administrator  
**DATE:** March 29, 2024  
**RE:** April 04, 2024, 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, April 04, 2024  
12:00 p.m.**

**This meeting will be held at:**

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

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

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

April 04, 2024

**12:00 p.m.**

Walter Kirch Conference Room

### AGENDA

- |  | <u><b>Attachment Link</b></u> |
|--|-------------------------------|
| <b>1. Introductions</b>  |                               |
| <b>2. Public Comment</b>   |                               |
| <b>3. Action Items</b>   |                               |
| 3.1. Minutes from Feb. 22, 2024, Special Meeting   | Action Item                   |
| 3.2. Minutes from Feb. 22, 2024, Special Joint Meeting with UERWA Board  | Action Item                   |
| 3.3. Contract Log  | Action Item                   |
| <b>4. Information Reports</b>  |                               |
| 4.1. Board committees  | Informational                 |
| 4.2. January 2024 Authority meeting summary  | Informational                 |
| <b>5. Board Member Input</b>   |                               |
| <b>6. General Manager Report – Siri Roman</b>  |                               |
| 6.1. GM information items  | Informational                 |
| 6.1.1. Shoshone Water Right Preservation Campaign  | Informational                 |
| 6.1.2. Eagle Park Reservoir Company update   |                               |
| 6.2. Business Administration report – David Norris   |                               |
| 6.2.1. Billing statement improvements  |                               |
| 6.2.2. 2023 People analytics   | Informational                 |
| 6.3. Operations report – Brad Zachman  | Informational                 |
| 6.3.1. Macroinvertebrate sampling  | Informational                 |
| 6.4. Engineering and Water Resources report – Jason Cowles   | Informational                 |
| 6.4.1. Bolts Lake update   | Informational                 |
| 6.4.2. Sustainability statistics and progress  |                               |
| 6.5. Communications and Public Affairs report – Diane Johnson  | Informational                 |
| 6.5.1. Bylaw amendments  | Informational                 |
| 6.5.2. Technology accessibility  | Informational                 |
| <b>7. Water Counsel Report – Kristin Moseley</b>   |                               |
| <b>8. Water Quality Counsel Report – Steve Bushong</b>   |                               |
| 8.1. PFAS class action settlement update   | Informational                 |
| <b>9. General Counsel Report – Kathryn Winn</b>  |                               |
| <b>10. Executive Session</b>   |                               |
| 10.1. Receive legal advice regarding Bolts Lake and Battle North/Minturn Case<br>Nos. 21CW3029 and 21CW3030, pursuant to §24-6-402(4)(b), C.R.S. |                               |

Clean Water. Quality Life.™

846 Forest Road Vail, Colorado 81657 Tel (970) 476-7480 Fax (970) 476-4089 erwsd.org

**10.2.** Instruct negotiators regarding Middle Creek housing project, pursuant to §24-6-402(4)(e), C.R.S.

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

**12. Adjournment**



## 2024 ERWSD CONTRACT LOG

Contract No.	Date Executed	Project Name	Contractor	Contract Amt.	Project Mgr.	Account No.	Total Amount per Account	Contract Type	Status / Description	District Total	Authority Total
24.15.013	02/29/24	ADWF Server Room Redundant HVAC	Horizon Mechanical Solutions	\$55,353.00	J. Beirsto	10.1.2.00.45.329	\$55,353.00	Construction Contract	Installation of a redundant HVAC system for the ADWF server room.		
24.15.014	Pending	Miscellaneous Coating and Inspection Services	Advanced Inspection Solutions LLC	\$100,000.00*	N. Nemcanin	10.3.9.10.20.520 10.3.9.20.20.520 20.1.9.00.35.500	\$20,000.00 \$40,000.00 \$40,000.00	Master Services Agreement	Master Services Agreement for industrial coating for Distribution and Collection assets.	\$60,000.00	\$40,000.00
24.15.015	03/08/24	On-Call Engineering Services	Advanced Engineering and Environmental Services, LLC	\$25,000.00	M. Schuette	10.3.2.10.13.114 10.3.2.20.09.025 10.3.9.00.40.650	\$3,000.00 \$12,000.00 \$10,000.00	Master Services Agreement	Master Services Agreement for general engineering services.		
24.15.016	Pending	Cityworks Support	Power Engineers, Inc.	\$15,000.00	J. Way	10.1.9.00.45.200	\$15,000.00	Services Agreement	Consulting and support for Cityworks application.		
24.15.017	03/06/24	Vail Tank 4 Rehabilitation	Western Water Solutions LLC	\$104,515.00	D. Duerr	10.3.2.20.09.027	\$104,515.00	Design Services Agreement	Assessment, design, and bid preparation for Vail Tank 4 Rehabilitation, as well as bidding support and project management.		
24.15.018	03/12/24	VertexOne WaterSmart Customer Portal	VertexOne	\$16,203.32	A. Ebbets	10.3.9.20.85.778	\$16,203.32	Services Agreement	WaterSmart customer portal.		
24.15.019	03/13/24	Miscellaneous Fencing and Repair Work	Strategic Fence & Wall Company	\$20,000.00*	J. Schneider	10.1.2.10.05.057 10.3.2.10.03.447 10.3.2.20.09.019 20.1.2.00.00.043	\$5,000.00 \$5,000.00 \$5,000.00 \$5,000.00	Master Services Agreement	Master Services Agreement for miscellaneous fencing and repair work throughout the water/wastewater systems. *Approved for a not to exceed amount of 25k but is allocating 20k.	\$15,000.00	\$5,000.00
24.15.020	03/25/24	Hillcrest Field Operations Facility	Tri Phase Electric Co., Ltd.	\$79,502.00	J. Schneider	10.1.2.10.05.057	\$79,502.00	Construction Contract	Electrical work to relocate engine block heaters (buried conduit and wire) and relocate power to the new gate location due to entry location with Eagle County roundabout project.		
24.15.021	03/25/24	Hillcrest Field Operations Facility Additional Block Heater Installation	Tri Phase Electric Co., Ltd.	\$12,422.00	J. Schneider	10.1.2.00.05.057	\$12,422.00	Construction Contract	Furnish and install one additional block heater assembly including buried conduit and wire as located in the field.		
24.15.022	Pending	Nearmap Aerial Imagery	Nearmap US, Inc.	\$42,500.00*	J. Koenig	10.3.9.00.40.231 20.1.9.00.15.231	\$4,250.00 \$9,920.00	Multi-Year Master Services Agreement	Master Service Agreement for aerial imagery services for District and Authority. This is a 3 year agreement for \$14,170/year totaling \$42,510.00.	\$4,250.00/yr	\$9,920.00/yr
24.15.023	03/26/24	Hillcrest Field Operations Facility Fencing	Strategic Fence & Wall Company	\$21,500.00	J. Schneider	10.1.2.10.05.057	\$21,500.00	Construction Contract	Removal and re-installation of fence sections impacted by Eagle County Hillcrest Roundabout Project.		
24.15.024	Pending	Emergency Miscellaneous Excavating and Repair Services	Nottingham Excavating & Trucking, Inc.	\$100,000.00*	N. Nemcanin	10.3.9.10.20.520 10.3.9.20.20.520 20.1.9.00.35.500	\$20,000.00 \$40,000.00 \$40,000.00	Master Services Agreement	Master Services Agreement for miscellaneous emergency excavating and repairs for the water and wastewater system.	\$60,000.00	\$40,000.00
24.15.025	Pending	Miscellaneous Services for Distribution and Collection	Denver Industrial Pumps, Inc.	\$100,000.00*	N. Nemcanin	10.3.9.10.20.520 10.3.9.20.20.520 10.3.9.20.30.505 20.1.9.00.35.500 20.1.9.00.18.500	\$5,000.00 \$15,000.00 \$50,000.00 \$15,000.00 \$15,000.00	Master Services Agreement	Master Services Agreement for miscellaneous distribution and collection pump repairs.	\$70,000.00	\$30,000.00
24.15.026	Pending	Miscellaneous Tap Services for Distribution and Collection	Nevada Tap Master, Inc. dba Colorado Tap Master	\$75,000.00*	N. Nemcanin	10.3.9.20.20.520 20.1.9.00.35.500	\$50,000.00 \$25,000.00	Master Services Agreement	Master Services Agreement for hot taps and insert valve services.	\$50,000.00	\$25,000.00
24.15.027	Pending	Miscellaneous Geotechnical Services for Distribution and Collection	Kumar And Associates, Inc.	\$75,000.00*	N. Nemcanin	10.3.9.10.20.520 10.3.9.20.20.520 20.1.9.00.35.500	\$15,000.00 \$30,000.00 \$30,000.00	Master Services Agreement	Master Services Agreement for emergency distribution and collection geotechnical testing.	\$45,000.00	\$30,000.00



## BOARD COMMITTEES

### DISTRICT

<i>Audit/Budget</i>	Dick Cleveland Steve Coyer *Sarah Smith Hymes
<i>Employee Housing</i>	Steve Coyer Rick Pylman *Robert Warner, Jr.
<i>Retirement Plans</i>	Robert Warner, Jr. Siri Roman David Norris *Dick Cleveland
<i>Organizational Development</i>	Robert Warner, Jr. Dick Cleveland *Timm Paxson
<i>Water Quality</i>	Sarah Smith Hymes Timm Paxson *Steve Coyer

### AUTHORITY

<i>Audit/Budget</i>	Geoff Dreyer George Gregory *Joanna Kerwin
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### JOINT

<i>Rules and Regulations</i>	Kim Bell Williams (A) Robert Warner, Jr. (D) *George Gregory (A) *Rick Pylman (D)
<i>Water Conservation</i>	Kevin Hillgren (A) Tamra Underwood (A) Kate Burchenal (D) Steve Coyer (D) *Geoff Dreyer (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

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

**TO:** Board of Directors  
**FROM:** Brian Thompson, Government Affairs Supervisor  
**DATE:** Feb. 16, 2024  
**RE:** Summary of Authority's Jan. 25, 2024, Board Meeting

The following is a summary of items discussed at the Authority's Jan. 25, 2024, board meeting.

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

- EMD Appointment** Edwards Metropolitan District updated its Authority board appointments: Joanna Kerwin is the primary representative and Mike Trueblood is the alternate.
- Resolution Designating Location to Post Notice** The board approved a Resolution that designates the ERWSD website as the location to post notice and agendas for UERWA board meetings and adopted the 2024 regular meeting schedule.
- Records Custodian & Policy Resolution** The board approved a resolution designating the Government Affairs Supervisor as the Official Custodian of Records and updating the policy on responding to open records requests with recent additions to the Colorado Open Records Act.
- Water Supply Contract** The board approved a Water Supply Contract with the Colorado River Water Conservation District to lease 50-acre feet annually for a term of 40 years with a 35-year renewal. This lease may be terminated by the Authority at any time.
- Investment Policy** The board approved an updated investment policy.
- Arrowhead Easements** The board approved easements and vacations of easement with Arrowhead Metropolitan District and Vail Resorts, which are necessary to complete the Arrowhead Transmission Main Project.
- Board Committees** Director Hillgren and Director Dreyer were assigned as primary and backup members of the joint board water conservation committee, respectively. Director Kerwin was assigned as the backup member of the budget and audit committees.
- Meeting Summary Distribution** The board agreed that draft meeting summaries may be distributed to UERWA member entities for inclusion in their public meeting packets prior to the Authority board approving the summaries or the associated minutes.
- 2024 Strategic Priorities** Siri Roman presented strategic priorities for the District and Authority. She highlighted water affordability, development of Bolts Lake, wastewater regulatory compliance, and continued innovation as a modern utility.
- Quarterly Financial Report** Jim Cannava discussed preliminary 2023 year-end financials.

<b>Bond Issuance</b>	Jim Cannava said Standard & Poor’s affirmed the Authority’s “A” rating for the bond issuance. Annual payments will be lower per year than initial projections due to favorable market conditions.
<b>Water Main Repairs</b>	Brad Zachman reported on recent repairs in Wildridge, Arrowhead, and Beaver Creek.
<b>Bolts Lake Reservoir Update</b>	Jason Cowles said the Bolts Lake feasibility study has been submitted to the U.S. Bureau of Reclamation. He also said a program manager has been selected and the contracting process is underway. The board discussed funding priorities.
<b>Bolts Ditch Act</b>	Siri Roman said she will testify before a Congressional subcommittee in support of the federal Bolts Ditch Act. Bolts Ditch is an essential filling source for Bolts Lake; the legislation is necessary for the District and Authority to use, maintain, and repair Bolts Ditch and its headgate, which are located within the Holy Cross Wilderness.
<b>Colorado Legislative Session</b>	Diane Johnson discussed relevant legislation in the 2024 session. She said a hearing on SB24-005, Prohibit Landscaping Practices for Water Conservation, was being held today, and an associate from the Authority’s water counsel would testify in support of the bill on behalf of the District and Authority.
<b>Shoshone Water Rights Preservation Campaign</b>	Diane Johnson reported on the campaign to purchase the Shoshone water right. A Colorado River District led coalition is pursuing funding from federal, state, and local sources, including Western Slope entities. CRD staff will present to the Authority and District boards at a special joint meeting on Feb. 22
<b>Eagle Park Reservoir augmentation plan application</b>	Kristin Moseley said the Authority’s application for approval of an augmentation plan was filed in Water Court in December. An augmentation plan is necessary for the Authority to use recently acquired Eagle Park Reservoir water.



## MEMORANDUM

**TO:** Boards of Directors  
**FROM:** Siri Roman, General Manager  
**DATE:** March 28, 2024  
**RE:** General Manager Report

### **Town of Vail (ToV) Alignment**

Recently, District and ToV staff met to review infrastructure, development, priorities, and affordable housing projects. The intent of the meeting was to improve understanding of both of our entities' priorities, future plans, and funding mechanisms. Attendees agreed that the meeting was very valuable, and a follow-up meeting has been scheduled during the 2025 budget cycle.

District staff are hosting a work session with the ToV Council on April 16 at the District office. The tentative agenda includes an overview of our Vail operational systems, a summary of recent water main breaks, discussion of aging infrastructure and priorities, and a tour of the Vail Wastewater Treatment Facility. The intent is to continue education on why rates are increasing.

### **Water Quality Control Commission Vacancies**

The [Water Quality Control Commission](#) (WQCC) is an agency of nine Governor-appointed positions responsible for developing water quality policy in accordance with the Colorado Water Quality Control Act. The WQCC adopts water quality classifications, standards, and various regulations aimed at achieving those classifications and standards (e.g. nutrients, metals, temperature). There are three vacancies on the commission, and two of the recent vacancies were representatives from the western slope. Local town and county managers are meeting to discuss the current regulatory climate, water affordability, and potential candidates to fill the open vacancies.

### **Water Conservation & Rate Restructure Outreach**

On Mar. 27, David Norris and I wrapped up the 2023-24 water conservation and rate change roadshow with a presentation to the Cordillera Property Owners Association (POA). The Cordillera POA was very receptive to the water conservation message and has recently reduced lawn limitations to 3,000 sf (from 5,000 sf). Several homeowner groups are also evaluating eliminating nonfunctional turf and/or reducing irrigation.

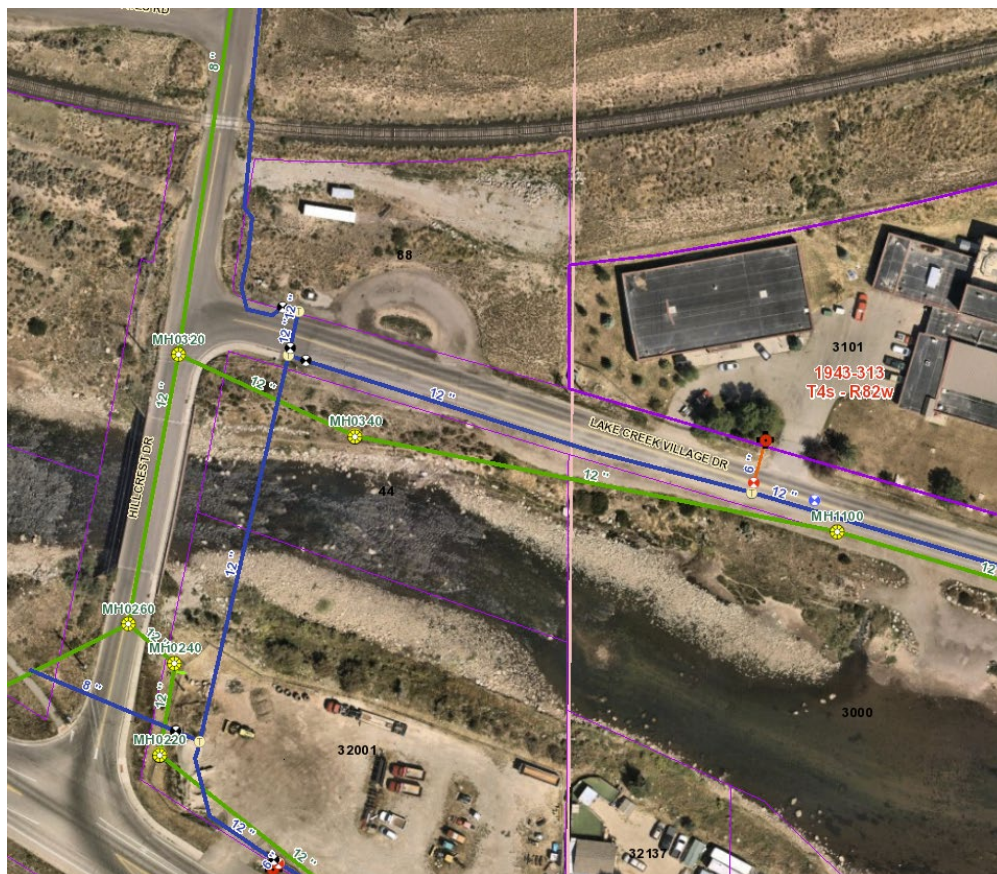
During the meeting a board member inquired about the status of Cordillera water use and the Authority's 2004 water service agreement (WSA) with Cordillera Metro District. In late 2023, District consultants evaluated Cordillera's current water use and patterns and determined that if current demands continue and Cordillera develops as projected, Cordillera will require 432.5



acre-feet/year of augmentation supplies as opposed to 399.7 acre-feet/year stated in the 2004 WSA. While this equates to an additional 32.8 acre-feet annually, the Authority will need 87.0 acre-feet of extra in-basin augmentation water to meet demands in August and September, which are the most crucial months for the Authority’s in-basin storage reservoirs.). Cordillera is currently not exceeding the projections in the WSA due to vacant lots, although as lots continue to be developed the limit will be more concerning. This information was shared with the POA Manager after the meeting in an effort to strongly encourage continued water conservation in the community.

**Edwards Wastewater Treatment Facility (WWTF) Western Parcel – Staging Area**

In 2017, the District leased the parcel west of the Edwards WWTF to Eagle County for bus service and river access (see below). At that time, the County constructed a bus turnaround and installed a locked porta-potty for bus driver’s use. The County recently requested that the parcel be used for construction staging for the Highway 6 and Hillcrest Road roundabout project. District staff has agreed to the temporary change in use with an updated construction staging license agreement that terminates the lease on Dec. 31, 2024, and provides upgrades to the site that will deem the parcel more functional. The County will develop a grading plan for the site that includes a designated access, revegetation, and stormwater improvements. Upon District staff approval of the grading plan, the County will implement the plan prior to Dec. 31, 2024. The intent is for the District to control the site in 2025 as real estate/space needs have increased.





# COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

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## MEMORANDUM

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**TO:** BOARD OF DIRECTORS, EAGLE RIVER WATER AND SANITATION DISTRICT

**FROM:** ANDY MUELLER, GENERAL MANAGER  
ZANE KESSLER, DIRECTOR OF GOVERNMENT RELATIONS  
AMY MOYER, DIRECTOR OF STRATEGIC PARTNERSHIPS

**SUBJECT:** SHOSHONE WATER RIGHTS PRESERVATION

**DATE:** MARCH 27, 2024

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**REQUESTED ACTION:** The Colorado River District respectfully requests that the Eagle River Water and Sanitation District authorize a financial commitment subject to future annual appropriations to support the acquisition and permanent protection of the Shoshone Water Rights.

Securing a strong local funding commitment is a necessary requirement for the River District to close on the final \$99 million deal to acquire the Shoshone Water Rights. Under the current funding strategy, the Colorado River District proposes a local and state funding contribution of at least \$50 million, leaving approximately \$49 million remaining to be secured. The Colorado River District's current funding strategy is to seek \$49 million in funding from the federal government made available through the Inflation Reduction Act. While we have worked diligently to achieve this funding strategy and believe that this project is well-positioned to be competitive for federal funding, it is far from guaranteed to receive the full funding request. We are therefore looking to our coalition partners to fund approximately \$10 to \$20 million. These funding commitments will reduce our reliance on federal funding sources and better allow the West Slope to control our water security in the future. **Therefore, we respectfully request that the Eagle River Water and Sanitation District consider a funding commitment of at least \$750,000.**

To fulfill the River District's funding commitment under the Purchase and Sale Agreement (PSA) with Public Service Company of Colorado (PSCo), all coalition partners will need to deposit their committed funds into an interest-bearing escrow account within thirty days of the River District successfully obtaining a rights change decree in water court. While it is difficult to predict the anticipated length of a change case in water court, we are optimistic that the change decree will be entered before the end of 2026. Under the PSA, the funds deposited by coalition partners will accrue interest, which will be applied towards the purchase price of the Shoshone Water Rights at



the time of closing. However, all funds deposited by partners and held in escrow are fully refundable (with interest) should the PSA be terminated for any reason.

Following any formal commitment of funding, the Colorado River District requests the Board delegate staff authority to execute a letter indicating the financial commitment of the Eagle River Water and Sanitation District in alignment with formal action taken. The Colorado River District will utilize this letter to support gathering additional financial contributions from other partners in furtherance of this effort.

## LOCAL FUNDING UPDATE

The funding strategy relies on a diverse partnership of local, state, and federal funding sources. The broad-based West Slope Coalition proposes to contribute \$30 to \$40 million, \$20 million of which has already been approved and committed by the River District's Board of Directors, made possible through increased property tax revenues approved by West Slope voters in 2020 following the passage of ballot question 7A.

Recognizing the importance of Shoshone permanency to current and future water security on Colorado's Western Slope, local partners are beginning to take action to formalize their financial commitments to this project.

Through initial conversations and anticipated commitments, the Colorado River District anticipates receiving between \$15 - \$20 million in local contributions. Since January 2024, River District Staff has presented to over 20 local partners. The following table indicates additional requests made to the five mainstem counties and partners; however, these amounts have not yet been formally committed and discussions are ongoing.

### Local Funding Requests (as of 3/27/2024)

Garfield County	\$4 million
Mesa County	\$2 million
Eagle County	\$2 million
City of Glenwood Springs	\$2 million
Summit County	\$1 million
Grand County	\$1 million
City of Grand Junction	\$1 million
Upper Eagle Regional Water Authority	\$750,000
Eagle River Water and Sanitation District	\$750,000
Clinton Ditch and Reservoir Company	\$100,000
Mesa County Irrigation District	\$50,000
<b>Total:</b>	<b>\$14.65M</b>

Additionally, as of the date of this memo, local partners have formally committed nearly \$3 million shown on the following table on page 3.



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**Local Funding Commitments (as of 3/27/2024)**

Ute Water Conservancy District	\$2 million
Clifton Water District	\$250,000
Grand Valley Irrigation Company	\$250,000
Grand Valley Water Users Association	\$100,000
City of Rifle	\$100,000
Orchard Mesa Irrigation District	\$100,000
Basalt Water Conservancy District	\$100,000
Palisade Irrigation District*	\$50,000*
West Divide Water Conservancy District	\$50,000
<b>Total:</b>	<b>\$3M</b>

*\*Anticipated commitment to be formalized on April 4<sup>th</sup>, 2024.*



## MEMORANDUM

**TO:** Board of Directors

**FROM:** Ali Kelkenberg, People Team Supervisor  
Tom Borawski, People Operations Manager

**DATE:** March 27, 2024

**RE:** People Analytics

**Summary:** This report includes a brief analysis of our current workforce, key takeaways from 2023, and a look forward. This is not an exhaustive report but is intended to highlight key people data for the District.

**District Workforce Demographics:** Generally, our workforce is very similar to the data reported in 2023, with minor differences.

When we break down our workforce in terms of gender, age, race, and tenure, we see the following trends at time of report out:

- There's a slight increase in the representation of white and female employees.
- With recent promotions, females are increasingly represented as one progresses up the organizational hierarchy.
- The workforce is slightly younger with more Gen Z employees entering the workforce (3% increase) while Baby Boomers are exiting due to retirement.
- Supervisors, Managers, and Directors exhibit a closely clustered age distribution with our average workforce age remaining forty-one (41) years.
- Manager and Director tenure is increasing at a faster pace compared to frontline tenure, which has also increased, but only slightly.

Although the percentage decreased slightly in 2023, most staff continue to live within our service area (62.2%). Of those that live within our service area, many are living in District rental units.

### Compensation

With ongoing maintenance of classification and compensation study recommendations and subsequent strategies, average wages have increased by 9% and median wages have increased by 8.1% from February 2023 to February 2024. The average employee received a 6.42% increase due to last year's Cost-of-Living Adjustment (4%) and Merit increase (2.42%), which is important in a year in which the Employment Cost Index (ECI) ended at 4.6% for state and local governments. Next steps in compensation strategies include the annual market analysis and compression evaluation and adjustments. In the same analysis, we are also assessing the standardization of minimum qualifications (MQs) in classification specifications, and broadening classifications.

## Hiring and Onboarding

The District hired 23 full-time employees and 6 seasonal hires in 2023. Job application volume has increased by 66% since the implementation of class and comp study results with most applications coming from in-state job seekers (57% of all 2023 applications). The increase in volume has had a major positive effect on our hiring, allowing for more choice in candidates.

Our onboarding program maintains a remarkable satisfaction rating of 96%, marking an improvement from the 94% rating recorded this time last year. Our onboarding process, which continues to evolve, prioritizes not only introducing staff to the District's procedures and duties but also fostering a welcoming environment that embodies our organizational culture.

## Total Rewards

In a 2024 benefits plan assessment developed by our benefits broker, Brown & Brown, District benefits were benchmarked against cohorts (100 – 499 employees, mountain region, utilities). District benefits were found to be market leading, which is in part due to the high cost of benefits in our area. District leave benefits were also marked as market leading.

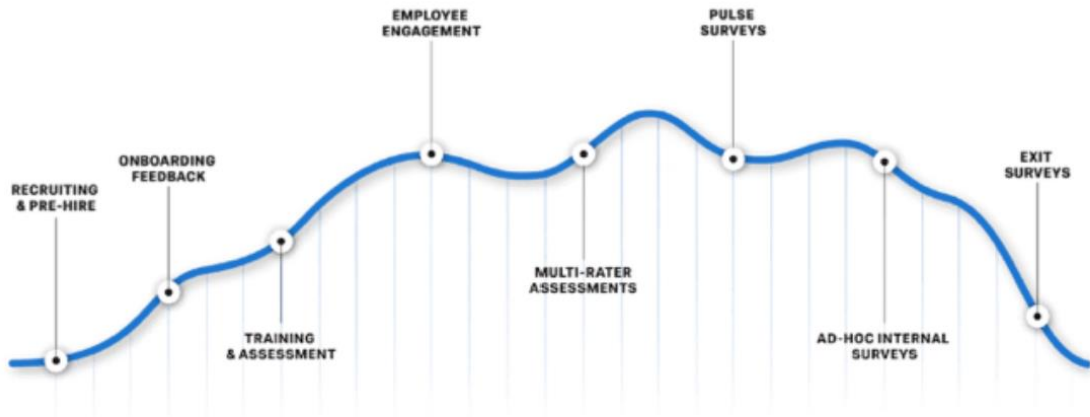
A significant and unique aspect of the District's total rewards package is the employee housing program. Out of the four offerings (Below market rents in the Rental Program, Employee Housing Ownership Program (EHOP), Purchase of deed restricted unit, and Stipends), employees continue to utilize the rental program (49 of 136, 36%) and housing stipend (79 of 136, 58%) most prevalently. Employees are typically *only* moving out of our rental program if they are exiting the organization, however, EHOP continues to be a crucial benefit for those looking to purchase a home. In 2023, 1 employee used EHOP to purchase a home. Employees are not just moving into the rental program because of relocation, the trends show that more employees are being drawn (or pushed) towards the District's rental program because of quality and affordability as compared to the local market.

## Turnover

District turnover rate was 16% for 2023, attributed to both healthy and unhealthy turnover. Some of the District turnover may remain at this level due to the transitory nature of the valley and cost of living. In 2023, 22 employees left the District. Of those that left the District, 36% left the area altogether, while 21% left for other jobs in the community. The most cited reasons for turnover are relocating out of the community due to cost of living, personal reasons, or for an increase in compensation or title.

## Employee Feedback Loop

To ensure we manage turnover as efficiently and effectively as possible, we are maintaining a feedback loop with staff that includes multiple touchpoints throughout the employment lifecycle. Currently, the District is continuing to focus on entrance interviews, stay interviews, and exit interviews with all staff. These structured discussions are used to gather feedback, insights, and impressions from employees about their experiences with the District. The District is actively incorporating feedback from these interviews into its initiatives. Considering this feedback at every stage of the employment lifecycle, we will ensure operational excellence and continuity when it comes to people management, while making necessary programmatic and management style adjustments to meet the needs of a 2024 workforce and beyond.



Your engagement and commitment to the workforce are appreciated as we navigate the complexities that arise with running an organization in the valley.

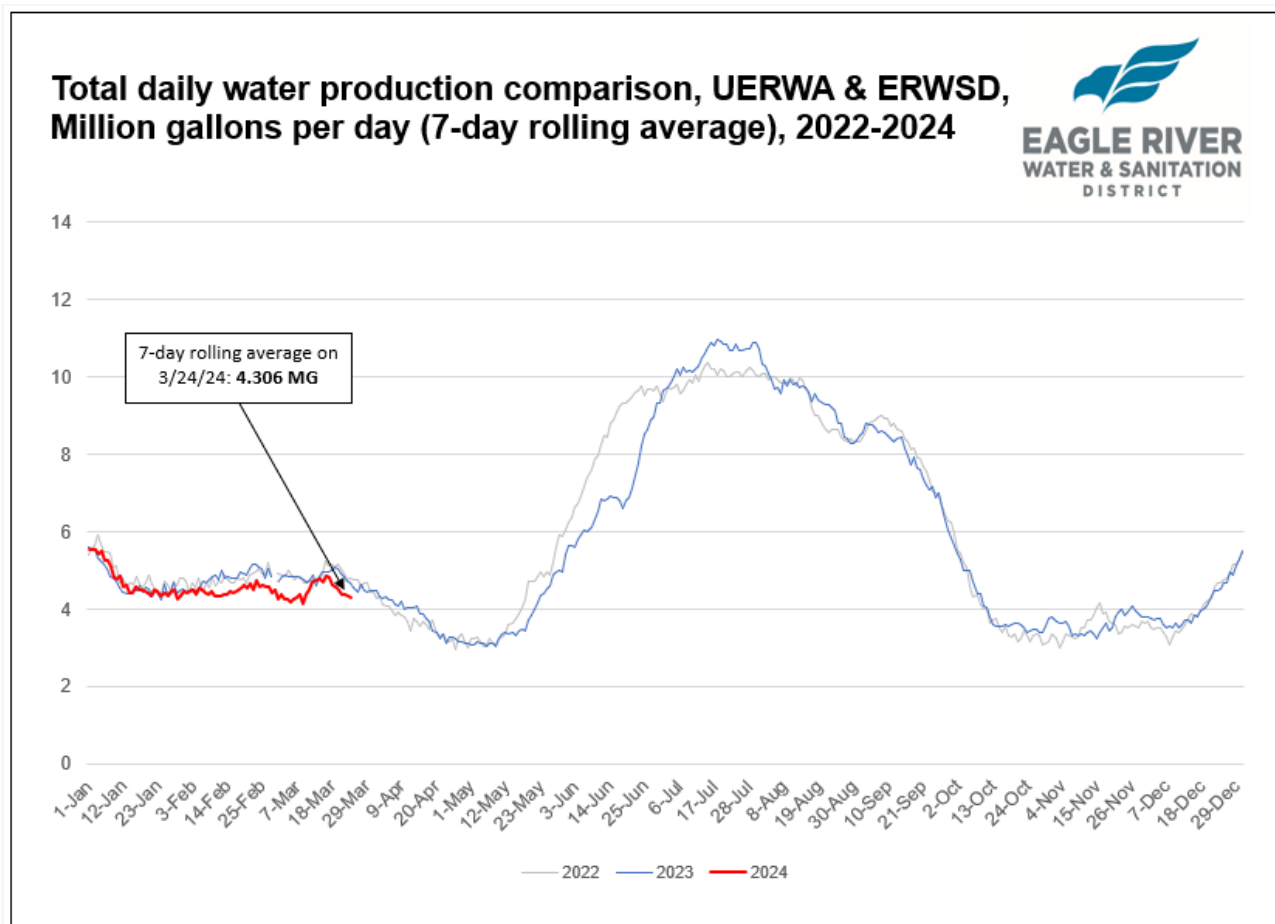


### OPERATIONS MONTHLY REPORT APRIL 2024

## WATER

Kailey Rosema

The system-wide water production comparison was updated through Mar. 24. Production is normal for this time of year.



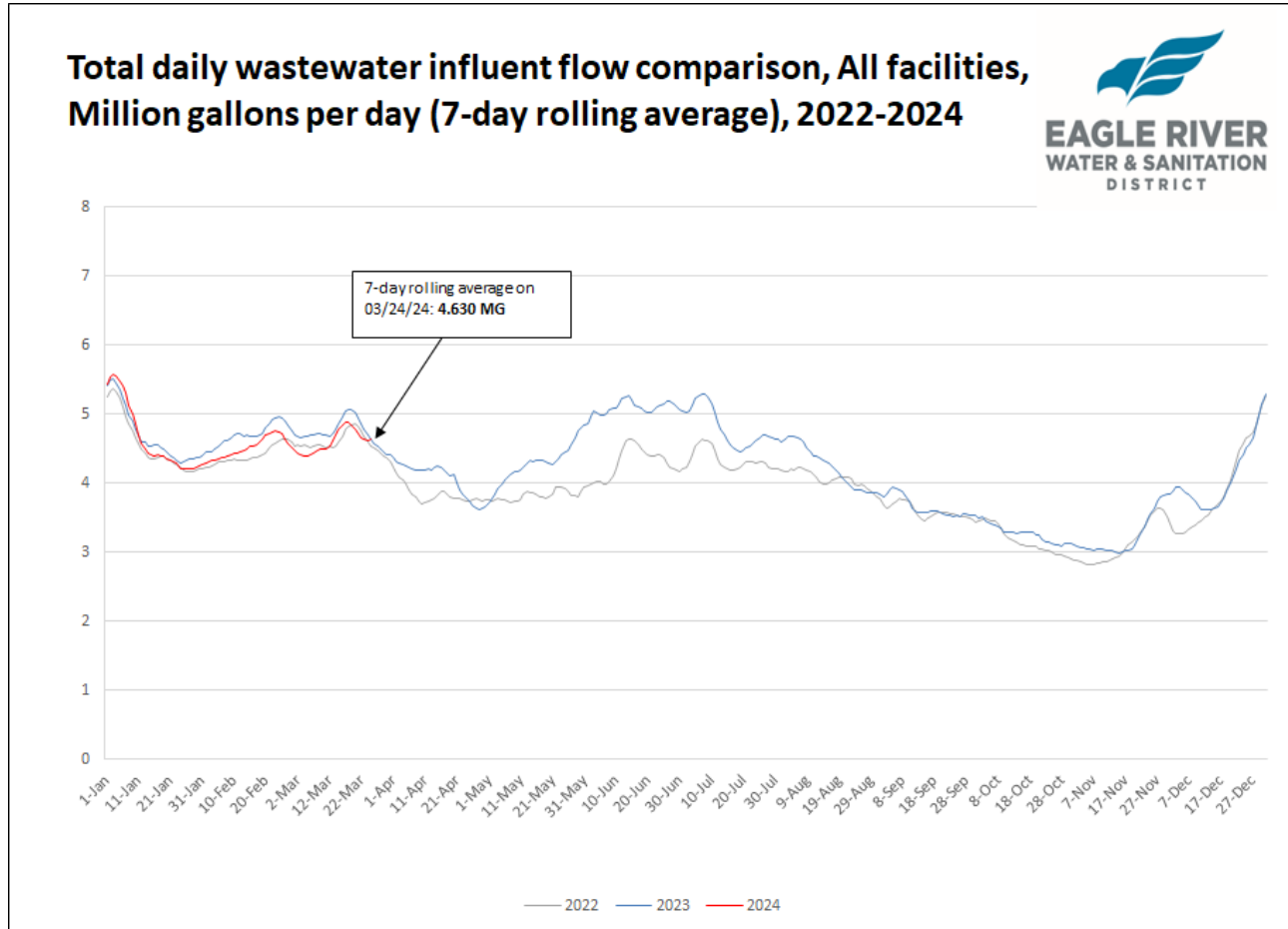
Vail Well R7, which experienced major damage during a utility power failure on Jan. 4, is currently being repaired. The pump and motor were removed and the well casing was video inspected on Mar. 19. The video inspection revealed several small holes in the well casing located approximately 10 feet below the ground surface. The holes must be repaired before the new pump and motor can be installed. The project team is currently consulting with specialty contractors to evaluate repair options.



**WASTEWATER**

Chris Giesting

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



**WATER QUALITY**

Leah Cribari

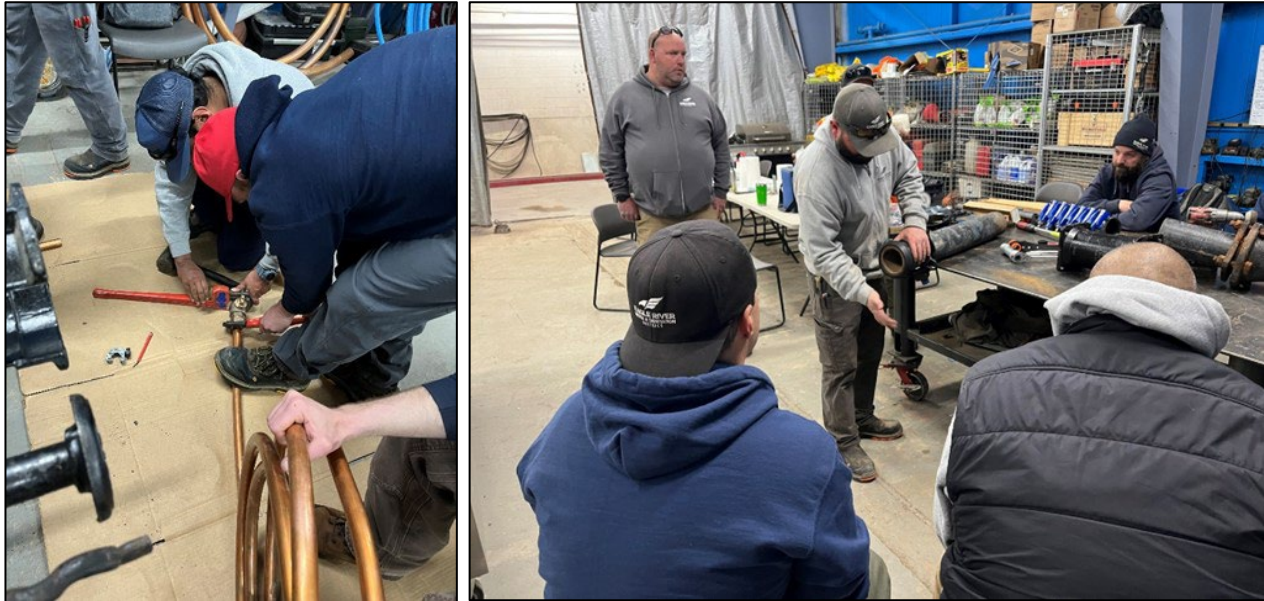
The results of the 2022 macroinvertebrate sampling program were received in March. In general, the results are similar to previous years. A summary memo is provided in the board packet.

**FIELD OPERATIONS**

Niko Nemcanin

There were no major emergency incidents to report this month. The Field Operations team has taken advantage of the relatively slower time to catch up on internal training. The team has developed a series of hands-on training modules that allow staff to practice various pipe repairs

using the same fittings and pipe materials found in the District's and Authority's water distribution and wastewater collection systems.



Field Operations pipe repair training

**UTILITY SERVICES**

Shane Swartwout

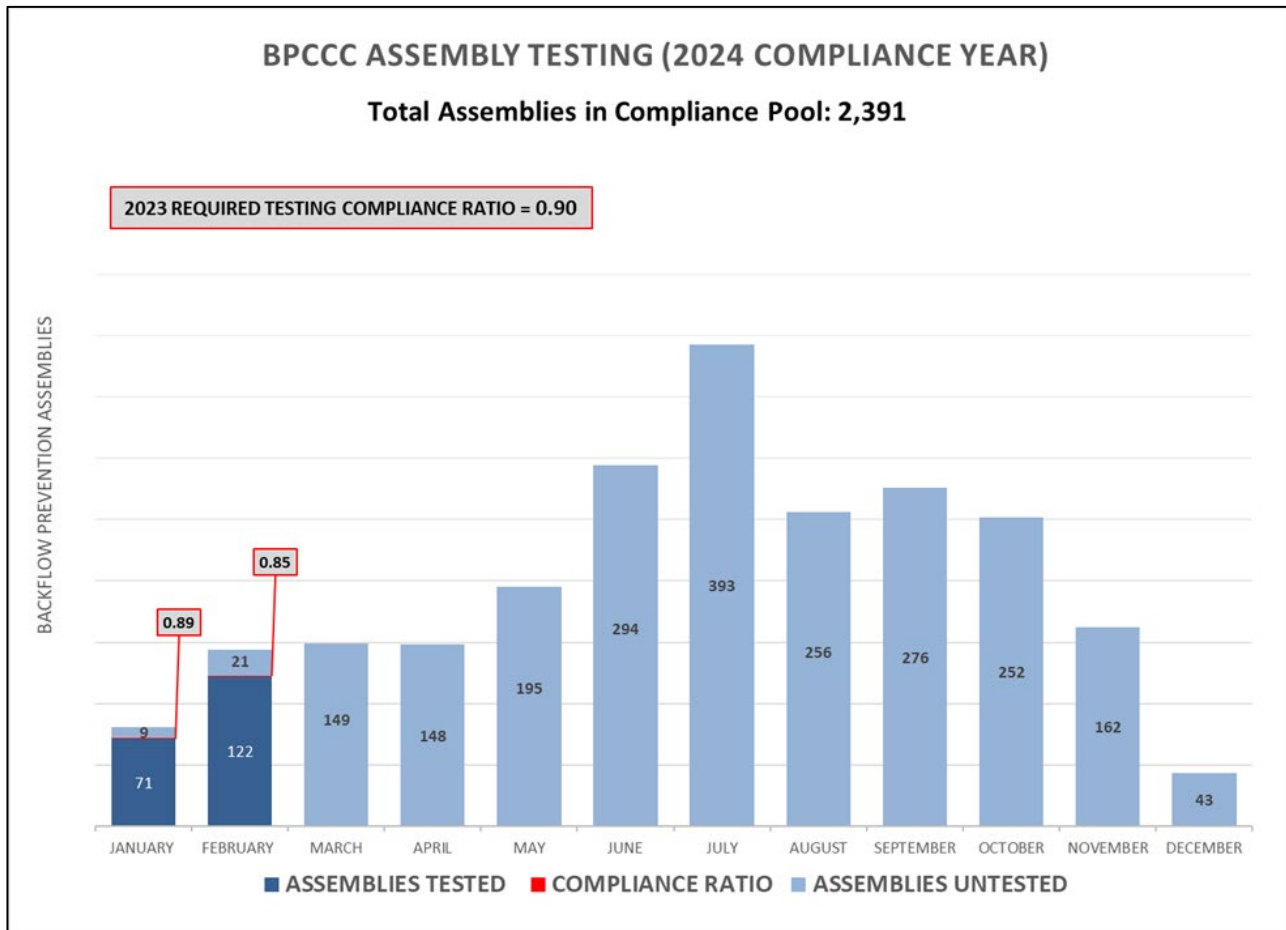
**Meter Services**

The Meter Services team is currently working to reduce the number of monthly water use estimates by prioritizing repairs to meters that are not consistently communicating with the Advanced Metering Infrastructure (AMI) network. Current efforts are focused on replacing failed meters and transmitters, repairing damaged meter components, and converting outdated meters to AMI. The team is also continuing to work towards 100% AMI conversion in the Authority. A progress report is provided below.

Report Date:	3/18/2024		
<b>AMI SYSTEM STATUS</b>	<b>ERWSD</b>	<b>UERWA</b>	<b>TOTAL</b>
(1) Total No. of Meters	3200	6865	10065
(2) No. of AMI Meters	3200	6398	9598
(3) System Percentage of AMI Meters	100%	93%	96%
Meters Remaining to Reach 100% AMI	0	467	467
<b>Meter Services – Advanced Metering Infrastructure (AMI) Status (Updated 3-18-2024)</b>			

## BPCCC Program

BPCCC technicians completed annual testing of the backflow prevention assemblies located at the wastewater treatment facilities. The team also completed a comprehensive audit of the new data management software, which tracks device testing results and automatically generates customer notifications.



## Fats, Oils, and Grease (FOG) Program

The Utility Services and Public Relations teams are collaborating to add Fats, Oils, and Grease (FOG) information to the District’s website. The team also created a new FOG door hanger and is working to develop informational brochures, postcards, and trifold for the food service establishments (FSE’s) located within the service area. In the upcoming weeks, staff will begin scheduling visits with each of the 314 FSE’s to introduce the FOG program and discuss compliance requirements.

Utilities Services staff completed a grease interceptor training course that focused on grease interceptor history, evolution, functionality, operation, sizing, selection, and maintenance and

inspection requirements. Grease interceptors are the primary pretreatment devices necessary to collect and prevent FOG from entering the wastewater collection system.

## **Fleet and Facilities**

The Fleet and Facilities team recently compiled historical maintenance costs, fuel consumption, and mileage data for all fleet vehicles and equipment. This information is being used to analyze fleet performance, improve efficiency, reduce costs, and strategically plan for future vehicle and equipment needs.

### **CAPITAL IMPROVEMENT PROGRAM (CIP)**

Jeff Schneider

#### **WATER PROJECTS**

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#### **Cordillera West 1 Water Storage Tank Rehabilitation**

Kevin Nelson

General Project Scope: The Cordillera West 1 Water Storage Tank is a 400,000-gallon, above-ground, steel tank. The project scope involves sandblasting and recoating the tank surfaces, installing a cathodic protection system, and various improvements to the vent, hatch, and overflow/drain systems.

Project Update: The 90-percent design plans, specifications, and cost estimates have been completed and are under internal review. The team is currently preparing the CDPHE design review application and developing a plan to temporarily isolate and drain the tank so that the condition of the tank floor can be inspected and evaluated. Rehabilitation work is expected to begin in the fall.

#### **Arrowhead Transmission Main**

Mark Mantua

General Project Scope: This project includes replacement of approximately 2,200 linear feet of 16-inch diameter water main from the base of Arrowhead Mountain to Arrowhead Tank 1. The existing pipe is corroded. The project also includes installation of a new valve control vault that will help optimize tank filling and balance tank levels in the low-pressure zone.

Project Update: The construction contract was awarded, and a preconstruction meeting was held on Mar. 6. Material procurement and stakeholder coordination is underway. Contactor mobilization is scheduled to begin in late April.

## WASTEWATER PROJECTS

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### **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: Electrical and controls work is ongoing in preparation for the delivery of the new standby generator, which is scheduled to arrive in May. Concrete was placed at the front office plaza drains. The team is currently troubleshooting control issues with the new bar screen and UV systems, working through punch list items, and evaluating design options to improve stormwater drainage in the lower parking lot.

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

Jenna Beairsto

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

Project Update: Staff training and control testing has continued this month in preparation for lift station start-up. A pre-punch list walk is scheduled for Mar. 28 for the facility and the gravity sewer line. Wastewater flow is scheduled to be directed to the new lift station the week of Apr. 15 for a 7-day functional test.



*Pumps and piping in new lift station*



*Wet well exterior on the west side of lift station*



*Exterior view of the lift station showing solar panels on roof*

### **Edwards Wastewater Treatment Facility (EWW) Nutrient Upgrade**

Jenna Beirsto and  
Madeleine Harris

General Project Scope: The EWW must be upgraded to meet Regulation 85 nutrient limits for final total inorganic nitrogen (TIN) and total phosphorus (TP). Expected improvements include renovation of the preliminary treatment equipment, primary bypass improvements, aeration basin modifications and expansion, blower replacements, chemical feed and storage improvements, return and waste activated sludge (RAS/WAS) pump replacements, centrate storage improvements, and HVAC and electrical upgrades. This project will also resolve existing hydraulic process constraints and address condition assessment needs identified in the Wastewater Master Plan. The project must be completed by the CDPHE compliance deadline of Jan 1, 2029.

Project Update: The project team held its first design workshop on Mar. 27 to discuss the headworks, grit basins, primary clarifiers and bypass channel and pipe. The team has also started preparing the CDPHE site application. A request for qualifications (RFQ) for a Construction Manager at Risk (CMAR) contractor will be advertised on Mar. 29 and an onsite meeting will be held with interested parties on Apr. 11. The team anticipates having a CMAR contractor selected by July.

## ADMINISTRATION PROJECTS

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### 101 Eagle Road Office Improvements

Dan Duerr

General Project Scope: The new Eagle Vail Office requires improvements to the roof, office space finishes, IT server room, and various mechanical, electrical, and plumbing (MEP) components prior to staff relocating from the Traer Creek Office and Avon WWTF Admin Building.

Project Update: The project team met with Eagle County building officials and the Eagle River Fire Protection District to discuss code requirements for the proposed large conference room space. The addition of a conference room will require fire sprinkler system upgrades and structural reinforcement to the subfloor. The project team is currently working to design and evaluate improvement options. Interior finishes, mechanical, electrical, and plumbing (MEP) work, and office layout improvements are nearly complete. Contractors are currently being procured for the roof replacement and smaller non-permitted finish work.





## MEMORANDUM

**TO:** District and Authority Board Members  
**FROM:** Leah Cribari, Laboratory and Regulatory Compliance Supervisor  
**DATE:** March 31, 2024  
**RE:** 2022 Macroinvertebrate Sampling Results

### Background:

Benthic macroinvertebrate community characteristics are commonly used as biological indicators of water quality and stream health conditions. Most macroinvertebrate taxa have relatively long aquatic life stages, limited mobility, and specific adaptations to the environment that make certain taxa sensitive to different types of stress from pollutants or habitat disturbance. In 2010, the Colorado Water Quality Control Commission (WQCC) adopted Policy Statement 2010-1. This Policy Statement details the methodology for using macroinvertebrate population metrics for assessment of aquatic life use attainment in streams and rivers. This methodology is based upon a multi-metric index (MMI) score for determining whether or not a stream is in attainment of the aquatic life use. In 2012, the WQCC added Gore Creek to the state's 303(d) list for aquatic life use impairment with a "provisional" qualifier indicating that the cause of impairment was not known. Today, Gore Creek remains provisionally listed for aquatic life use impairment.

The figures below were produced to show the sampling locations and the MMI scores for 2009 through 2022 at the sampling sites on Gore Creek, Black Gore Creek, Red Sandstone Creek, and the Eagle River. The figures include sampling sites from upstream (left) to downstream (right). On each figure, the green dashed line represents the aquatic life use attainment threshold and the red dashed line represents the impairment threshold. The space in between these two lines is referred to as the "gray zone" where two auxiliary metrics (Shannon Diversity and Hilsenhoff Biotic Index) are used to determine attainment. If a sample produces an MMI score in the "gray zone," but fails either one of the auxiliary metrics, the site is deemed "impaired." Sites with failing scores, or "aquatic life use impairment," are represented by bars with crosshatch fill, while bars with solid fill indicate attainment. Thirteen years of data are now available at most sites within the study area.

### MMI Version 3 (v3) versus Version 4 (v4):

In 2017, the MMI v3 was recalibrated and updated to produce a new analysis tool, the MMI v4 (Colorado Department of Public Health and Environment 2017). Both versions of the MMI (v3

and v4) utilize several individual metrics to assess the health of aquatic communities in Colorado streams. When using either version of the MMI, the individual metrics (components) of the tool will automatically change depending on the location of the study site (high mountains, transitional areas, or plains). Scores are based on a scale from 0 to 100, and thresholds were set to determine “attainment” vs. “impairment.” The differences between v3 and v4 mostly occur in the selection of individual metrics that were used to construct the index. The MMI (v4) uses eight equally weighted metrics to provide a single index score, whereas the MMI (v3) used five or six. Many of the individual metrics utilized in the MMI (v4) were not used in the MMI (v3). Consequently, the two versions of the MMI emphasize and evaluate different characteristics of the macroinvertebrate community. At high elevations, the MMI (v3) is mostly influenced by the presence/absence and relative abundance of taxa that are considered moderately to highly sensitive to human disturbances, while the MMI (v4) puts greater emphasis on the relative abundance of the most sensitive taxa. This means that the MMI (v4) is less sensitive to gradual improvements in water quality (or habitat) that allow sensitive (or moderately sensitive) taxa to recolonization in relatively low numbers. Since the components of the MMI have changed, the thresholds used to measure “attainment” vs. “impairment” have also changed. The MMI v3 and v4 were essentially constructed in the same way but use different components to measure different aspects of the health of aquatic life.

#### **Gore Creek:**

Gore Creek continues to show improved MMI scores using v3 and v4, which indicates that the *Restore the Gore* management strategies are working (Figures 1-4). In 2022, all sites except Bighorn Park had attaining scores using v3. Since the commencement of *Restore the Gore* project, several new and sensitive insect taxa (previously only found at reference sites) have started to appear at impaired study sites on Gore Creek. This has resulted in higher scores from the MMI (v3 and v4) in stream segments that are surrounded by residential and urban development. Unfortunately, the detection of new sensitive taxa (in low densities) has not been sufficient to improve MMI (v4) scores to a level that would indicate “attainment”. The greater relative abundance of tolerant and moderately sensitive taxa has overshadowed the lower proportions of sensitive taxa that have started to appear in this stream segment. The MMI v4 is more stringent in mountainous regions, thus bringing the scores below attainment on most of Gore Creek. In 2018, a sampling site was added above the East Vail campground as a new reference site. In 2019, there was a significant reduction in the MMI scores from above the campground to below the campground, indicating increased stress, but since 2020 the decrease in scores has not been as significant. In 2022, impairment begins at Gore Creek Above Black Gore Creek. This was the second year Gore Creek Above Black Gore Creek had failing scores. All the MMI (v4) scores at study sites in the Gore Creek Basin appear to be negatively influenced by low proportions of the most sensitive taxa. At this time, potential sources of stress outside of areas with residential development are unknown.

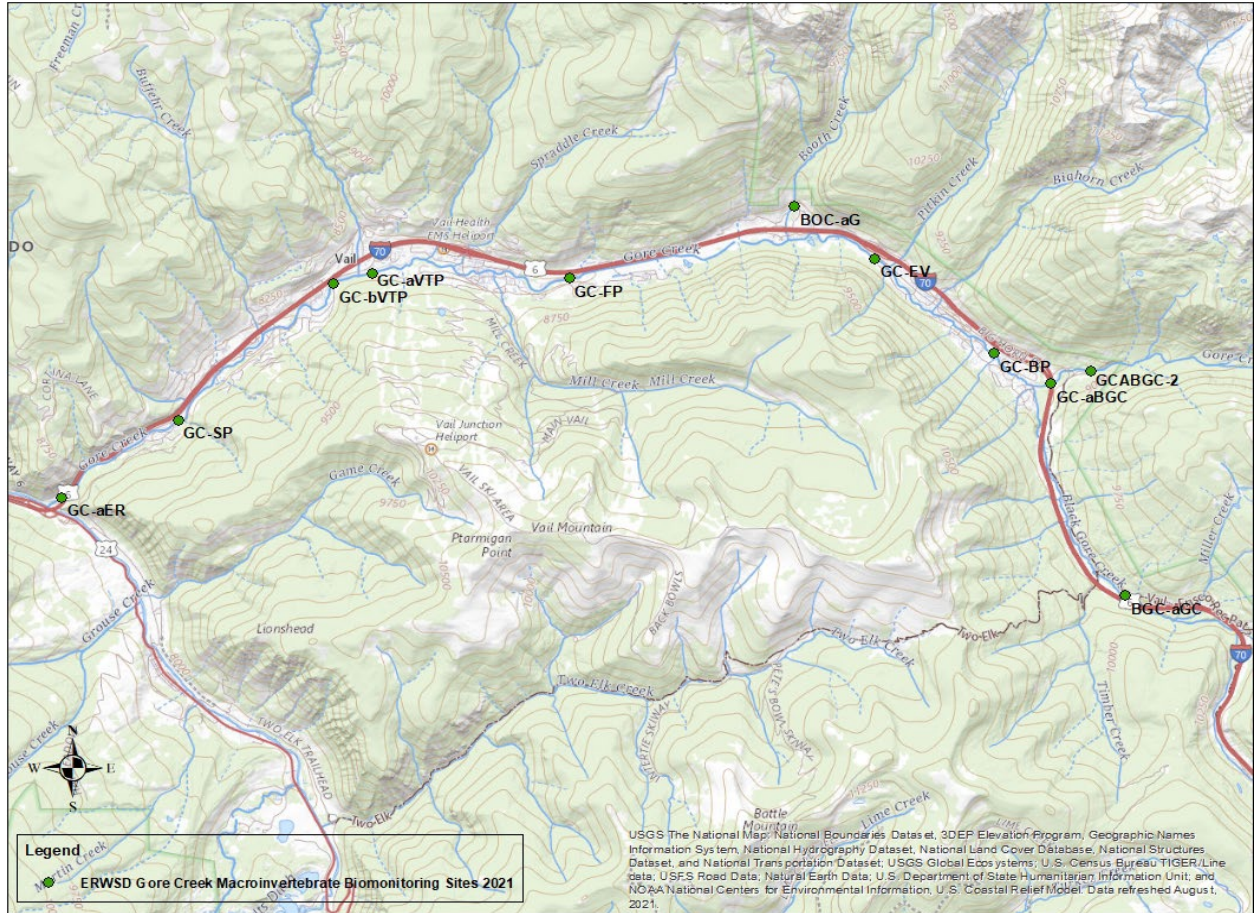
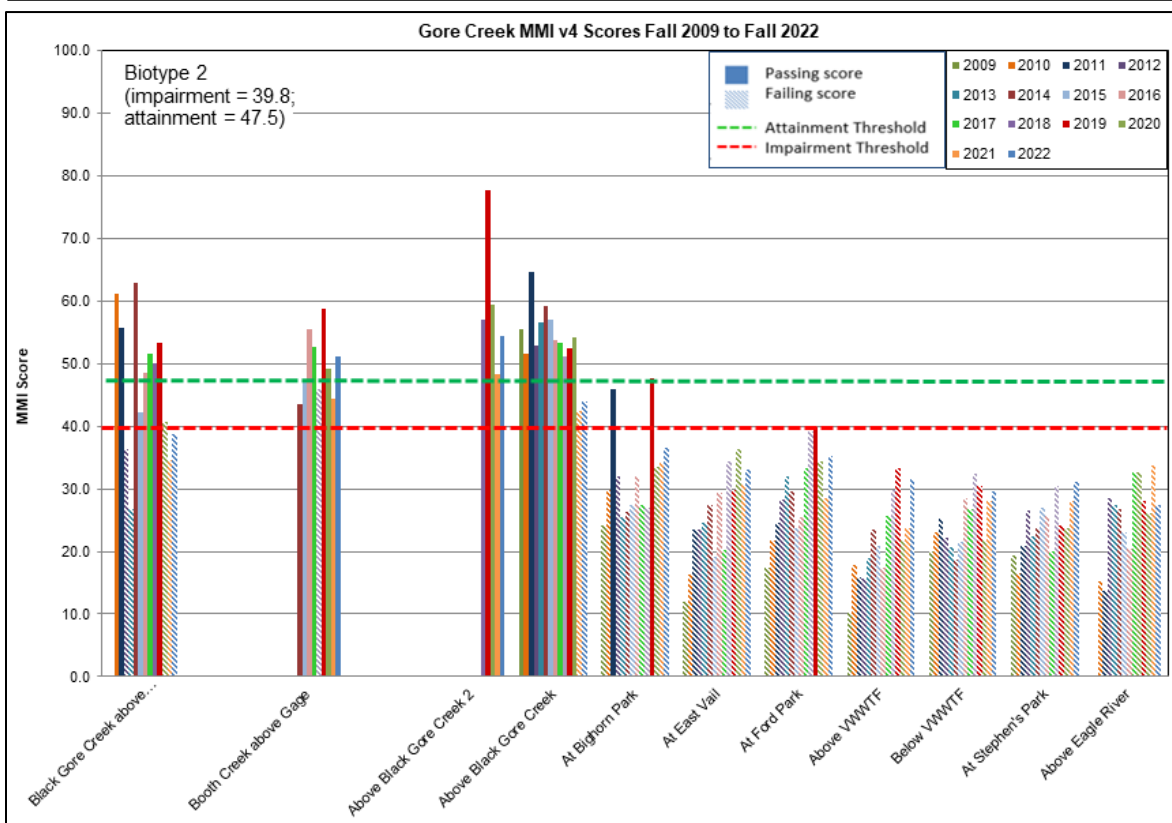
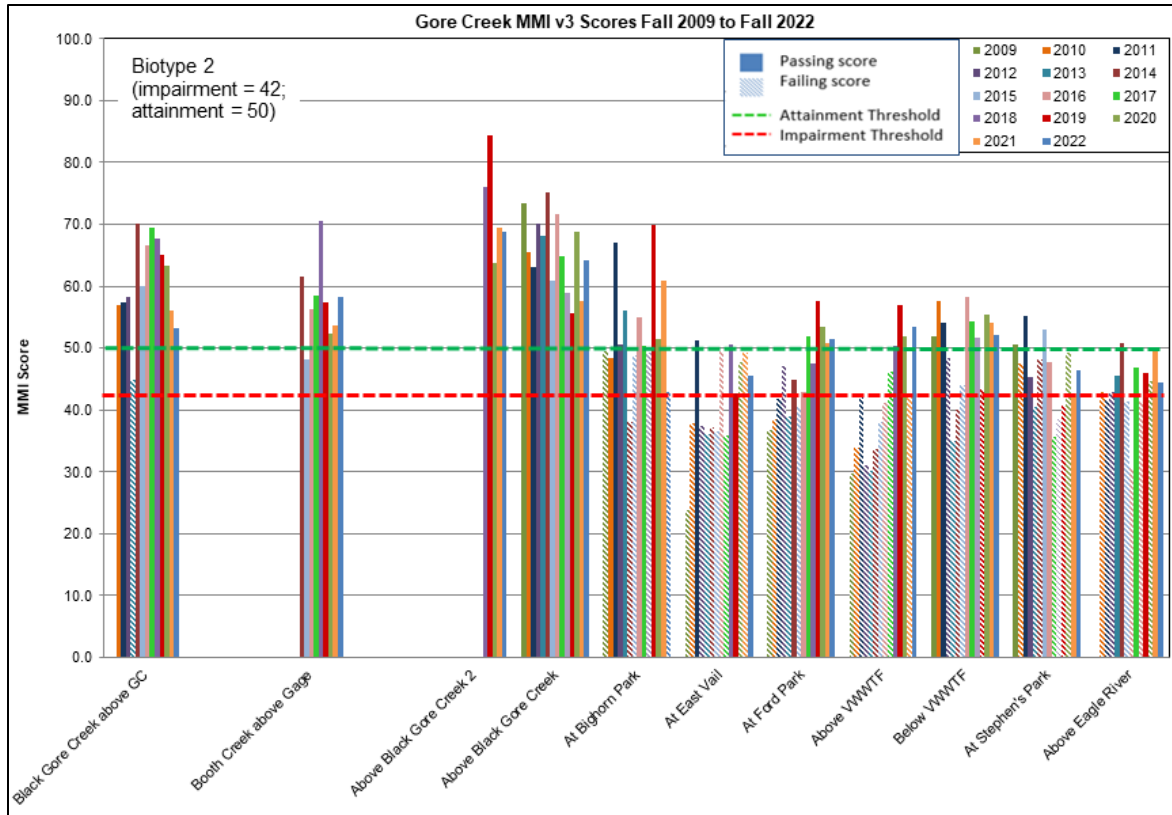


Figure 1. 2022 Gore Creek Macroinvertebrate Biomonitoring Sites



Figures 2 and 3. MMI (v3 and v4) scores from the fall of 2022 and from previous sampling events at study sites on Gore Creek.

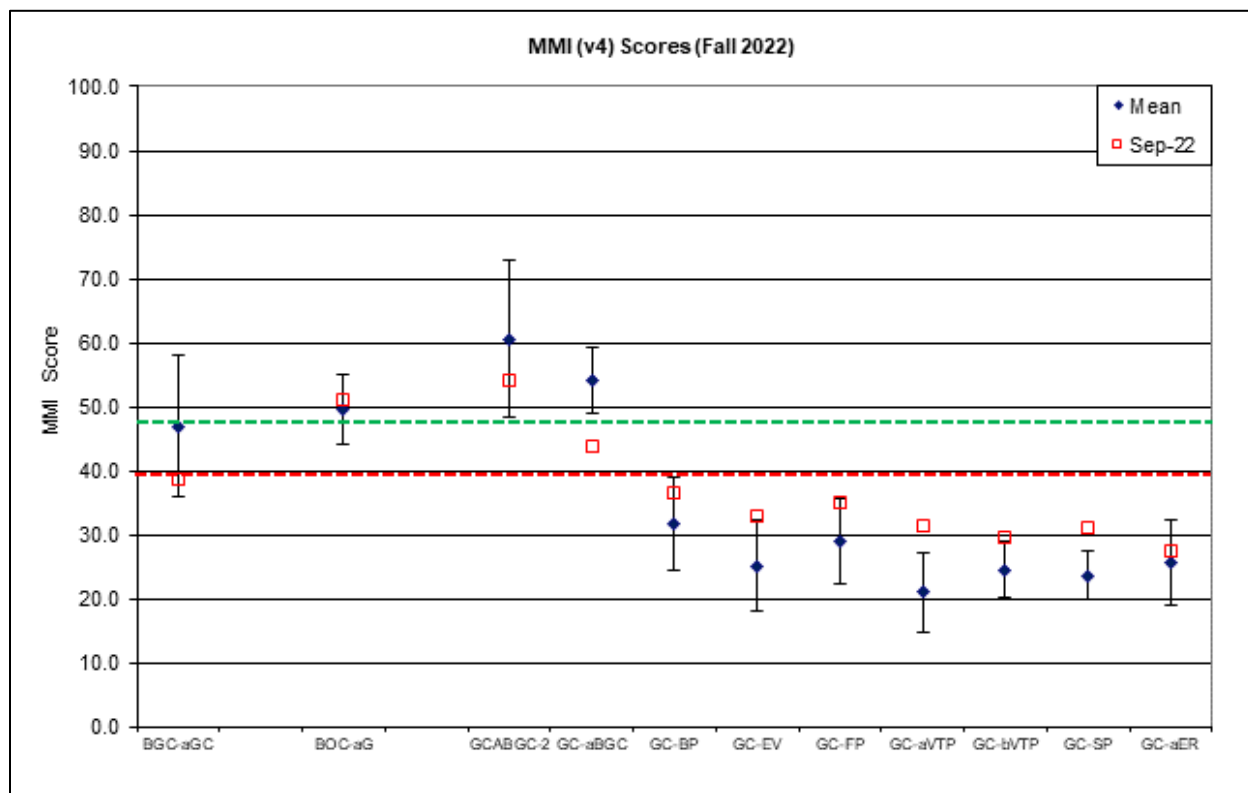


Figure 4. MMI (v4) scores from the fall of 2022 and mean MMI v4 scores ( $\pm 1$  standard deviation) from previous sampling events at study sites on Gore Creek.

### Black Gore Creek:

In 2018 and 2019, six sites were sampled on Black Gore Creek (Figure 5). The purpose of adding these sites was to develop comprehensive background data on Black Gore Creek. This background data will be an important metric to track water quality impacts of the I-70 West Vail Pass Auxiliary Lanes construction project. In response to the District's request for CDOT to monitor water quality in Black Gore Creek, CDOT contracted David Rees to sample BG188, BG184b, Above Miller Creek (BG185), and BG183 (numbers represent highway mile marker locations) from 2020 to 2022. Over the last 5 years, MMI v3 has only shown impairment at BG185 in 2020 (Figures 6-7). During the last three years, the MMI v4 has demonstrated "impairment" at the site above Gore Creek (BGC-aGC). At this time, the data suggest that stress to aquatic life in Black Gore Creek likely increases with distance (exposure) along the adjacent highway; however, many of the negative impacts also seem to be ameliorated by physical and biological contributions associated with unimpacted tributaries (Polk Creek and Miller Creek). Dave Rees has commented that sediment disposition is likely responsible for (at least) a portion of the detectable impacts. An increased rate of sediment deposition can reduce the relative abundance of sensitive taxa, thereby reducing scores produced by the MMI (v4).

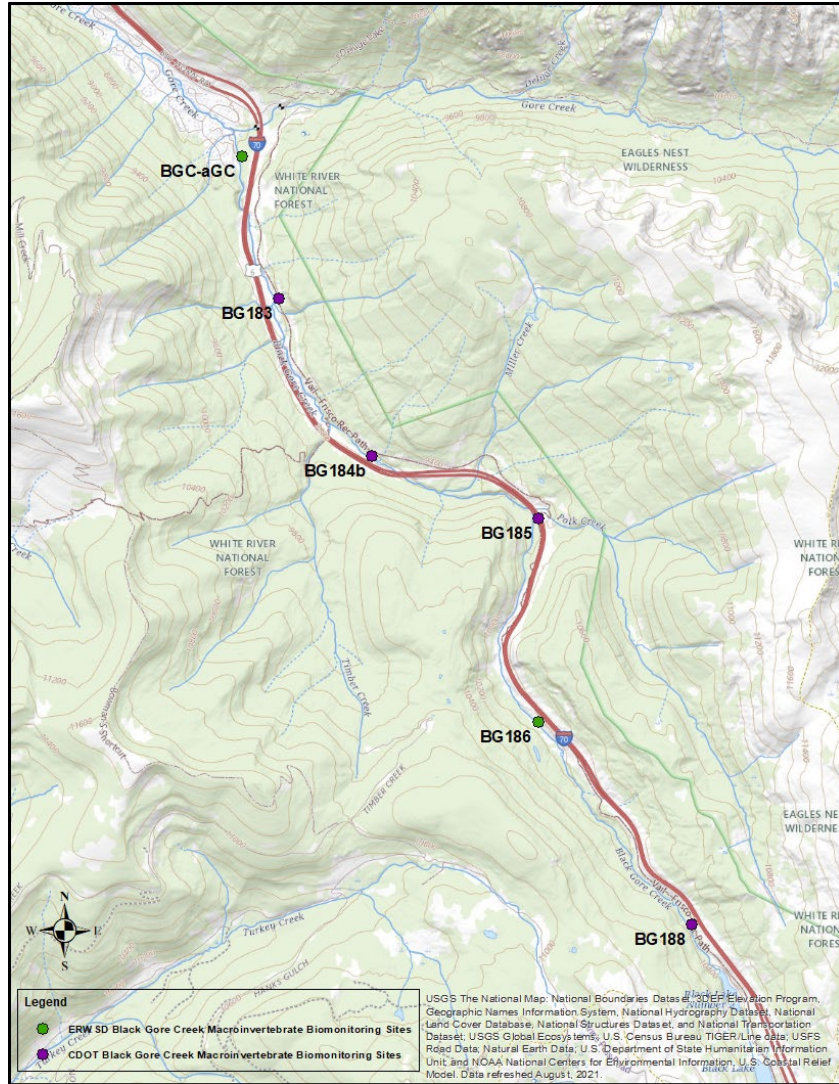
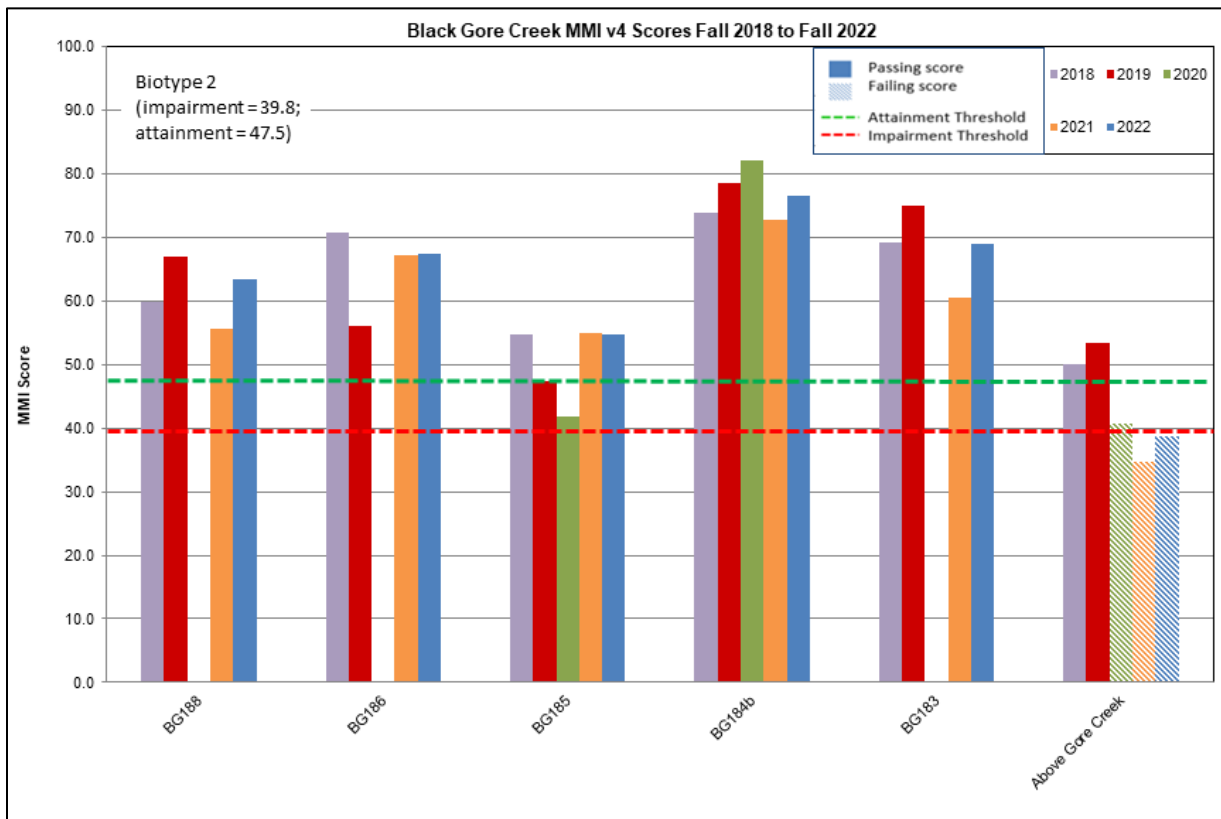
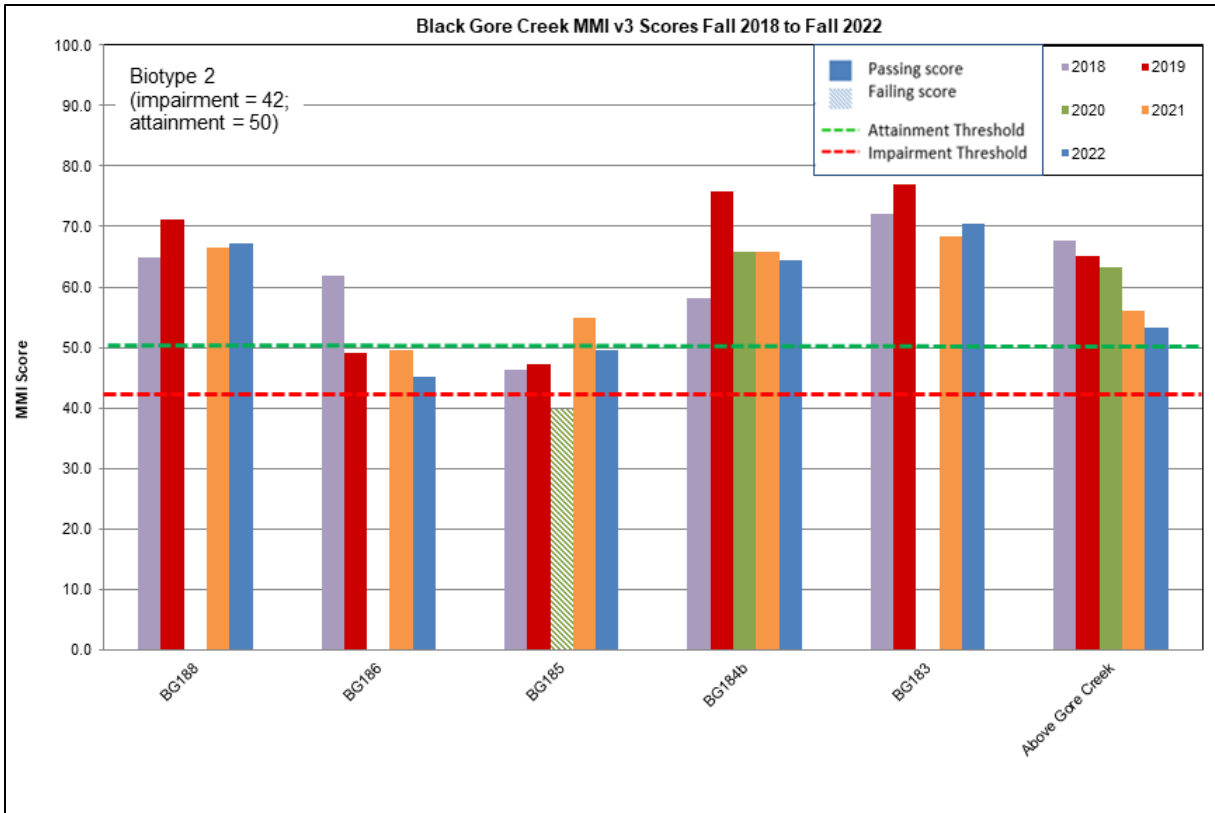


Figure 5. 2022 Black Gore Creek Macroinvertebrate Biomonitoring Sites



Figures 6 and 7. MMI (v3 and v4) scores from the fall of 2022 and from previous sampling events at study sites on Black Gore Creek

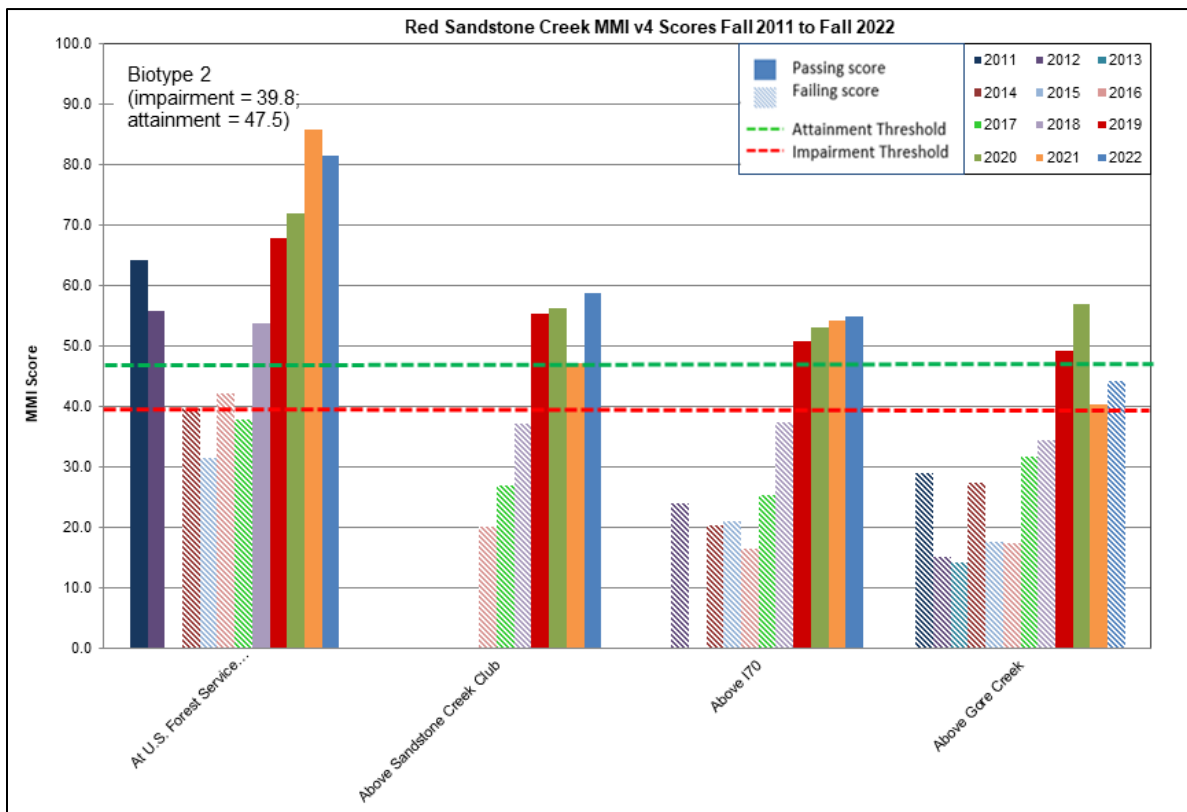
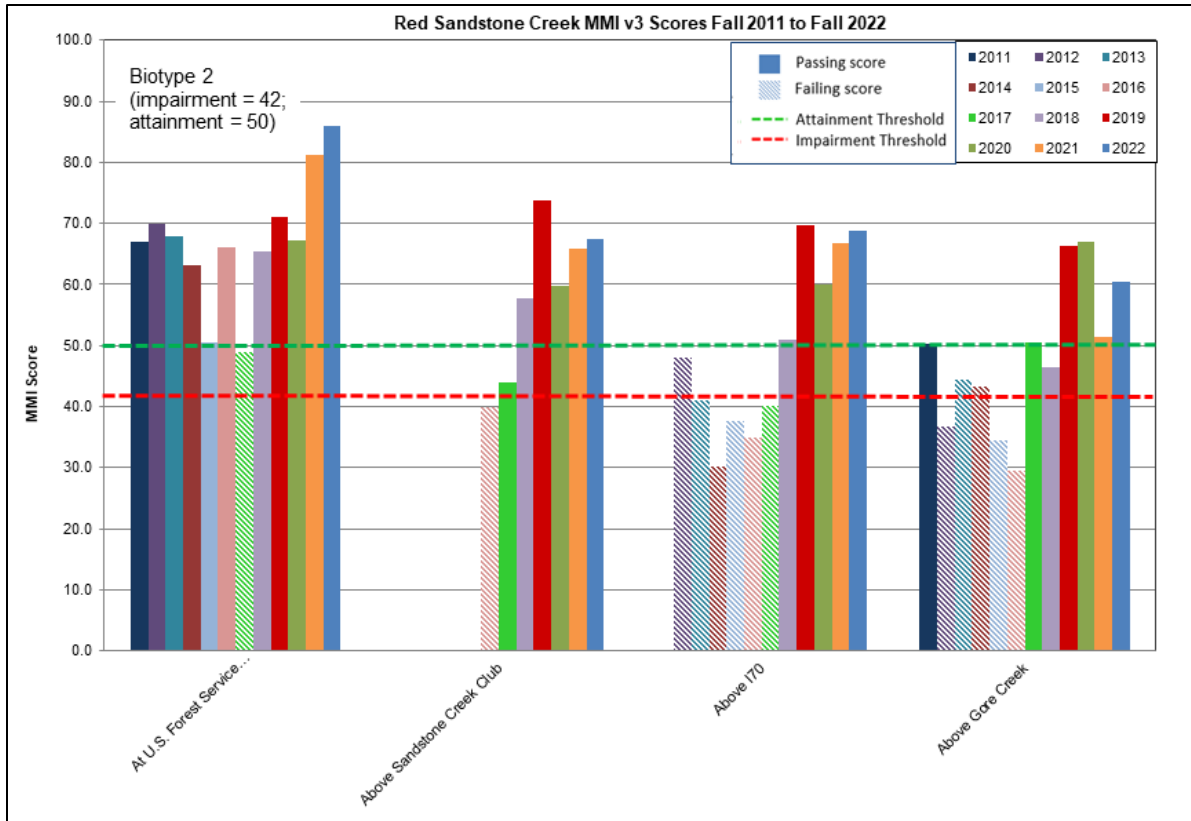
### Red Sandstone Creek:

All sampling sites on Red Sandstone Creek had passing MMI (v3) scores in 2022 (Figures 8-10). From 2019 to 2021, all four sites were passing using MMI v3 and v4. In 2022, Red Sandstone above Gore Creek failed using MMI v4. For the past several years, Town of Vail staff has been working to improve the riparian and landscape practices along Red Sandstone Creek. Peter Wadden has spoken to numerous homeowners along the creek regarding this matter. The results show that education and outreach efforts continue to help improve the aquatic conditions, but the stream ecosystem is delicate, and results can vary year over year. The failing score on Red Sandstone Creek above Gore Creek was likely a result of the cumulative effects of urban runoff; however, this score still demonstrated improvement compared to the first eight years of this study.



Figure 8. 2022 Red Sandstone Creek Macroinvertebrate Biomonitoring Sites





Figures 9 and 10. MMI (v3 and v4) scores from the fall of 2022 and from previous sampling events at study sites on Red Sandstone Creek

### Eagle River:

The 2022 MMI v4 scores for the Eagle River were all passing (Figures 11-13).

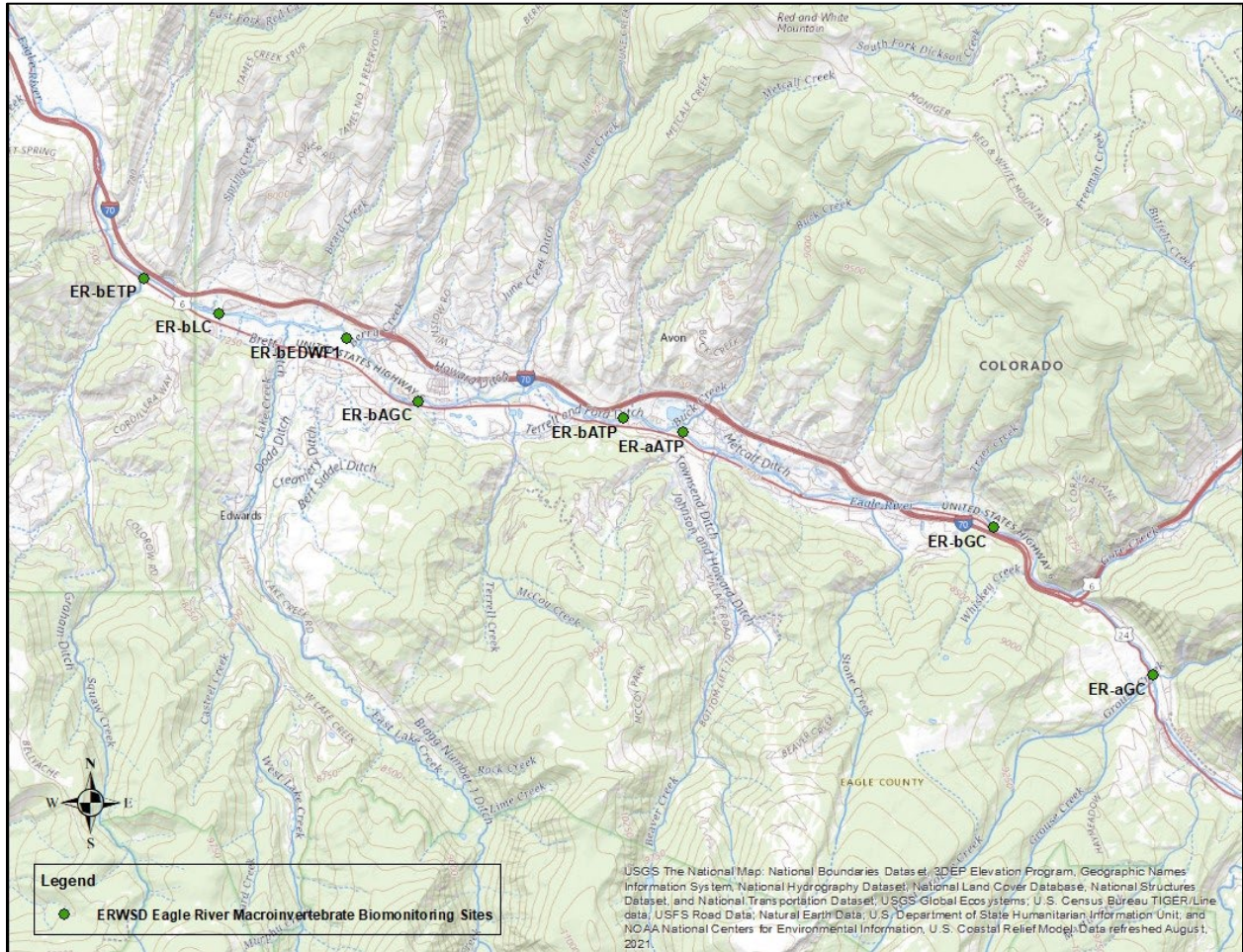
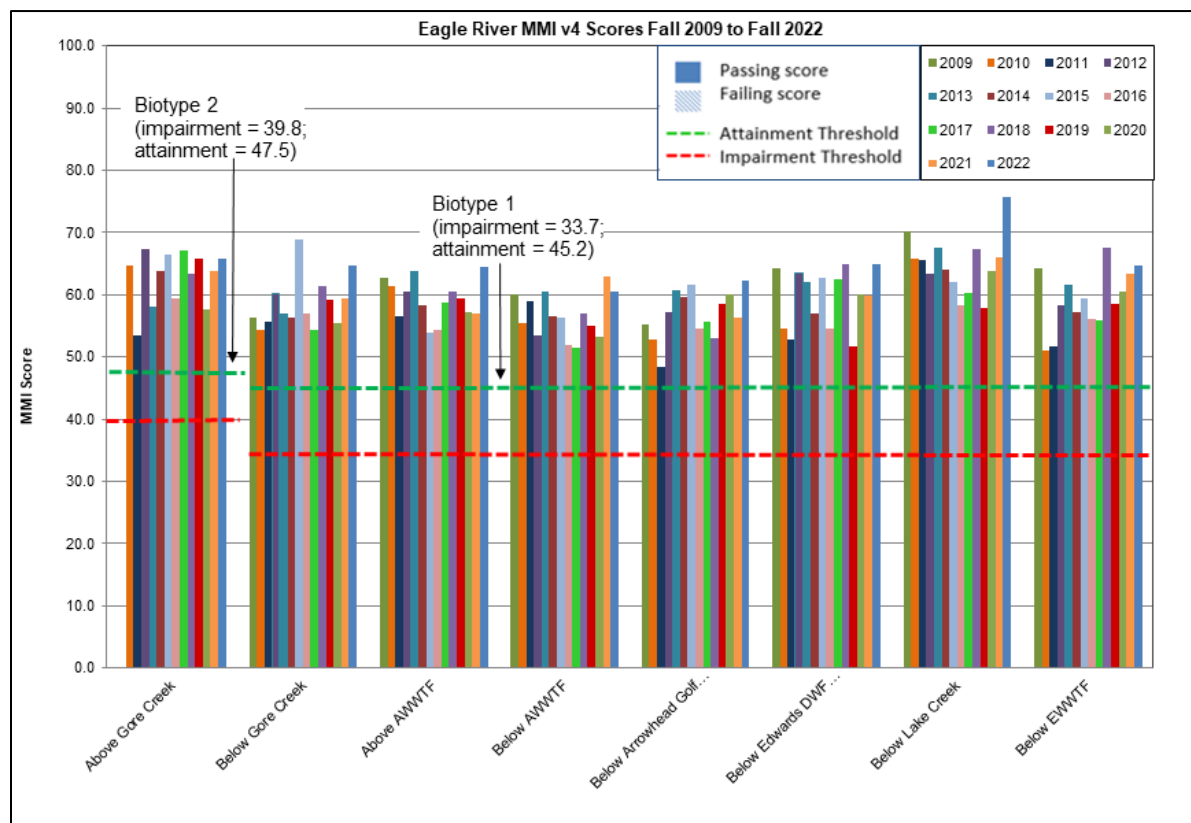
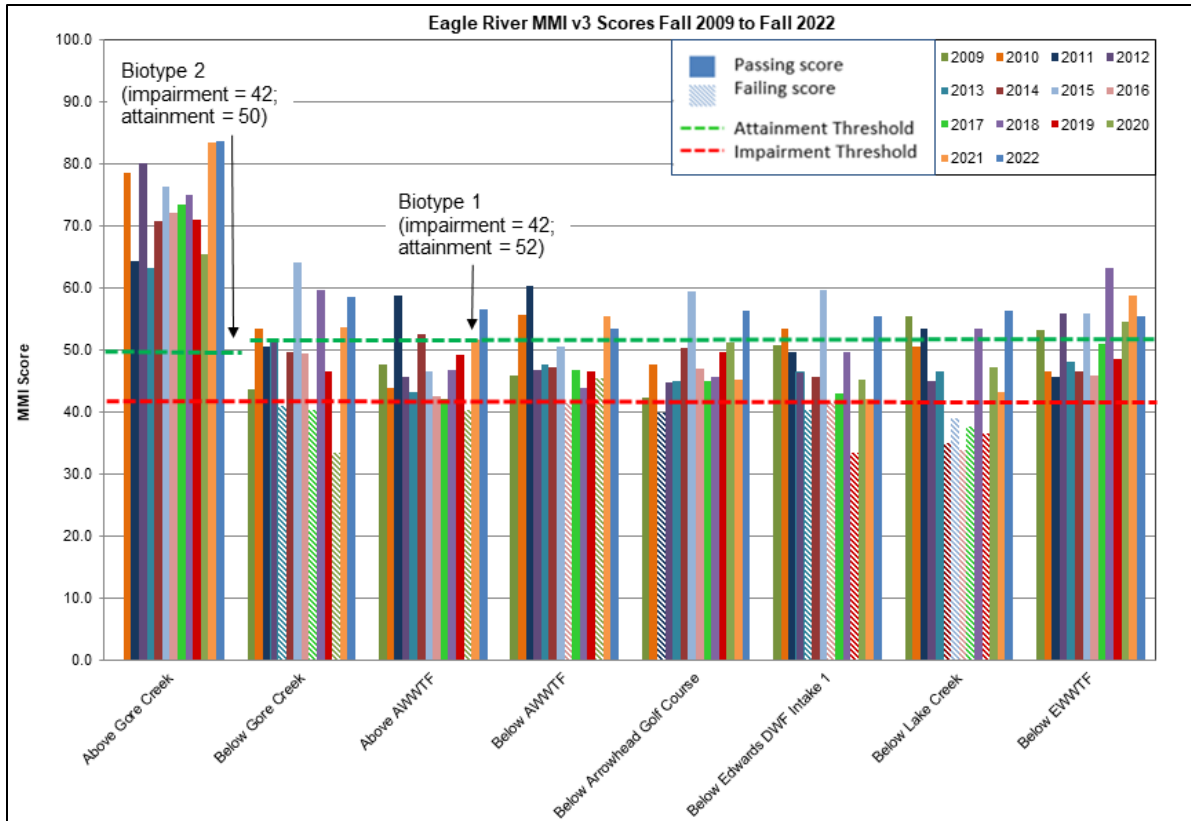


Figure 11. 2022 Eagle River Macroinvertebrate Biomonitoring Sites



Figures 12 and 13. MMI (v3 and v4) scores from the fall of 2022 and from previous sampling events at study sites on Eagle River



## MEMORANDUM

**TO:** District and Authority Boards of Directors  
**FROM:** Jason Cowles, P.E. and Justin Hildreth, P.E.  
**DATE:** March 27, 2024  
**RE:** Engineering & Water Resources Report

### **Development Report**

An updated copy of the Development Report is attached. There are no new additions this month in the Authority. In the District, we've updated the Middle Creek Development to reflect the current anticipated unit count of 270 housing units.

### **Eagle County Land Use Regulation Reform Project**

After completing a thorough analysis of its existing land use code, Eagle County is beginning the process of drafting new land use regulations. The County is seeking applicants to participate in an Advisory Committee of up to 15 community members, agency partners and stakeholders that will provide perspective and advice on policy issues and technical aspects of the proposed new land use regulations. The County anticipates that the committee will meet five times from May through December to consider various regulatory approaches, review proposed code modules, and recommend revisions throughout each phase of the process. The County Commissioners are expected to appoint members with a balanced representation of geographical locations, perspectives, and with a variety of experience and expertise. I have submitted an application to participate in the Advisory Committee to represent the District and Authority.

### **Bolts Lake Reservoir Update**

A separate memorandum is included in your packet this month that provides an update on the completed preliminary design effort.

### **Attachments:**

1. Authority Unallocated In-Basin Supply, March 2024
2. ERWSD and UERWA New Development Reports, March 2024

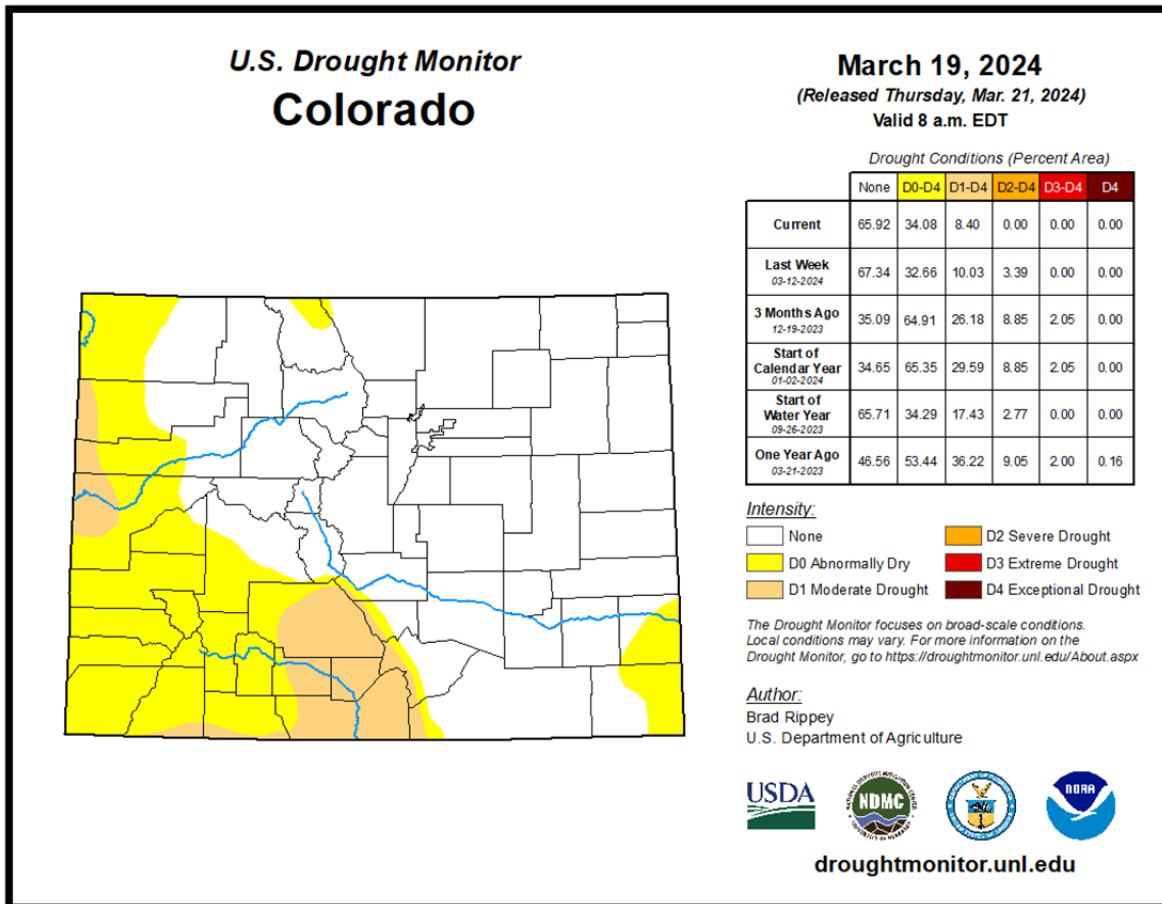
**Water Resources Report**

**Justin Hildreth**

Drought Conditions

On March 19, 2024, the U.S. Drought Monitor prepared by the National Drought Mitigation Center classified the upper Colorado River basin including Eagle County as not experiencing drought conditions and classified the western quarter of the state as abnormally dry. However, the Rio Grande River basin in the southern portion of the state is classified as a moderate drought condition.

Figure 1: U.S. Drought Monitor – Colorado. March 19, 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 for Colorado indicates that the temperatures will be leaning below normal, and precipitation is leaning above normal. The seasonal 3-month temperature and precipitation outlooks, which are less accurate, indicate equal chances for above or below-normal temperature and precipitation.

Figure 2: 8-14 Day Temperature Outlook – March 25, 2024 (NOAA/National Weather Service Climate Prediction Center)

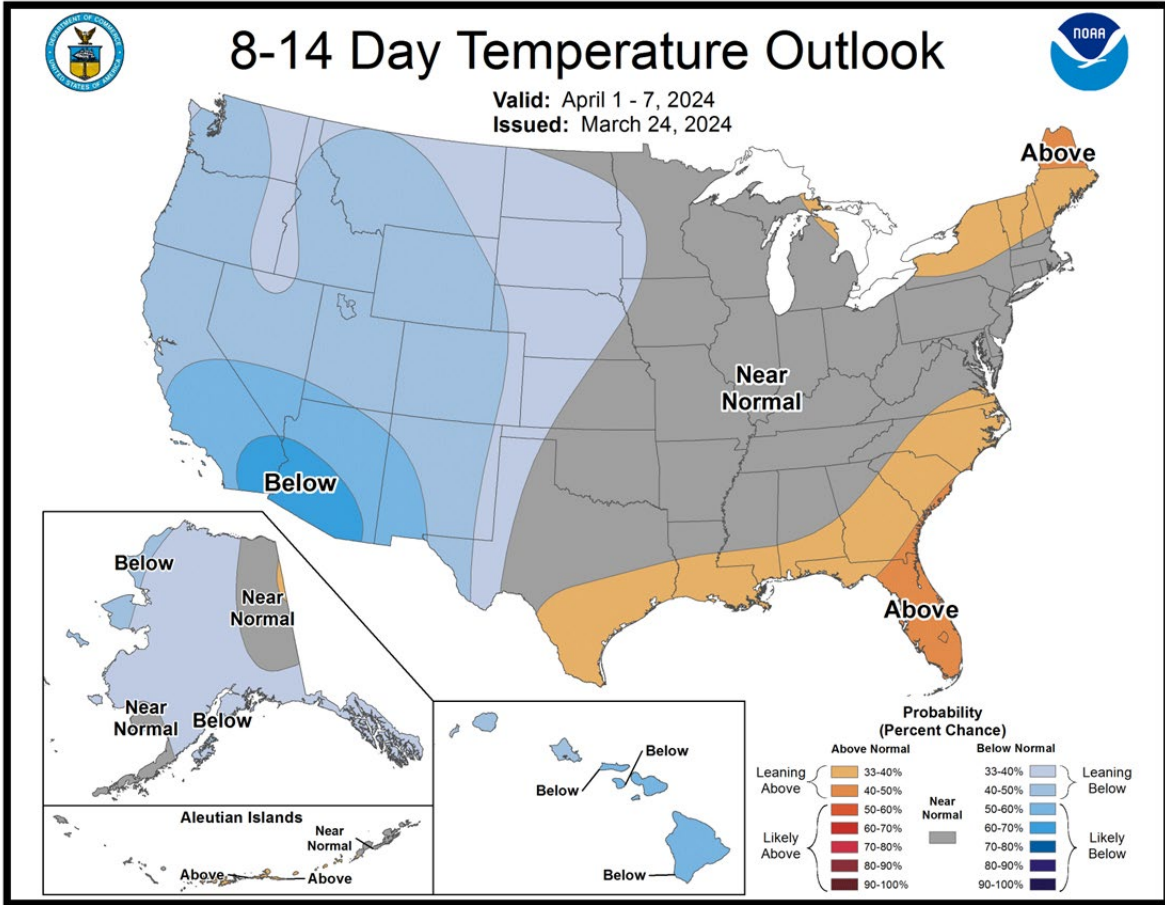
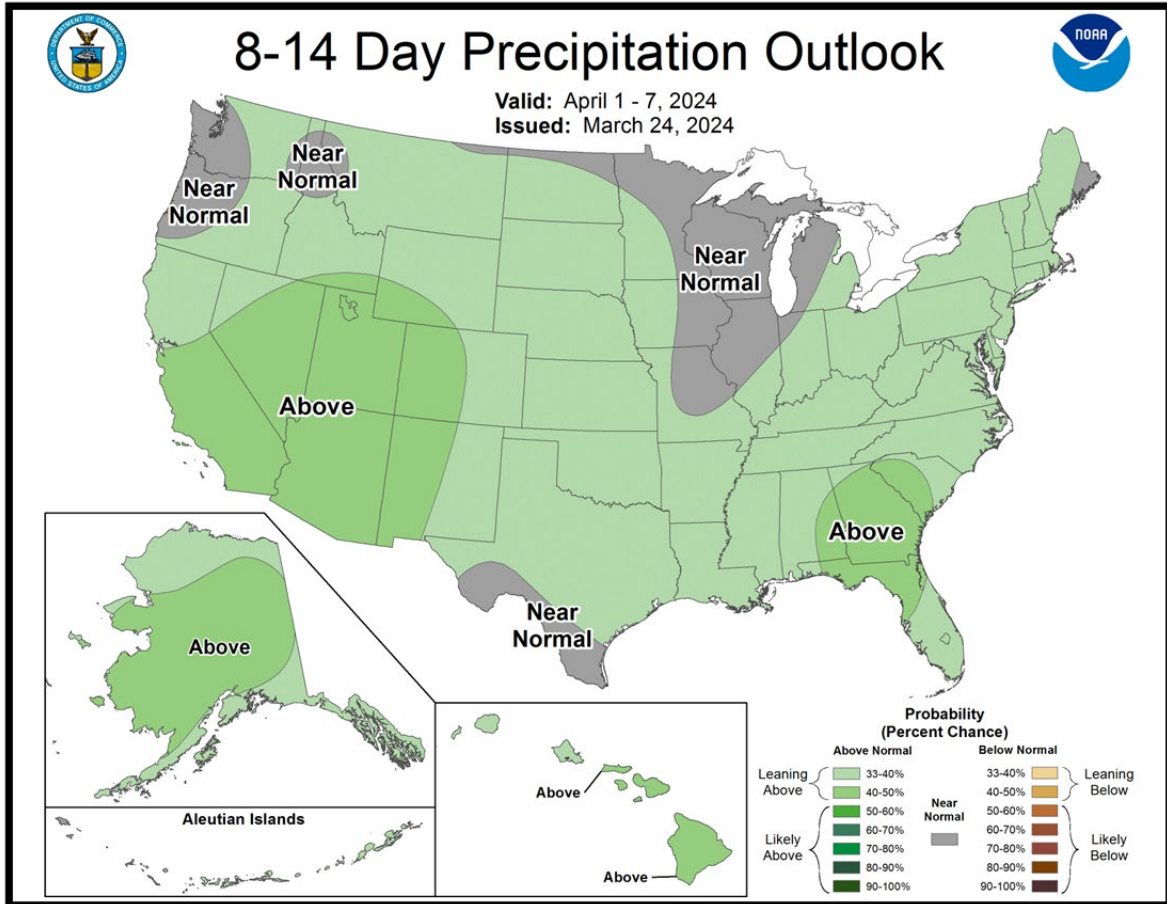


Figure 3: 8-14 Day Precipitation Outlook – March 25, 2024 (NOAA/National Weather Service Climate Prediction Center)



### Precipitation Conditions

Figures 4 and 5 represent the snow water equivalent (SWE) at the Vail Mountain and Fremont Pass SNOTEL sites. As of March 25, 2024, Vail Mountain has 18.3” of SWE, 105% of the median and 86% of the seasonal median peak. Fremont Pass has 15.0” of SWE, 101% of the median, and 75% of the seasonal median peak.

Figure 4: Accumulated Precipitation at Vail Mountain SNOTEL station, March 25, 2024 (USDA)

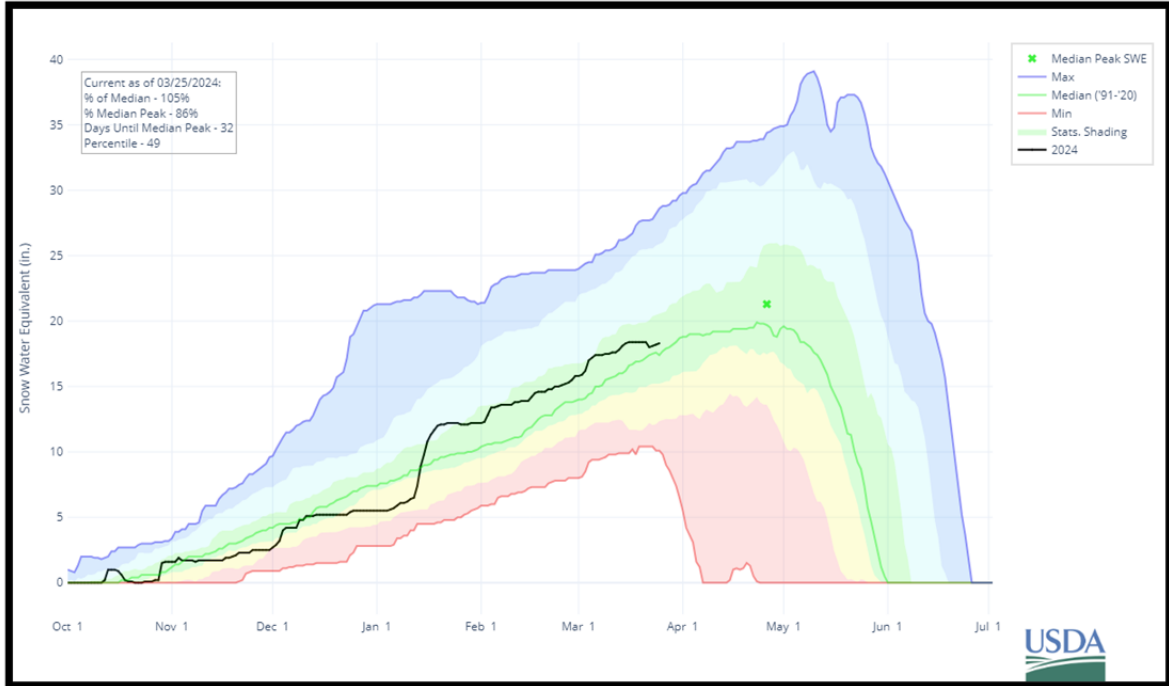
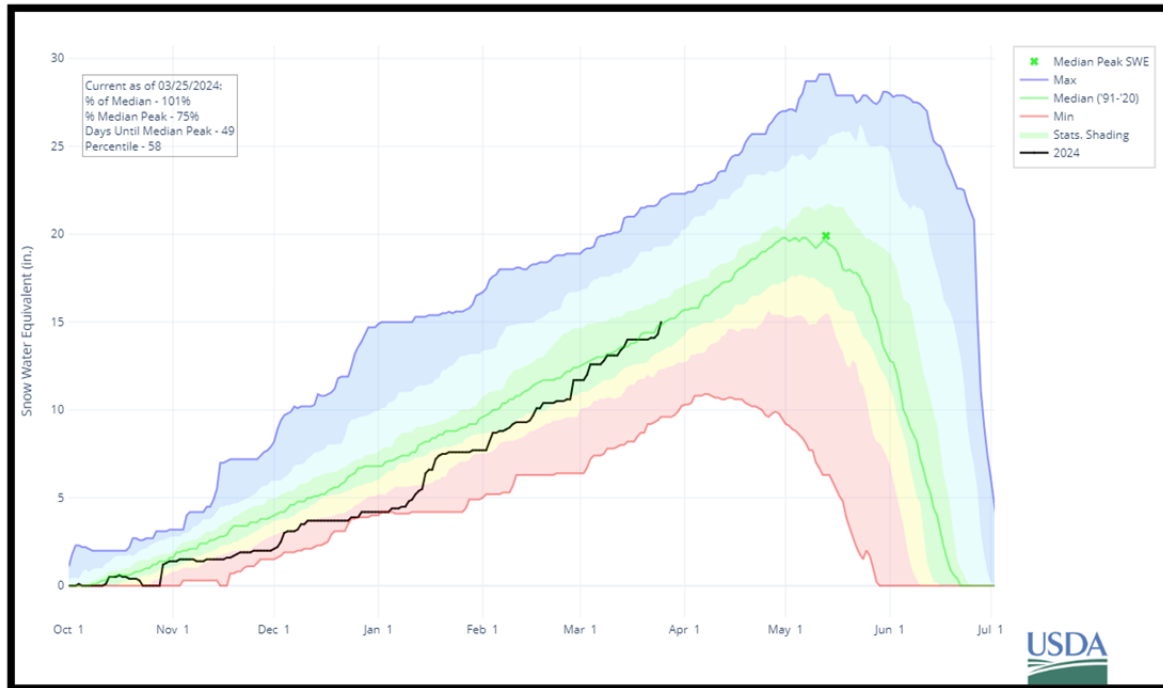




Figure 5: Accumulated Precipitation at Fremont Pass SNOTEL station, March 25, 2024 (USDA)



Reservoir Volumes

Table 1 summarizes the reservoir storage accounts and demonstrates that the reservoir storage accounts are nearly full. We are releasing from Black Lakes on Vail Pass to enhance flows on Gore Creek. Eagle Park Reservoir is not currently releasing as the Shoshone Power Plant is expected to remain offline until the summer. Figures 6 and 7 are charts of the Eagle River Water and Sanitation District’s (ERWSD) reservoir contents since November 2022. Figures 8 and 9 are of the Upper Eagle Regional Water Authorities' (UERWA) reservoir contents since November 2022.

Table 1: District and Authority storage accounts for March 1, 2024 (Helton and Williamsen).

<b>March 1, 2024 Volumes in Storage (acre-feet) and Percentages of Full:</b>						
<b>Reservoir</b>	<b>ERWSD</b>		<b>UERWA</b>		<b>Total</b>	
Green Mountain	915.16	98%	475	87%	1390.16	94%
Black Lakes	162	38%	162	54%	162	38%
Eagle Park	405.54	99%	672.28	95%	1077.82	97%
Homestake Res	250	100%	256.50	100%	506.50	100%
Wolford Mtn	500	100%	699.77	98%	1199.77	99%

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

Figure 6: ERWSD Eagle Park and Black Lake Reservoir Contents

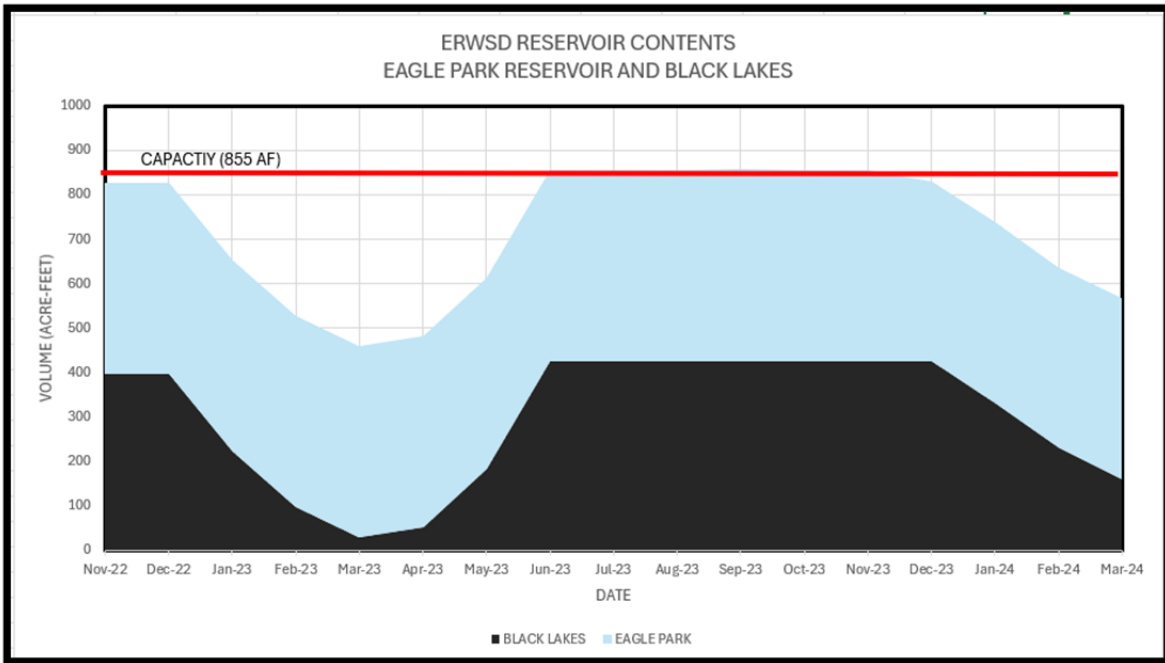


Figure 7: ERWSD Green Mountain and Wolford Reservoir Contents

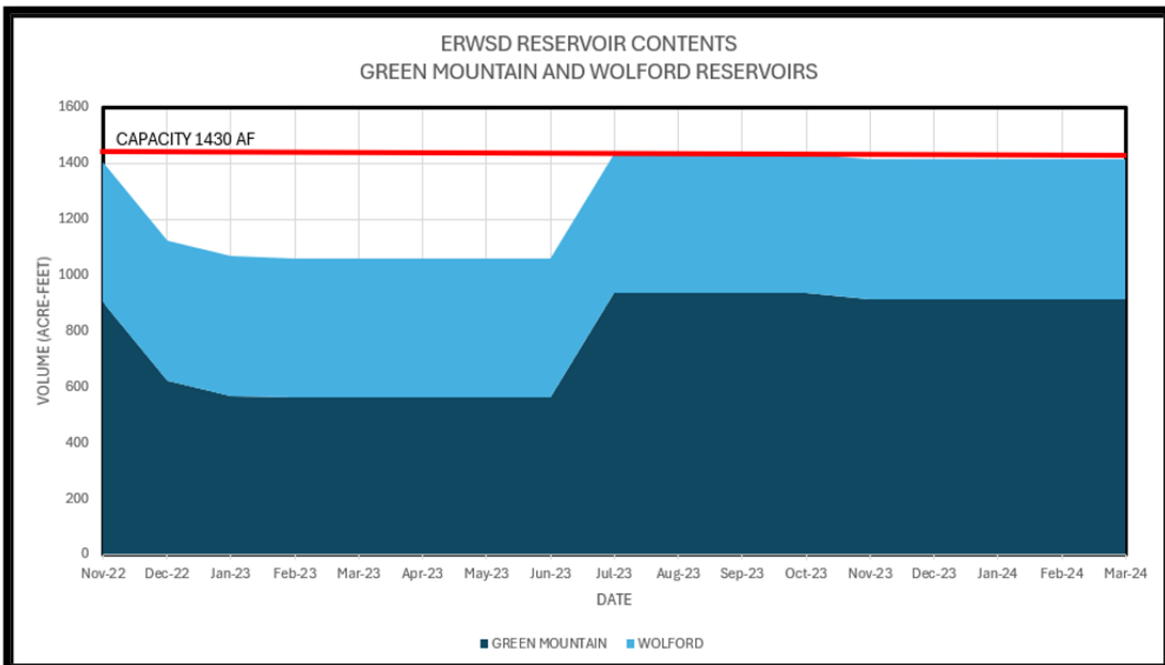


Figure 8: UERWA Eagle Park Reservoir Contents

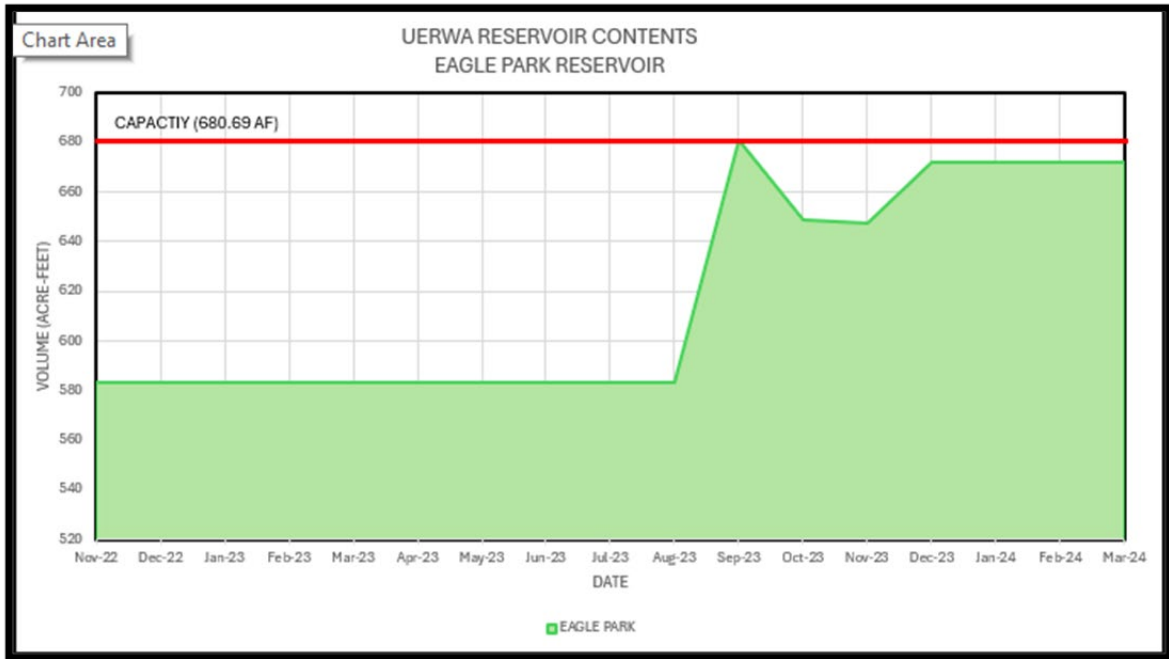
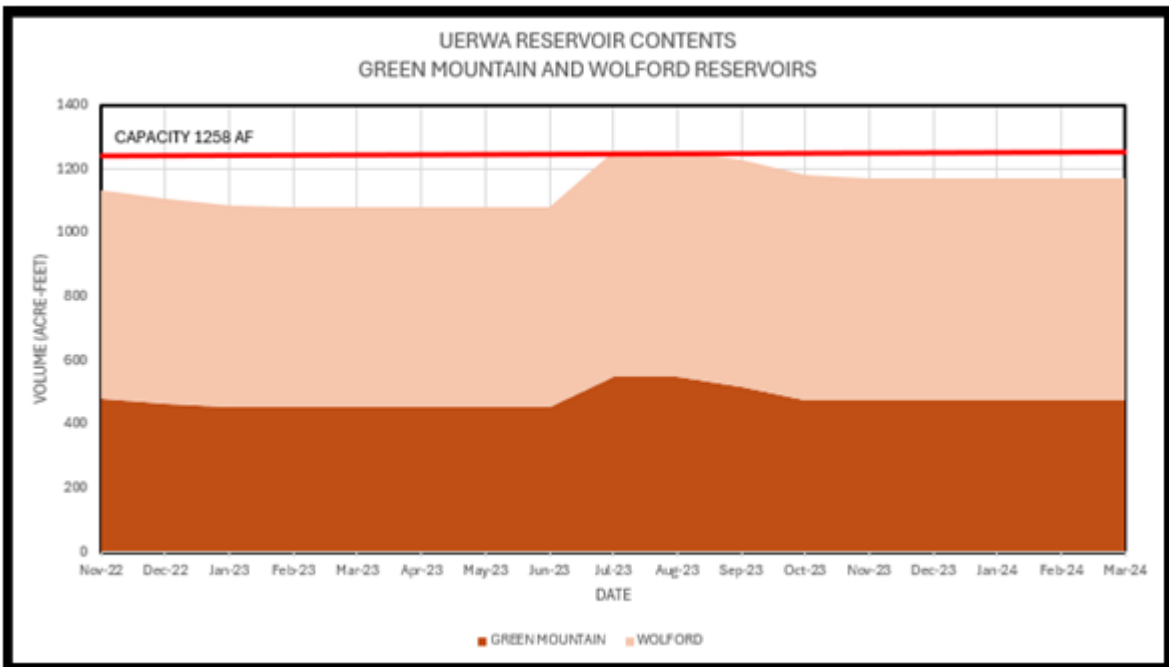


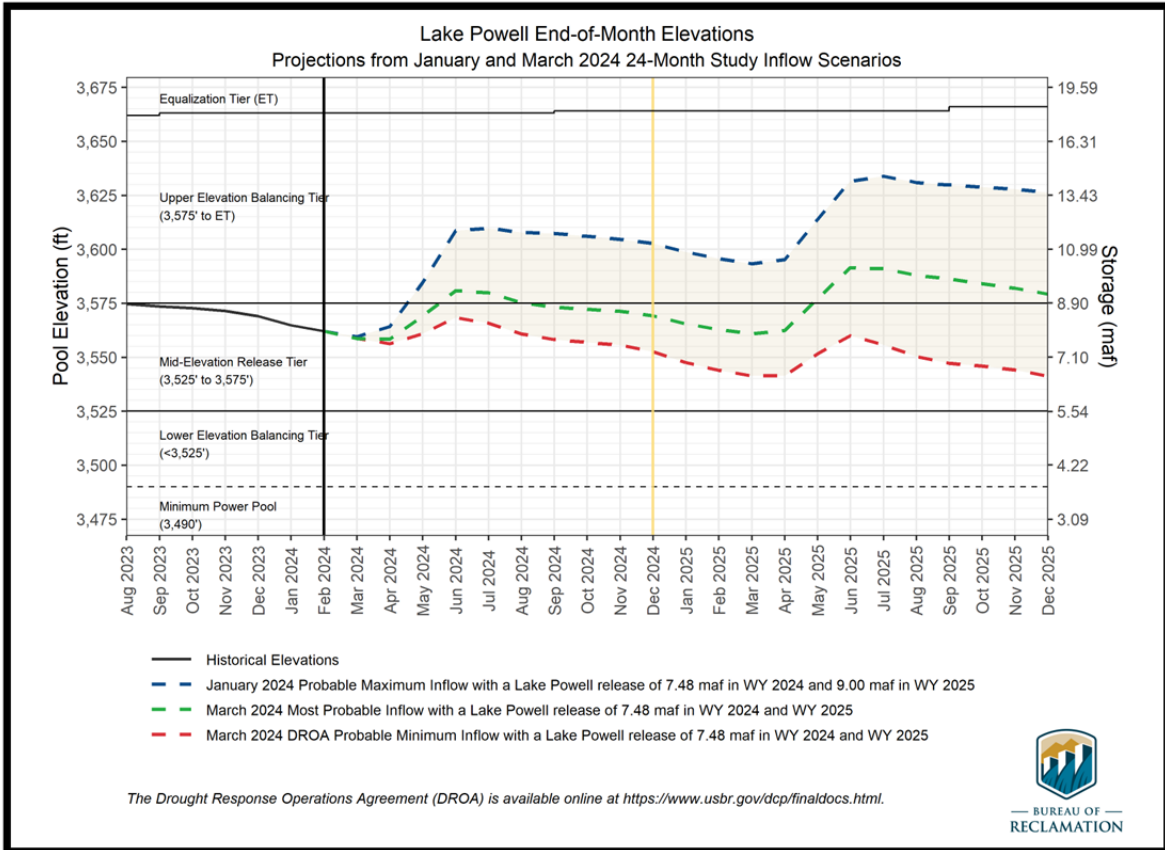
Figure 9: UERWA Green Mountain Reservoir and Wolford Reservoir Contents



Lake Powell

Lake Powell storage is 7.8 million acre-feet which is 32% of capacity and 145% of last year. The United States Bureau of Reclamation projects Lake Powell to reach 9.4 million acre-feet in June, 38% of capacity. Figure 10 summarizes USBR Lake Powell levels since April 2023 and projections till December 2025.

Figure 10: Lake Powell Storage Volumes



# Authority Unallocated In-Basin Storage Supply

Updated: 03/27/2024 by JEC

	In-basin Reservoir Storage, acft Affordable Housing Reserve <sup>2</sup>	In-basin Reservoir Storage, acft Unrestricted <sup>3</sup>
<b>Available Unallocated In-Basin Storage<sup>1</sup></b>	<b>87.40</b>	<b>75.00</b>
<b>Dedication Requirements for New Projects</b>		
State Land Board (Avon)	16.00	--
Eagle-Vail Presbyterian Church Employee Housing (Eagle County)	--	0.17
Eagle County Freedom Park Project (Berry Creek)	3.28	
Cairns Townhomes (Edwards)	--	1.16
<b>Total Pending Dedications</b>	<b>19.28</b>	<b>1.33</b>
<b>Remaining Unallocated In-Basin Storage</b>	<b>68.12</b>	<b>73.67</b>

**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. Pending developments that were included in the buildout demands include the West End PUD, the Edwards River Park PUD, the Margaux PUD, and the Warner Building Redevelopment.

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 purchased from ERWSD and 50 acft lease from the Colorado River Water Conservation District.

4) Water dedication requirements and sources are based on best available information and are subject to change.



## ERWSD New Development Report, April 2024

Project Location	Type of Use	SFEs Proposed	Augmentation Requirement (acre-feet)	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 (122 net increase)	N/A	July 21, 2023	N/A	1. Plan Review
Midtown Village PUD Minturn	Mixed	42 + Com	N/A	October 13, 2022	N/A	1. Plan Review
North Minturn PUD Minturn	Residential	36	N/A	October 10, 2022	N/A	2. Plan Approval
Middle Creek Lot 4,5 Vail	Mixed	268	4.2	June 28, 2022	0. Conceptual	1. Plan Review
Wolcott PUD Wolcott	Mixed	360 + Com		May 11, 2022	0. Conceptual	0. Conceptual
Belden Place (1200 Block Main St) Minturn	Residential	39	N/A	December 23, 2020	N/A	1. Plan Review
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
<b>Projects Completing Warranty Period</b>						
VVMC Phase II-East Wing, Vail Marriot Residence Inn, Residences at Main Vail						
<b>Development Approval Process Steps:</b>	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
<b>Construction Approval Process Steps:</b>	0. Conceptual		1. Plan Review	2. Plan Approval	3. Under Construction	4. Final Acceptance



## UERWA New Development Report, April 2024

Project Location	Type of Use	Water Source	SFEs Proposed	Augmentation Requirement (acre-feet)	Application Initiation Date	Development Approval Process Step:	Construction Approval Process Step:
State Land Board Parcels Avon	Mixed	Eagle County Agreement	700 Units + 60,000 SF Com	16	August 7, 2023	2. Water Analysis	0. Conceptual
Eagle River Presbyterian Church Housing Unincorporated ECO	Residential	Unallocated	2	0.17	June 20, 2023	3. Cond. Capacity Expires October 24, 2024	1. Plan Review
Caim's Townhomes Edwards	Residential	Unallocated	12	1.27	June 7, 2023	3. Cond. Capacity Expires January 29, 2025	0. Conceptual
Eagle County - Freedom Park Project Edwards	Mixed	Eagle County Agreement	20 + Com	3.28	May 22, 2023	3. Cond. Capacity Expires January 12, 2025	1. Plan Review
Margaux PUD Edwards	Residential	Unallocated	32	3.56	October 11, 2021	3. Cond. Capacity Expires October 9, 2024	0. Conceptual
Edwards River Park PUD Edwards	Mixed	Unallocated	440 + Com	60.85	December 2, 2016	3. Cond. Capacity Expires February 2025	0. Conceptual
Projects not requiring or that have completed Water Rights Dedication							
130 W BC BVLD Hotel Avon	Residential	Avon SFE Guarantee	80		March 20, 2024	N/A	0. Conceptual
Gracious Savior Lutheran Church and Eagle County School District Housing Project	Residential	Edwards Metro District Water Rights	6		November 22, 2023	5. Ability to Serve Letter	N/A
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
140 W BC BVLD 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	3. Under Construction
Avon Dual Brand Hotel Traer Creek - Tract J	Commercial	Traer Creek Water Service Agreement	85.05		February 4, 2022	5. Ability to Serve Letter	4. Construction Acceptance
McGrady Acres Avon	Residential	Avon SFE Guarantee	24		August 5, 2021	5. Ability to Serve Letter	3. Under Construction
Warner Building 2 Conversion Eagle-Vail	Residential	Unallocated	13.6	0.07	March 16, 2018	5. Ability to Serve Letter	N/A
West End PUD Amendment Edwards	Residential	Unallocated	275	34.25	February 27, 2019	3. Cond. Capacity Reissued Nov. 15, 2023	1. Plan Review
Fox Hollow Amended PUD Edwards	Mixed	Unallocated	108	14	February 28, 2017	5. Ability to Serve Letter	4. Construction Acceptance
Projects Completing Construction Warranty Period							
CMC Student Housing , ECO School District Housing, Frontgate, Maverik Gas Station, NorthStar PUD, Piedmont Apartments							
<b>Development Approval Process Steps:</b>	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
<b>Construction Approval Process Steps:</b>	0. Conceptual			1. Plan Review	2. Plan Approval	3. Under Construction	4. Construction Acceptance



## MEMORANDUM

**TO:** Boards of Directors

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

**DATE:** March 27, 2024

**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 Eagle River Water and Sanitation District (District) and Upper Eagle Regional Water Authority (Authority) property south of Minturn, situated between Maloit Park and Tigiwon Road (refer to Figure 1). The District and Authority (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**

Shannon and Wilson, Inc. (S&W) and LRE Water completed the preliminary design in February 2024. The preliminary design included geotechnical studies, grading plans, groundwater modeling, soil borrow investigations, water diversions analysis, headgate assessment, cost estimating, and permitting guidance.

In November 2023, we released a Request for Qualifications (RFQ) for Program Manager services. The Program Manager will oversee and manage 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. After a competitive selection process, we selected Black and Veatch as the Program Manager consultant.

Black & Veatch is reviewing existing documents including real estate records, conceptual design, preliminary design, and permit files. A project kick-off meeting is scheduled for April 17, 2024. After Black & Veatch has reviewed the existing documents, we will initiate advertising for final design consultants and develop a local, state, and federal permitting plan and schedule.

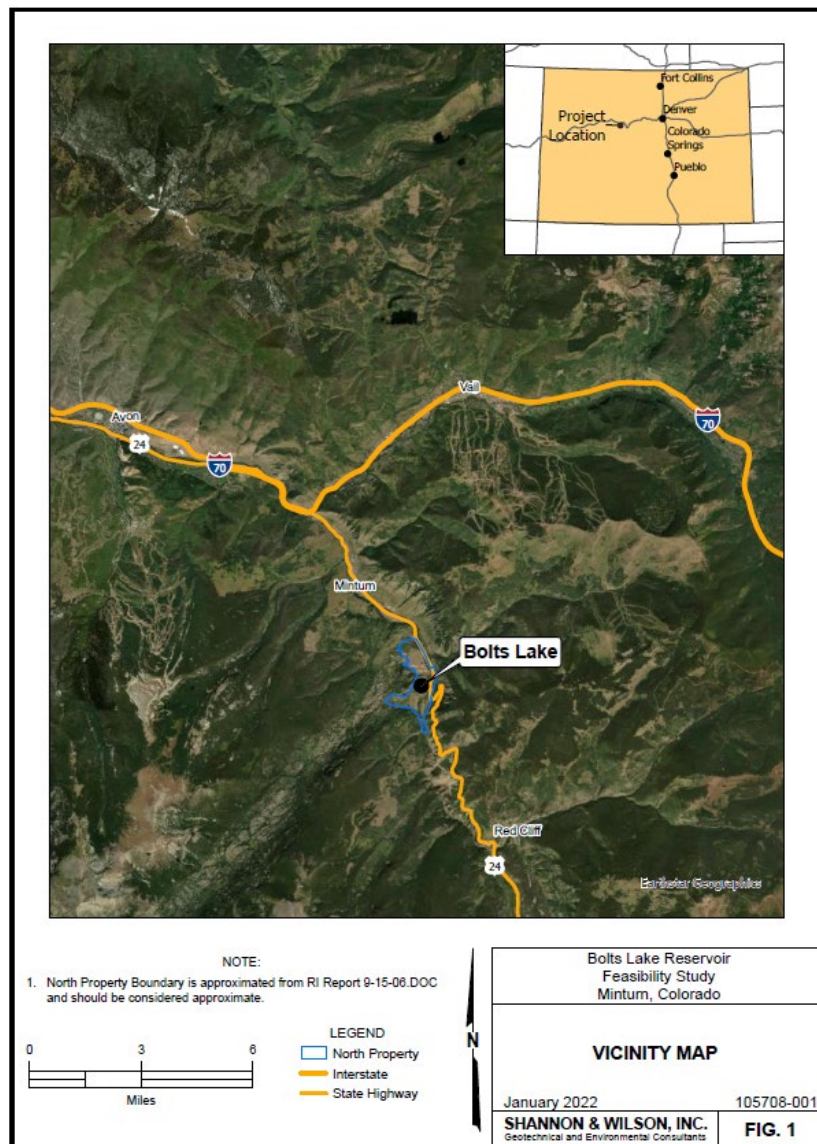


**Schedule**

Upon completing the preliminary design, upcoming tasks include the Program Manager reviewing existing documents, procurement of the final design consultant team, and developing a plan for initiating the federal, state, and local permitting process.

We anticipate that the permitting and design phase will span at least two years, possibly longer due to the inherent risk of permitting delays. Construction is scheduled to commence in 2028 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 2030, subject to permitting and project funding.

The project team, including the Program Manager, will develop a more detailed schedule and we will present it to the Board in the summer.



**Figure 1: Vicinity Map**

### **Preliminary Design**

The Preliminary Design report is complete and available to review upon request. The report outlines the design methodology, site geology, subsurface conditions, groundwater observations, water diversion and delivery system, dam and reservoir design considerations, preliminary plans, specifications, and cost estimate. Major design elements and considerations include:

- The underlying geology is highly permeable, necessitating the lining of the reservoir to minimize leakage.
- The liner options include a clay system, geosynthetic material such as PVC or HDPE, or a combination. The selection of the liner system will be determined in the next phase of the design, upon hiring the contractor to provide pre-construction services. The contractor will assess material availability and constructability to provide accurate pricing for the alternatives.
- The existing dam does not meet modern engineering standards and must be removed and replaced with a new structure.
- The east side dam will be 1,650 feet long and 58 feet tall, while the smaller southwest dam will be 615 feet long and 30 feet tall.
- Approximately 640,000 cubic yards of soil will be excavated and placed on the old tailings pile.
- The primary water source will be Cross Creek using the existing Bolts Ditch diversion.
- The secondary water source will be the Eagle River using a pump station. The Eagle River will provide for redundancy and fill the reservoir when Cross Creek flows are not adequate due to low flows, drought, wildfire, or climate change.
- Groundwater modeling indicates that water seepage from the reservoir will not impact the Consolidated Tailings Pile northeast of the site.

### **Estimate of Probable Cost**

KMC Construction Consulting (KMC) prepared an estimate of probable construction cost based on the Preliminary Design (Attachment 1), projecting construction costs to range between \$68.9 million and \$91.8 million. The total project budget, as summarized in Table 2, is estimated to be between \$101.8 million to \$122.1 million. This estimate includes an allocation of \$13.1 million for cost escalation through 2029.

The costs are presented in a range derived from the average predicted construction costs and a 20% multiplier to accommodate a higher range of predicted construction expenses. KMC has contacted local contractors to incorporate the challenging bidding environment and high construction costs in the Eagle Valley region.

**TABLE 1: Bolts Lake Reservoir Estimate of Probable Construction Cost**

	Cost (Medium Range)	Cost (High Range) (+20%)
Total Direct Cost	\$ 32,676,434	
Total Indirect Cost (Including Escalation, G&A, Bonds, Insurance)	\$ 25,768,020	
Contractor Mobilization Cost	\$ 963,662	
Contractor Contingency	\$ 3,206,810	
Water Supply Pipeline and Pump Station Mobilization Cost	\$ 150,000	
Water Supply Pipeline and Pump Station	\$ 4,362,820	
Subtotal	\$ 67,127,746	
Contractor Fee	\$ 9,396,725	
<b>Opinion of Probable Construction Cost Estimate</b>	<b>\$ 76,524,471</b>	
Indirect Costs		
G&A	\$ 3,482,666	
Contractor Insurance	\$ 1,468,719	
Prime Payment and Performance Bonds	\$ 291,469	
Escalation through 2029	\$ 13,063,631	
Other Indirect Costs	\$ 7,461,370	
Subtotal	\$ 25,767,855	

**TABLE 2: Total Project Budget**

	Fee	Cost (Medium Range)	Cost (High Range)
<b>PROJECT BUDGET</b>			
CONSTRUCTION COST		\$ 76,524,471	\$ 91,829,365
Project Contingencies	20%	\$ 15,304,894	\$ 18,365,873
Program Manager Fees	3%	\$ 2,295,734	\$ 2,754,880.96
Final Design Fees	7.5%	\$ 5,739,335	\$ 6,887,202.39
Permitting Fees	2.0%	\$ 1,530,489	\$ 1,836,587.30
Legal	0.5%	\$ 382,622	\$ 459,146.83
<b>GRAND TOTAL</b>		<b>\$ 101,777,546</b>	<b>\$ 122,133,056</b>

### Financial Implications

The costs of the Bolts Lake project will primarily fall on the D&A ratepayers unless they can be mitigated through State or Federal grant funding. Possible sources of funding include Colorado Water Plan grants, the United States Bureau of Reclamation Small Storage grant program, Colorado River District Community Funding Partnership grants, Federal Emergency Management Agency Building Resilient Infrastructure in Communities grants, EPA Brownfield grants, or congressional appropriations. The D&A retained The Ferguson Group (TFG), a consulting firm specializing in representing public entities to assist with securing federal funding, grants, and authorizations. TFG is currently preparing a Congressionally Directed Spending request for an appropriation of funds to assist with design costs. Table 2 provides an overview of the monthly costs, assuming that the D&A covers the entire project expenses at a 25%-75% split respectively, and a 3.0% interest rate.

The project costs are significant and are driven by the large quantity of soil excavation from the reservoir site and placement on the Old Tailings Pile and for the construction of the 2 dams. Any cost savings would require a reduction in the excavation quantity and would correspondingly reduce the capacity of the reservoir. Another option is to defer the installation of the Eagle River diversion and pump station to a later date. The design team will further evaluate these options as part of the next phase of the design and present them to the D&A Boards for consideration.

**TABLE 2: Bolts Lake Monthly Impacts on Ratepayers per Single Family Equivalent**

<b>Entity</b>	<b>\$101,777,546 Project Cost (Medium Cost Scenario)</b>	<b>\$122,133,056 Project Cost (High Cost Scenario)</b>
District (25%)	\$14.30	\$17.16
Authority (75%)	\$23.72	\$28.47

**United States Bureau of Reclamation Small Storage Program**

United States Bureau of Reclamation's (USBR) small storage program authorized by the Bipartisan Infrastructure Law (BIL) has \$100,000,000 available to fund water storage projects up to \$30,000,000 per project. The BIL requires the applicant to expend the funds by 2026 and allows the applicant to use the funds for design, permitting, and construction. The USBR requires the applicant to submit a feasibility study following their specific standards for review and approval before applying for funds. The feasibility study must demonstrate the problem and needs of the project, outline the beneficial uses of the storage, describe alternative plans, provide economic analysis, define project risk and uncertainty, present environmental considerations, and legal requirements, and verify that there is sufficient non-federal funding.

The preliminary design team prepared a draft feasibility study, staff submitted it to USBR in December, and USBR promptly returned comments in January. The most extensive comment was a recommendation we hire an economist to conduct the required economic analysis of the financial repercussions of the project. The economist is scheduled to complete the study in June for submittal to USBR. If the aforementioned Congressionally Directed Spending request is unsuccessful, we plan to apply for the USBR small storage program grant in the fall 2024 grant cycle to offset the estimated \$9.900,000 permitting and design expenses. The program offers funding up to 25%, potentially amounting to \$2,475,000.

**Attachments:**

1. Bolts Lake Reservoir 30% Cost Estimate



Date: February 16, 2024

Subject: **30%Design – Cost Estimate  
Bolts Lake**

To: Greg Fischer, PhD, PE

From: Ralph Salamie, PE

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We appreciate this opportunity to provide Shannon & Wilson a contractor's style cost estimate for the construction of Bolts Lake Reservoir for the Eagle River Water & Sanitation District and Upper Eagle Regional Water Authority. This Project will require deep excavation within the former lake footprint to roughly triple the volume of the original reservoir capacity.

## **ESTIMATE SUMMARY**

Based on 30% design development the Opinion of Probable Construction Cost (OPCC) is a range of \$68,872,024 to \$91,829,365.

The estimate is organized by quantities provided by Shannon & Wilson labeled 30% Quantities\_Summary\_Rev1.

The assumed construction contract duration is 2 years from Notice-to-Proceed to Final Completion with construction beginning in 2028. Two construction seasons are assumed from early April through the end of October. See Attachment A for preliminary schedule.

The KMC estimate excludes:

- Water transmission lines (\*4,512,820 from the LRE Water Report added to KMC's total cost table.)
- Reservoir filling and commissioning
- Owner project management costs for design and construction
- Owner contingency

**ESTIMATE BASIS**

The Opinion of Probable Construction Cost (OPCC) is a contractor-style estimate with quantities provided by Shannon & Wilson. Costs are segregated into two categories:

1. Direct costs are labor, material and equipment used in the production of the work.
2. Indirect costs are the overhead required to support production operations, such as supervision, escalation, office expenses, insurance.

Total Direct Cost	\$32,676,434
Total Indirect Cost (including Escalation & G&A, Bonds, Insurance)	\$25,768,020
Contractor Mobilization Cost	\$963,662
Contractor Contingency	\$3,206,810
<b>Subtotal Project Cost</b>	<b>\$62,614,926</b>
Reservoir Contractor Fee	\$9,396,725
LRE Water Supply Pipeline and Pump Station Mobilization Cost *	\$150,000
LRE Water Supply Pipeline and Pump Station *	\$4,112,820
LRE Pipeline and Pump Station Misc including Overhead and profit *	\$250,000
<b>Opinion of Probable Construction Cost – Point Estimate</b>	<b>\$76,524,471</b>
Opinion of Probable Construction Cost - High Range (+20%)	\$91,829,365
Opinion of Probable Construction Cost - Low Range (-10%)	\$68,872,024

\* From 1/26/24 LRE Water Report. Not estimated by KMC.

Cost for insurance, bonds, and escalation, utilized in the KMC estimate are summarized below:

	Cost
G&A	\$ 3,482,665.74
Contractor Insurance	\$ 1,468,719.39
Prime Payment and Performance Bonds	\$ 291,469.06
Escalation through 2029	\$ 13,063,630.72

The direct quantities and cost totaling \$ 32,676,434 are summarized below:

<b>Item Number</b>	<b>Item Description (Direct cost only)</b>	<b>Quantity</b>	<b>Unit of Measure</b>	<b>Unit Price (Direct price only)</b>	<b>Total Price (Direct price only)</b>
2	Clear & Grub	43.2	Acre	\$ 8,767.93	\$ 378,336
3	Excavation Incl Haul & Disposal - TO OTP	638,979.20	CY	\$ 7.40	\$ 4,727,149
4	Excavation Incl Haul & Stockpile	336,095.10	CY	\$ 7.02	\$ 2,358,751
5	Native Material Reuse	336,095.10	CY	\$ 13.95	\$ 4,687,417
6	Road Surfacing (CSBC) (Furnish and Install)	3,009.00	CY	\$ 93.28	\$ 280,679
7	Road Geotextile	17,253.70	SY	\$ 3.81	\$ 65,784
8	Clay Core Import & Placement	61,639.90	CY	\$ 35.77	\$ 2,205,084
9	Clay Liner Import & Placement	215,197.33	CY	\$ 35.77	\$ 7,698,400
10	Non-Woven Geotextile Separation (Under Clay Liner)	171,234.20	SY	\$ 3.55	\$ 607,322
11	Chimney Drain Material (Furnish and Install)	30,787.60	CY	\$ 98.68	\$ 3,038,090
12	Chimney Graded Filter (Furnish and Install)	5,573.70	CY	\$ 96.13	\$ 535,810
13	Upstream Drawdown Blanket (Furnish and Install)	43,505.00	CY	\$ 14.95	\$ 650,342
14	Reservoir Outlet 30" Diam. Ductile Iron Pipe (Furnish and Install)	745.7	LF	\$ 718.83	\$ 536,032
15	Pipe Bedding Material (Furnish and Install)	38	CY	\$ 101.73	\$ 3,864
16	Structural Fill (30" Pipe Backfill)	422.8	CY	\$ 44.92	\$ 18,992
17	Pipe Intake Structure & Controls (ASSUMED 10W 10L 10T With SS GRATE)	1	EA	\$ 158,433.03	\$ 158,433
18	Pipe Stilling Basin (ENERGY DISSIPATOR 15W 18L 11H)	1	EA	\$ 80,661.88	\$ 80,662
19	Spillway Bedding Material (Furnish and Install)	68	CY	\$ 105.54	\$ 7,177
20	Spillway Geotextile	388	SY	\$ 3.55	\$ 1,376
21	Spillway Angular Rock (Furnish and Install)	154	CY	\$ 286.96	\$ 44,191
22	Restoration Seeding (Landward Dam Slopes)	7.7	Acre	\$ 4,283.00	\$ 32,808
23	Temporary Erosion Control	1	LS	\$ 648,131.10	\$ 648,131
24	Crush and Screen Material	46,646.10	CY	\$ 19.59	\$ 913,832
25	Dewatering System	1	LS	\$2,389,397.86	\$ 2,389,398
26	Develop Water Source (1,196,883 Gallon Pond)	1	LS	\$ 608,373.52	\$ 608,374

\$ 32,676,434

## **ESTIMATE ASSUMPTIONS**

### **a. Indirect Cost Assumptions**

This estimate is reflective of a design-bid-build contract agreement. It does not include any pre-construction cost associated with alternative delivery or permanent design development. The contract terms and conditions are undefined, so the estimate is based on standards typical for the



project type. The contract terms will have an impact on the overall price depending on DBE requirements, community bargaining agreements, work restrictions, environmental conditions, hazardous material, utility identification, contractual interfaces, contract change terms and taxes.

In consideration of the project type, it is prudent for the client to carry owner related contingencies which will be dependent on the risk allocation established in the contract terms. See also Section 4, Risk Management and Contingency.

b. Direct Cost Assumptions

SCOPE	ASSUMPTION
Aggregates	Crushing rock on-site to produce blanket drain material and road surfacing.
Aggregates	Assumed portable crushing and screening plant. Washed aggregate and trucking included for chimney drain material only.
Clay Core	No clay was purchased in this estimate. 100% of clay assumed to be available at borrow pit or on-site.
Clay Liner	Assumed 100% of clay will be available from borrow pit or on-site.
Clear and Grub	Clearing and grubbing of the entire site included using a tub grinder and placing processed wood debris in the OTP area or exterior finished slopes. No green waste trucking or dump fees included in pricing.
Dewatering	The price to install 4 wells is included. Generator power is assumed for 2-year construction time. No permanent power/transformer included in this price.
Dewatering	No water treatment included in this pricing other than Baker tanks for settling particulates.
Earthwork	Assumed 657 scrapers with two D-10 dozers for support to move 638,979.24 CY to OTP area. D-10 dozers will rip prior to 657 cuts.
Earthwork	Cost included to scarify and recompact the OTP area prior to fill operation.
Earthwork	No on highway trucking or dump fees included in this pricing. (on highway trucking included for clay import)
Geotextile	Assumed 8 oz non-woven geotextile fabric.
Ground Monitoring	Instrumentation for ground monitoring is excluded.
Impact Basin	Sized for USBR Type VI Impact basin from pg. 82-83 of the Shannon & Wilson H&H Report.

Intake Structure	Assumed to be a 10' wide X 10' long cast-in-place concrete structure 10' tall. Assumed to have 12" thick walls with 5,251.50 lbs. of non-coated grade 60 rebar. Assumed to have a 2" thick stainless steel grate.
Laydown Areas	No restriction on laydown or storage areas within the Project limits.
Office	Includes cost for on-site contractors office and owner office facilities.
Quality Control	\$532,000 included for quality control laboratory testing.
Reservoir Filling	No cost allocated for any type of pipeline or any other water delivery method to fill the reservoir.
Schedule	The entire site is available for construction at one time. Does not include additional costs for staging or phasing.
Schedule	2-year contract duration. Working seasons April – November.
Schedule	Assumes 5-day work week, 10-hour day shift.
Trucking	Clay import trucking assumed a fully operated and maintained super dump truck at \$145/hour.
Utilities	No utility relocation or pothole time included.

**RISK MANAGEMENT & CONTINGENCIES**

The greatest risks identified affecting cost are:

- Treatment of groundwater due to heavy metals
- Blasting required due to quantity or quality of rock
- Clay liner damage due to surface water or groundwater
- Construction requiring a third season

A contractor contingency amount of \$3,206,810 is included in the KMC estimate.

## **Wage Rates**

Fully burdened labor rates used in the estimate reflect prevailing wage rates, fringe benefits, taxes, and insurance for 2024. Labor rates are escalated in the indirect estimate.

## **Equipment Rates**

The equipment rates are based on 70% of the 2024 Blue Book rates. Production equipment is estimated in earthwork operations. Support equipment, such as staff pick-up trucks, are included in the indirect based on project duration.

## **Supplies Unit Cost**

A cost of \$5 per craft hour is included to capture the cost of expendables such as small tools and supplies.

## **Indirect Supervision**

Supervision is based on a two season Indirect Staff and Equipment Schedule.

## **Escalation**

Escalation for labor, materials, supplies, and equipment is assumed at \$13,063,631 with a projected project start date of Spring of 2028. The following percentages were used to calculate the escalation:

2024	2025	2026	2027	2028	2029	2030
0%	6.00%	5.00%	3.00%	3.00%	3.00%	0.00%



## MEMORANDUM

**TO:** Boards of Directors  
**FROM:** Diane Johnson, Communications & Public Affairs Manager  
**DATE:** April 4, 2024  
**RE:** Communications and Public Affairs Report

### 2024 Colorado Legislative Session

Governor Polis signed Senate Bill [24-005](#), Prohibit Landscaping Practices for Water Conservation, on Mar. 15, which limits the installation of nonfunctional turf on commercial, industrial, and institutional properties, state facilities, and spaces, including medians and parking lots. Related to the state's direction on this, on Mar. 26, the Colorado Water Conservation Board launched a [program to transform Colorado's turf landscape](#) dubbed the [Transformative Landscape Change \(TLC\) Challenge](#).

Senate Bill [24-081](#), Perfluoroalkyl & Polyfluoroalkyl Chemicals, passed the Senate and was introduced in the House on Mar. 27 where it was assigned to the Business Affairs & Labor committee.

House Bill [24-1362](#), Measures to Incentivize Graywater Use, passed out of the House Committee on Agriculture, Water & Natural Resources on Mar. 25. Rep. Lukens and Sen. Roberts are prime sponsors of this bill; we expressed some concerns which Rep. Lukens thoughtfully addressed.

Two competing bills have been introduced to fill the gap left by last year's [U.S. Supreme Court ruling](#) on the [Waters of the US \(WOTUS\) Rule](#): Senate Bill [24-127](#), Regulate Dredged & Fill Material State Waters, and House Bill [24-1379](#), Regulate Dredge & Fill Activities in State Waters. There are differences in the scope of protection and approach to the program, including that the Senate bill would create a program managed by the Colorado Department of Natural Resources, while the House bill places it in the Colorado Department of Public Health and Environment. Read the *attached Vail Daily story* for more info.

Senators Dylan Roberts and Perry Will are working on a bill "Concerning measures for the conservation of water in the state, and, in connection therewith, implementing the recommendations of the Colorado River Drought Task Force." At the January 2024 meetings, the boards agreed to support six of the eight concepts outlined in the [Task Force's final report](#). This proposed bill addresses two of the eight concepts, along with one of the sub-task force recommendations.

### Rates and conservation outreach

We continue to communicate the rate structure change to remind customers with individually metered residential accounts that they are likely to see an increase in their tiered water use charges – especially with outdoor irrigation. This message will be part of the annual Water Use Regulations brochure (which is sent to every customer account in the May billing statement) and will be reinforced by additional items (e.g., postcard, flier) sent in May. In collaboration with Finance staff, we are making improvements to the billing statement to help customers better understand their bill and see visual cues that indicate high water use. *Robyn Janssen will present on these changes during the board meetings.*

### **Town of Vail Sustainable Landscaping Workshop**

The town of Vail is hosting their annual free sustainable landscape workshop on Apr. 11 as part of the “Restore the Gore” campaign. The district has partnered with the town on the event since 2012 (when we started it as drought outreach) and we continue to present information about water supply, regulations, rates, etc. as part of the program. Anyone may attend the workshop; landscape contractors, commercial applicators, designers, architects, property managers, and homeowners are encouraged to attend.

### **Safe Drug Disposal Program – National Drug Take Back Day is Apr. 27**

The U.S. Drug Enforcement Administration’s [“National Take Back Initiative”](#) is set for 10 a.m. to 2 p.m. Saturday, Apr. 27, when local law enforcement personnel will host collection sites at Vail Municipal Building, Walmart in Avon, and City Market in Eagle for disposal of prescription and over-the-counter medications and supplements, including controlled substances. Local agencies accept expired, unwanted, or unused pharmaceuticals that are then disposed of via an environmentally friendly incineration process. The event is free of charge and no personal information is collected.

District involvement in this program helps to protect water sources by keeping drugs out of wastewater and the landfill. For those unable to make it to the DEA Take Back Event, there are six permanent medication take back receptacles in the Eagle River valley hosted by the Vail Police Department, Avon Police Department, Eagle County Sheriff’s Office, Vail Health (2), and Vail Valley Pharmacy

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

We are again the title sponsor of the 2024 VRD [Vail Whitewater Series](#) that begins May 7. We sponsor this race series primarily because the district and our water counsel secured the recreational in-channel diversion (“RICD”) water right on Gore Creek that allowed for the creation of the whitewater park more than 20 years ago. The water right and park launched the Mountain Games (now sponsored by GoPro) which have grown far beyond the original kayak competitions. We continue to do legal filings for the conditional portions of the water right. Races are every Tuesday from May 7 through Jun. 4 (right before the Mountain Games begin). Robyn Janssen is coordinating our sponsorship of this series.

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

Eagle River Water & Sanitation District will again host the Eagle River Valley version of the Colorado River Water Conservation District’s “State of the River” meetings that occur annually throughout their 15-county service area. We worked with the River District in 2011 to create this forum in the Eagle River valley and have led its coordination since.

The meeting will be held at 5:15 p.m., Wednesday, May 29, at Colorado Mountain College in Edwards. The format will follow the previous ones, with information tables and food available at 5:15 p.m. to be followed by a variety of speakers from 6 to 8 p.m. The Eagle River Valley State of the River meeting is FREE and open to the public, though space is limited. We strongly encourage people to register via the River District’s [website](#).

### **Colorado River Operations**

On Mar. 5, the USBR issued the [final Supplemental Environmental Impact Statement](#) for Near-term Colorado River Operations that address the operation of Glen Canyon and Hoover dams. According to USBR, “These new interim operating guidelines are specifically designed to manage the dams at lower elevations and prevent water levels at Lake Powell and Lake Mead from further declining in order to maintain congressionally authorized infrastructure, operations, water deliveries and power generation.” They are expected to result in system water conservation savings through 2026, when the current guidelines expire. More information about the Final SEIS and preceding operating guidelines can be found on the [USBR Colorado River Basin website](#).

In the wake of the release of the Final SEIS, the upper and lower basin states released competing proposals for **post-2026 operations** of lakes Powell and Mead. Both alternatives are available online: [Upper Division States \(UDS\) Alternative](#) and [Lower Basin Alternative](#) or read the media stories linked below for more information.

**Attachments** (or hyperlinks):

1. Mar. 24, Vail Daily: *Western Slope lawmakers introduce rival bill to protect Colorado wetlands*
2. Mar. 21, State of Colorado: [Governor Polis and DNR Director Gibbs Announce Jason Ullmann as Next Colorado State Engineer & Division of Water Resources Director](#)
3. Mar. 17, KUNC: [\\$80 million Aurora farm and water purchase from Arkansas Valley not a 'buy and dry'](#)
4. Mar. 16, Vail Daily: *Vail's latest turf reduction project will bring annual water savings to 1.5 million gallons*
5. Mar. 13, Colorado Sun: [As states butt heads over Colorado River plans, water experts gauge impacts to Colorado](#)
6. Mar. 6, Aspen Journalism: [Lower basin calls for upper basin cuts; upper basin says 'no way'](#)

# Western Slope lawmakers introduce rival bill to protect Colorado wetlands

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Many of the wetlands in the Homestake Valley are left with no protections due to the Sackett decision.

*Todd W Pierce/Eagle Valley Wild*

Nearly a year after the U.S. Supreme Court issued a ruling withdrawing protections for about half the streams and wetlands in Colorado, Western Slope Democrats have introduced a bill that would fill the regulatory vacuum created by the decision.

House Bill 1379 would create a state-run permit system to regulate when developers can dig up and fill in streams and wetlands under a process called “dredging and filling.”

The bill, sponsored by House Speaker Julie McCluskie and introduced Wednesday, would include a broad number of state waterways under the permit system and would task the Colorado Department of Public Health and Environment for developing it.

“When we talk about the impacts of water in the West, Colorado leaning in and taking a leadership role in our waterways could not be more important,” said McCluskie, a Dillon Democrat. “The scarcity of our water resources is becoming more and more apparent.”

The bill is also sponsored by Sen. Dylan Roberts, D-Frisco, and Rep. Karen McCormick, D-Longmont.

Historically, the state has relied on the federal government to issue permits for dredging and filling through the federal Clean Water Act, but under the Supreme Court decision *Sackett vs. EPA*, many of Colorado’s waterways are no longer under the federal government’s purview. The court’s May 2023 decision narrowed the federal protection by ruling that only some wetlands, like those with a direct surface connection to a larger, already-protected body of water, should be included.



The Supreme Court decision came after decades of legal fights over which waters should be protected under the Clean Water Act. After the decision, Colorado began scrambling for a way to address the permitting and created [an interim program under CDPHE](#). CDPHE also manages water quality in state waters.

## Rival bill

House Bill 1379 is only one of the approaches being considered by the Colorado legislature this session. [Senate Bill 127](#), introduced in February by Sen. Barbara Kirkmeyer, R-Brighton, proposes that the permitting system should instead be managed by the Colorado Department of Natural Resources.

“They do the floodplain planning, the water planning, they’re responsible for the streams and rivers, that’s not the health department,” she said.

Kirkmeyer argues that the permitting shouldn’t be under CDPHE because the department already has a huge backlog for its other permit programs.

The two bills have several other key differences, including how they define which waters should be protected and how stringent the permitting process is for different industries, such as mining. Agricultural activities would be largely exempt under both bills.

Senate Bill 172 has a more narrow approach to which state waters should be protected, largely consistent with the Sackett decision. House Bill 1379 would go somewhat beyond the scope of what was protected before that ruling.



Colorado Speaker of the House Julie McCluskie, D-Dillon, speaks during a rally to unveil an eviction protections bill being advanced by Democratic lawmakers Wednesday, Jan. 24, 2024, in Denver. House Bill 1329, sponsored by House Speaker Julie McCluskie and introduced Wednesday, would include a broad number of state waterways under a state-run permit system to regulate when developers can dig up and fill in streams and wetlands. The bill would task the Colorado Department of Public Health and Environment with developing the new system.

David Zalubowski/AP

“I think we’re trying to find the right balance between being too broad and not broad enough,” Roberts said. “In our bill, we would be protecting more water not going as far as some proposals would.”



While Kirkmeyer's bill is also sponsored by Rep. Shannon Bird, a Westminster Democrat and member of the legislature's powerful Joint Budget Committee, it may face an uphill battle in competing with a bill sponsored by Speaker McCluskie. Gov. Jared Polis, whose administration helped develop House Bill 1379, also provided a statement of support in a press release about the legislation.

"Today, we further our commitment to protect Colorado's water for the next generation of Coloradans," Polis said.

McCluskie argues that the CDPHE already issues permits for the state's water and air and setting up a new administrative system in the Department of Natural Resources would be more costly.

While the fiscal impact of House Bill 1379 hasn't been estimated yet, McCluskie is anticipating a \$600,000 cost for five new full-time employees to implement the new permitting. Senate Bill 172 has a \$3.8 million price tag, according to a fiscal note prepared by nonpartisan staffers.

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Kirkmeyer said she's skeptical of the fiscal impact estimation for House Bill 1379.

Only one of the bills could become law, but another possibility is the bills' sponsors could find enough common ground to combine the two measures.

"The worst thing that could happen is nothing passes and we end up with no regulation," Kirkmeyer said.

House Bill 1379 was assigned to the House Agriculture, Water and Natural Resources Committee. Senate Bill 172 is set to be heard by the Senate Agriculture and Natural Resources Committee April 4.

# Vail's latest turf reduction project will bring annual water savings to 1.5 million gallons

Town is continuing its work removing and replacing turf grass from non-functional areas

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In 2022, the town of Vail underwent a turf reduction project at Ellefson Park in West Vail, resulting in less water intensive landscaping (like this). It is continuing this work in 2024 with a project on the main Vail roundabout.

Town of Vail/Courtesy Photo

As the Western Slope continues to deal with aridification and drought in the Colorado River Basin, reducing water use will be critical in ensuring a sustainable water future.

The Eagle River Water and Sanitation District [reports](#) that around 95% of the water used indoors returns to local waterways (after being treated in a wastewater facility), but only about 25% of the water used for irrigation outside returns to local waterways.

One of the easiest ways for consumers and municipalities to reduce water use is by changing landscaping, reducing turf and shifting water needs outside.

This was recognized in the 2024 legislative session with [a bill that will prevent](#) local governments from planting new, non-functional turf within their jurisdictions starting in 2025. The [bill](#), which was signed into law by Gov. Jared Polis on Friday, March 15, would not impact recreational and residential spaces but rather grass in areas like medians and right-of-ways.

Since 2019, the town of Vail has proactively tackled this problem by removing and reducing its use of turf grass on town-owned property.

Todd Oppenheimer, Vail's capital projects manager, said the goal of the ongoing work is "to preserve stream flows."

"The primary benefit is to reduce water used in the landscape thus reducing the amount of water that needs to be taken from Gore Creek," Oppenheimer said. "There are secondary benefits, which include reduced workload on maintenance crews, reduced emissions from lawn maintenance equipment and some cost savings."



The town piloted a turf reduction program at Buffehr Creek Park, removing 25% of the grass and replacing it with less water-intensive plants. It was estimated that the project would save around 100,000 gallons of water each year. Since then, the project has continued at many other locations throughout town including the removal of [75,000 square feet](#) of turf grass in 2022.

In 2024, the town has undertaken a few projects that will convert over 20,000 square feet of irrigated turf grass to native grass, perennial flowers and shrub plantings.



Vail's newest roundabout near Vail Health Hospital is an example of low-turf landscaping, which is part of the town's overall plan to reduce its water use.  
Town of Vail/Courtesy Photo

The Town Council recently approved a \$91,000 contract to begin the 2024 work at the roundabout in main Vail. The work will include two small turf grass areas on the south side of the roundabout and the area east of the Vail Police Department parking lot. Work is expected to start in June.

"The project scheduled for 2024 will bring the total annual water savings to approximately 1.5 million gallons," Oppenheimer said.

The savings are a reflection of the turf reduction work done since 2019.

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"While this amount of water won't refill Lake Powell it will have a positive effect on our local waterway Gore Creek," Oppenheimer added.

The actual turf reduction and landscaping includes several steps.

"The process involves applying a non-selective herbicide to kill the roots of the existing sod and then mechanically removing the sod layer. The soil is tilled and raked to create a seedbed and one of a variety of native grass seed mixes is installed. The area is covered with a layer of mulch to protect the seed and retain moisture and then irrigated for a season or two to establish the grasses," Oppenheimer said.

With the 2024 project lined up, the town's turf grass project is far from over.

Looking forward, Vail "is looking to remove non-functional turf grass everywhere it can," Oppenheimer said. "Only non-functional turf grass is being targeted."

As such, the town's park areas that use natural grass will not see reduction projects for now.

In 2021, the town had [discussed](#) replacing the natural grass at Ford Park with artificial turf, but a large number of field users urged the town not to, and the town [ultimately dropped the project from its budget](#).

"There are no plans to remove any turf grass that serves a function," Oppenheimer said, adding that this includes areas of parks "that are used for play and other park activities and sports fields."



## MEMORANDUM

**TO:** Board of Directors  
**FROM:** Brian Thompson, Government Affairs Supervisor  
**DATE:** March 29, 2024  
**RE:** District Bylaw Amendments

**Summary of Subject:** A draft of updated District bylaws will be presented at the Apr. 4 board meeting. The board will be asked to review the proposed amendments and consider the updated bylaws for adoption at the May 23 meeting.

**Discussion and Background:** The board's statutory powers include adopting, amending, and enforcing its bylaws. §32-1-1001(1)(m), C.R.S. The bylaws may be "altered, amended or repealed at any regular or special meeting of the board." *District Bylaws §16*. The bylaws were last amended in 2019.

Staff and counsel have identified the need to amend certain provisions in the bylaws. The proposed amendments include cleanup of inconsistent or outdated terminology. For example, references to "telephonic" attendance, "audio tape" recordings, and "facsimile" signatures are reworded to be inclusive of modern technologies. Several other revisions are recommended to align the bylaws with current statutes and practices, including:

1. **Section 6.a** – The provision related to the regular meetings schedule was reworded to provide for greater flexibility.
2. **Section 6.b** – Open meeting exceptions were updated to align with Open Meetings Law, 24-6-402(2)(f), C.R.S.
3. **Sections 6.c, 6.d, and 6.g** – Clarified notice requirements for regular, special, and emergency meetings.
4. **Section 7.d** – Notice requirements for regular, special, and emergency meetings were reworded for consistency.
5. **Section 8.a** – Director terms were changed from "even numbered years" to "odd numbered years." Regular special district elections are now held biennially in odd numbered years pursuant to HB18-1039.
6. **Section 8.e** – A provision was added allowing the board to appoint an acting officer at the request of any individual officer (currently, temporary appointments are only allowed in the "absence" of an officer). For example, the board could appoint an acting Chair if the permanent Chair is attending remotely and requests for the meeting be presided in person.
7. **Section 8.e** – Officer elections were updated to reflect statutory changes. Currently, officer elections are set for "even numbered years" to align with regular special district elections, which had occurred biennially in even numbered years prior to 2023. HB18-1039 changed the special district election cycle to odd numbered years. The reference to "even numbered years" was struck and replaced with "the first regular meeting of the Board following a Regular Special District Election, as prescribed by statute."
8. **Section 8.k** – The requirement for the Treasurer to "be chairman" of the Budget Committee and Audit Committee was changed to "shall serve." Board committees function without a chair and the Treasurer serves in the same capacity as the other committee member(s).

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9. **Section 8.o** – The General Manager’s delegated powers and duties related to executing real property conveyances were updated. Currently, the GM is authorized to “execute real property conveyances approved by the board.” Requiring board approval of all conveyances can create costly inefficiencies and delays on time-sensitive projects, particularly with easements. Under the proposed revisions, the GM would be delegated execution authorization “when the conveyance is consistent with Board direction or does not deviate from standard templates and terms developed in consultation with the District’s Legal Counsel.” The board would retain authority to approve conveyances that “exceed or conflict with Board direction or standard templates, or if the conveyance will result in the abandonment, transfer, or alteration of a District property right or interest.” This determination will be made by the GM in consultation with the Board Chair and Legal Counsel. This amendment is aligned with direction provided by the board at the Jan. 25, 2024, meeting.
10. **Sections 9.b and 9.I** – The provision that committee members be appointed by the President was changed to “appointed by a majority vote of directors” to reflect current practice.
11. **Section 14** – The provision regarding the minimum dollar amount requiring public notice on construction contracts was reworded to provide greater flexibility and to align with HB23-1023. The provision related to integrated project delivery was also updated to align with §32-1-1804, C.R.S.
12. **Section 15** – The provision related to fees associated with open records requests was reworded to anchor to the maximums prescribed by law rather than setting a specific dollar amount that is subject to change.

A redlined draft of the updated bylaws incorporating the above revisions is attached for the Board’s review and consideration. Please let us know if you have any questions.

**Attached Supporting Documentation:** Redlined draft of updated bylaws

## DISTRICT BYLAWS

**SECTION 1. AUTHORITY.** Eagle River Water and Sanitation District ("District") is a quasi-municipal corporation and political subdivision of the State of Colorado and a duly organized and existing special district pursuant to Title 32, Article 1, Colorado Revised Statutes. ~~quasi-municipal corporation and political subdivision of the State of Colorado governmental subdivision of the State of Colorado and a body corporate with those powers of a public or quasi municipal corporation which are specifically authorized by, and in compliance with, Section 32-1-101 et seq., C.R.S.~~ District was created on June 28, 1996, by Order of Consolidation of Upper Eagle Valley Consolidated Sanitation District and Vail Valley Consolidated Water District, entered by the Eagle County District Court and is located in the County of Eagle.

**SECTION 2. PURPOSE.** It is hereby declared that the Bylaws hereinafter set forth will serve a public purpose.

**SECTION 3. POLICIES OF THE BOARD.** It shall be the policy of the Board of Directors ("Board") of the District, consistent with the availability of revenues, personnel and equipment, to use its best efforts to provide the quality services as authorized under the District Service Plan or by law.

**SECTION 4. BOARD OF DIRECTORS.** All powers, privileges and duties vested in, or imposed upon, the District by law shall be exercised and performed by and through the Board, whether set forth specifically or impliedly in these Bylaws. The Board may delegate to officers, employees, and agents of the District any or all administrative and ministerial powers.

Without restricting the general powers conferred by these Bylaws, it is hereby expressly declared that the Board shall have the following powers and duties:

- a. To confer upon any appointed officer or employee of the District the power to choose, remove or suspend employees or agents upon such terms and conditions as may seem fair and just and in the best interests of the District.
- b. To determine and designate, except as otherwise provided by law or these Bylaws, who shall be authorized to make purchases, negotiate leases, and sign receipts, endorsements, checks, releases, and other documents, including standard property conveyances as provided in Section 8.p of these Bylaws. The Board may, on a limited basis and by resolution, give a General Manager or other appointed signatory the power to sign contracts and other official documents on behalf of District.
- c. To create standing or special committees and to delegate such power and authority thereto as the Board deems necessary and proper for the performance of such committee's functions and obligations.

- d. To prepare or cause to be prepared financial reports, other than the statutory audit, covering each year's fiscal activities; and such reports shall be available for inspection by the public, as requested.

**SECTION 5. OFFICE.**

- a. **Business Office.** The principal business office of District shall be at 846 Forest Road, Vail, Colorado 81657, until otherwise designated by the Board.
- b. **Establishing Other Offices and Relocation.** The Board, by resolution, may from time to time, designate, locate and relocate its executive and business office and such other offices as, in its judgment, are necessary to conduct the business of the District.

**SECTION 6. MEETINGS.**

- a. **Regular Meetings.** Regular meetings of the Board shall be conducted at the date and time adopted by the Board on the fourth Thursday of the month at 11:30 a.m., and held at the business office, unless otherwise noticed and posted.
- b. **Meetings Open to the Public.** All meetings of the Board, other than executive sessions and social gatherings where discussion of public business is not the central business, shall be open to the public.
- c. **Notice of Meetings.** ~~Section 6.a shall constitute Adoption of a regular meeting schedule by the Board shall constitute~~ formal notice of regular meetings to Board members, and no other notice shall be required to be given to the Board, other than the permanent posting. Written waivers of notice by Board members are not necessary. The District shall provide full and timely notice of all public meetings in compliance with § 32-1-903 et seq, C.R.S. and § 24-6-402 et seq, C.R.S. Permanent posting of the time and place of such meetings shall be posted at the designated posting location adopted by the board ("Designated Posting Location").
- d. **Special Meetings.** Special meetings of the Board may be called upon twenty-four (24) hours written notice. Special meetings shall be noticed at the Designated Posting Location and an electronic copy shall be provided to each Director., which shall be posted at the designated posting location (which is the District's website), with a electronic copy notice provided to each dDirector.
- e. **No Informal Action by Directors/Executive Sessions.** All official business of the Board shall be conducted at regular or special meetings. Executive sessions may be called at regular or special meetings, and conducted according to the following guidelines:

1. Calling the Executive Session. The topic for discussion in the executive session shall be announced in a motion, and the specific statute that authorizes the executive session shall be cited. The matter to be discussed shall be described in as much detail as possible without compromising the purpose of being in executive session. An affirmative vote of two-thirds (2/3<sup>rd</sup>) of the quorum present shall be required to establish an executive session.
  2. Conducting the Executive Session. No adoption of any proposed policy, position, resolution, rule, regulation, or formal action shall take place in an executive session. The discussion in executive session shall be limited to the reasons for which the executive session was called. An electronic record ~~(such as an audio tape)~~ of the actual contents of the discussion in the executive session shall be kept. No electronic or other record is necessary to be kept for any portions of the discussion which the District's attorney reasonably believes constitute attorney-client privileged communication. The attorney shall state on the electronic record when any portion of the executive session is not recorded as an attorney-client privileged communication or sign a statement to the same effect.
  3. Records of Executive Sessions. The electronic record of any executive session shall be retained by the District for ninety (90) days from the date of the executive session and then destroyed. Electronic recordings of the executive session, or transcripts or other reproduction of the same, shall not be released to the general public for review under any circumstances, except as required by law.
- f. **Adjournment and Continuance of Meetings.** When a regular or special meeting is for any reason continued to another time and place, notice need not be given of the continued meeting if the time and place of such meeting are announced at the meeting at which the continuance is taken, except as required by law. At the continued meeting, any business may be transacted which could have been transacted at the original meeting.
- g. **Emergency Meetings.** Notwithstanding any other provisions in this Section ~~6~~, emergency meetings may be called by the Chair or any two (2) Board members in the event of an emergency that requires the immediate action of the Board in order to protect the public health, safety and welfare of the ~~property owners and~~ electors of the District, without notice if notice is not practicable. ~~If possible, notice of such emergency meeting may shall be given to the Board by telephone or whatever other means are reasonable to meet the circumstances of the emergency. Notice of such emergency meetings shall be given to the Board by whatever means are reasonable to meet the circumstances of the emergency.~~ At such



emergency meeting, any action within the power of the Board that is necessary for the immediate protection of the public health, safety and welfare may be taken; provided, however, that any action taken at an emergency meeting shall be effective only until the first to occur of (a) the next regular meeting, or (b) the next special meeting of the Board at which the emergency issue is on the public notice of the meeting. At such subsequent meeting, the Board may ratify any emergency action taken. If any emergency action taken is not ratified, then it shall be deemed rescinded as of the date of such subsequent meeting.

- h. **Email Meetings.** ~~Section 24-6-402, C.R.S., requires that c~~Certain e-mails ~~exchanged~~ between three (3) Directors (or, when two Directors constitutes a quorum, two Directors) that discusses pending resolutions or other District business shall be considered a public meeting subject to the requirements of the Colorado Open Meetings Law, §24-6-402, C.R.S.
- i. **Recordings.** A good faith effort will be made to record regular and special meetings of the Board, with the recordings kept for 6 months after approval of the meeting minutes, as is consistent with the State Archivist's Special Districts Records Management Manual.

## **SECTION 7. CONDUCT OF BUSINESS.**

- a. **Quorum.** All official business of the Board shall be transacted at a regular or special meeting at which a quorum (majority) of the Directors shall be present in person or ~~telephonically~~remotely, except as provided in Section ~~6~~.h. above and Section ~~7~~.b.
- b. **Vote Requirements.** Any action of the Board shall require the affirmative vote of a majority of the Directors present and voting, except that to convene and executive session of the Board a 2/3rds affirmative vote is required. ~~When special or emergency circumstances affecting the affairs of the District and the health and safety of District residents so dictate, then those Directors available at the time may undertake whatever action is considered necessary and may so instruct the District's employees, agents and contractors. Such actions shall later be ratified by the Board.~~
- c. **Electronic Signatures.** In the event the signature(s) of one or more members of the Board or appointed signatories are required to execute a written document, contract, note, bond, deed, and/or other official papers of the District, and the appropriate individual(s) is unable to be physically present to sign said documentation, such individual or individuals are authorized to execute the documentation electronically ~~via facsimile or e-mail signature~~, unless said documentation provides otherwise. Any electronic signature so affixed to a document shall carry the full legal force and effect of any original, handwritten signature pursuant to the Uniform

Electronic Transactions Act, §24-71.3-109, C.R.S.. Except as approved herein, this provision of these Bylaws shall not be interpreted as establishing District's consent or authorization to bind District to any transaction by the use of electronic records or electronic means. ~~This provision is made pursuant to Article 71.3 of Title 24, C.R.S., also known as the Uniform Electronic Transactions Act.~~

- d. **Order of Business.** The business of all regular meetings of the Board shall be properly noticed and shall describe in as much detail as is possible the topics planned for discussion within each category noticed in the Agenda. The order of business shall be established in the Agenda and may proceed in the following general order:

1. Call to order and roll call of Directors
- 4.2. Changes to Agenda;
- 2.3. Public ~~input comment~~(for any matters on the Agenda and not otherwise open to public comment or a public hearing, and any matters not otherwise on the agenda; 3 minute time limit/no disrupting, pursuant to §189108, C.R.S.);
4. Public hearings (if any) (3 minute time limit);
- 3.5. Consent matters, including Approval (or approval or modifications of the, as modified) of the Minutes of the a previous meeting or others matters as determined by the Board to be routine in nature;
6. Action items, including items requiring approval or denial by the Board
7. Board member input
- 4.8. Non-action items, including staff and consultant reports
5. Officers, Committees and professional consultants;
6. Unfinished business;
7. New business and special orders;
- 8.9. Executive Session, if needed; and
- 9.10. Adjournment

- e. **Public Conduct at Meetings.** Comments by members of the public shall be made only during the "Public InputComment" or any "Public Hearing" portion of the meeting, and limited to three minutes per person/20 minutes

per topic, unless additional opportunity is given at the Board's discretion. Disorderly conduct, harassment, or obstruction of or interference with meetings by physical action, verbal utterance, nuisance or any other means are hereby prohibited and constitute a violation of District rules. Such conduct may result in removal of person(s) responsible for such behavior from the meeting and/or criminal charges filed against such person(s). To the extent such occurrences arise and the person(s) responsible refuse to leave the premises, law enforcement authorities will be summoned. Prosecution will be pursued under all applicable laws, including without limitation ~~Sections~~ §18-9-108, C.R.S. (disrupting lawful assembly), §18-9-110, C.R.S. (public buildings - trespass, interference), and/or §18-9-117, C.R.S. (unlawful conduct on public property). Law enforcement may be requested to attend meetings at any time in which the Board believes their presence will be an asset to the keeping of peace and the conducting of public business. 9-1-1 will be called at any time that the Board or staff feels threatened or endangered during a public meeting.

- f. **Motions and Resolutions.** Each and every action of the Board necessary for the governance and management of the affairs of District, for the execution of the powers vested in District, and for carrying into effect the provisions of Article 1 of Title 32, C.R.S., shall be taken by the passage of motions or resolutions.
- g. **Minutes.** Within a reasonable time after passage, all resolutions, motions and minutes of Board meetings shall be recorded in a visual text format that may be transmitted electronically and kept for that purpose and shall be attested by the Recording Secretary. Minutes of regular sessions shall be available for public review as soon as practicable following acceptance of the minutes by adoption of a motion therefore by the Board. Executive sessions shall be electronically recorded (except for Advice of Counsel) ~~on audio tape or other electronic media,~~ and such electronic recording or reproduction of the same shall be kept separate from minutes of regular sessions as described in Section ~~6.e~~ of these Bylaws and shall not be open to the public except as required by law.

## **SECTION 8. DIRECTORS, OFFICERS AND PERSONNEL.**

- a. **Director Qualifications and Terms.** Directors shall be eligible electors of the District. The term of each Director shall be determined by relevant statutory provisions with elections held in even-odd numbered years and conducted in the manner prescribed by Articles 1 through 13, Title 1, and Part 8, Article 1, Title 32, C.R.S. Each Director shall sign an oath of office.
- b. **Faithful Performance Bonds.** Each Director shall furnish, at the expense of the District, an individual, schedule or blanket surety bond in the sum of not less than \$1,000 each, conditioned on the faithful performance of the duties of his/her office. In addition, the Treasurer shall

furnish, at the expense of the District, a corporate fidelity bond in a sum of not less than \$5,000, conditioned on the faithful performance of the duties of his/her office.

- c. Director's Performance of Duties.** A Director of the District shall perform all duties of a Director, including duties as a member of any committee of the Board upon which the Director may serve, in good faith, in a manner which the Director reasonably believes to be in the best interests of District, and with such care as an ordinarily prudent person in a like position would use under similar circumstances. In performing the Director's duties, the Director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by persons and groups listed in subparagraphs 1, 2 and 3 of this subsection c. The Director shall not be considered to be acting in good faith if (s)he has knowledge concerning the matter in question that would cause such reliance to be unwarranted. A person who so performs the Director's duties shall not have any liability by reason of being or having been a Director of the District. Those programs and groups upon whose information, opinions, reports, and statements a Director is entitled to rely are:
1. One or more officers or employees of the District whom the Director reasonably believes to be reliable and competent in the matters presented;
  2. Counsel, public accountants, or other persons as to matters which the Director reasonably believes to be within such persons' professional knowledge or expertise; and
  3. A committee of the Board upon which the Director does not serve, duly designated in accordance with the provisions of the Bylaws, as to matters within its designated authority, which committee the Director reasonably believes to merit confidence.
- d. Oath of Office.** Each member of the Board, before assuming the responsibilities of his or her office, shall take and subscribe an oath of office in the form prescribed by law.
- e. Election of Officers.** The Board of Directors shall elect from its membership a Chair and President, Secretary, Treasurer, and Vice Presidents and Assistant Secretaries and/or Assistant Treasurers who shall be the officers of the Board of Directors and of the District. The Vice Presidents and Assistant Secretaries and/or Assistant Treasurers shall have all powers of the offices of Secretary and/or Treasurer as applicable, in the absence of such officers. The officers shall be elected by a majority of the Directors voting at such election. The Board may, from time to time, appoint an acting officer in the absence, or at the request, of any individual

officer. The election of the officers shall be conducted ~~biennially~~ at the first regular meeting of the Board following a Regular Special District Election, the as prescribed by statute, regular biennial election of the Directors held in May of even odd numbered years. Each officer so elected shall serve for a term of two (2) years, or as otherwise directed by the Board. Under any circumstance, the term shall continue until the election of his or her successor.

- f. **Vacancies.** Any vacancy occurring on the Board shall be filled by an affirmative vote of a majority of the remaining Directors, as prescribed by law, ~~with the appointee to serve until the next biennial, as prescribed by statute.~~ The appointed individual must meet the statutorily prescribed qualifications for Directors and shall serve until the next regular election.
- g. **Resignation and Removal.** Directors may be removed from office only by recall as prescribed by statute. Any Director may resign at any time by giving written notice to the Board, and acceptance of such resignation shall not be necessary to make it effective, unless the notice so provides.
- h. **Chair and President.** The Chair shall preside at all meetings. The Chair shall also be the President of the District. The President is authorized to sign all contracts, deeds, notes, debentures, warrants and other instruments on behalf of the District when authorized by Board action. The Chair shall assist the General Manager in interpreting Board direction, represent the District at official functions, ~~and~~ assist in developing agendas for Board meetings as required. Otherwise, the Chair shall have no greater authority than any other Board member.
- i. **Vice President.** The Vice President is also authorized to sign all contracts, deeds, notes, debentures, warrants, checks, and other instruments on behalf of the District.
- j. **Secretary.** In the absence of the Chair, the Secretary shall preside at all meetings. The Secretary (or designee) shall be responsible for the records of the District; may act as Secretary at meetings of the Board and record all votes; shall be responsible for composing a record of the proceedings of the Board in a visual text format that may be transmitted electronically and kept for that purpose, which shall be an official record of the Board; and shall perform all duties incident to that office. The Secretary shall be the designated election official of the District, unless otherwise determined by the Board, and the custodian of the seal of District. The Secretary shall have the authority to affix such seal to and attest all contracts and instruments authorized to be executed by the Board.
- k. **Treasurer.** The Treasurer (or designee) shall be authorized to invest or cause to be invested all surplus funds or other available funds of the

District in permitted investments authorized by law or as specified by the Board. The Treasurer shall be ~~chairman-serve on of~~ the Budget Committee and ~~of~~ the Audit Committee. The Treasurer shall keep or cause to be kept strict and accurate accounts of all money received by and disbursed for and on behalf of District in permanent records.

- I. Assistant Secretaries and/or Treasurers.** The Assistant Secretaries and/or Treasurers shall have all powers of the offices of Secretary and/or Treasurer, as applicable, in the absence of such officers. The Assistant Secretaries and/or Treasurers are also authorized to sign all contracts, deeds, notes, debentures, warrants, checks, and other instruments on behalf of the District. In the event that dual signatures of District officers are required on any instrument, then two (2) different officers shall sign such instrument.
- m. Recording Secretary.** The Board shall have the authority to appoint a recording secretary who need not be a member of the Board of Directors, and who shall be responsible for recording all votes and composing a record of the proceedings of the Board in a visual text format that may be transmitted electronically and kept for that purpose, which shall be the official record of the Board. The recording secretary shall not be required to take an oath of office, nor shall the recording secretary be required to post a performance bond.
- n. Additional Duties.** The officers of the Board shall perform such other duties and functions as may from time to time be required by the Board, by the Bylaws or rules and regulations of the District, by law, or by special exigencies, which shall later be ratified by the Board.
- o. General Manager.** The Board may appoint a General Manager to serve for such term and upon such conditions, including compensation, as the Board may establish. Such General Manager shall have general supervision over the administration of the affairs, employees and business of the District and shall be charged with the hiring and discharging of employees and the management of District properties. Such General Manager shall have the care and custody of the general funds of the District and shall cause to be deposited the same in the name of District in such banks or savings associations as the Board may select. Such General Manager will approve or establish a system of approval for all vouchers, orders and checks for payment, and shall cause to be kept regular books of account of all District transactions and shall obtain, at the District's expense, such bond for the faithful performance of duties as the Board may designate. The Board does delegate specific powers and duties to the General Manager as follows:

  - Hiring, promotion, demotion, and removal of all other employees.
  - Oversee and coordinate the activities of all consultants.

- Execution of contracts for budgeted expenditures.
- Negotiation of agreements and purchases for approved projects.
- Represent and speak on behalf of the District in all forums.
- Prepare and propose policies and projects for Board consideration.
- Orchestrate communications among the Board, staff, and consultants.

~~• Execute real property conveyances approved by the Board, including Trench Agreements, easements, licenses, leases, employee housing conveyances and purchases, and any other similar document that may be necessary to effect the acquisition, disposition or encumbrance of District property rights and interests, and to delegate to management-level employees (such as the Director of Finance Business Administration, the Director of Operations, or the Engineering Capital Projects Program Manager) the authority to execute such agreements in the General Manager's absence.~~ Execute real property conveyances, including easements, vacations of easements, trench agreements, licenses, leases, employee housing conveyances and purchases, and any other similar documents that may be necessary to effect the acquisition, disposition or encumbrance of District property rights and interests when the conveyance is consistent with Board direction or does not deviate from standard templates and terms developed in consultation with the District's Legal Counsel; the board shall approve real property conveyances as described herein that exceed or conflict with Board direction or standard templates, or if the conveyance will result in the abandonment, transfer, or alteration of a District property right or interest. This determination will be made by the General Manager in consultation with the Board Chair and Legal Counsel. The General Manager may, to the extent provided in these Bylaws, delegate to management-level employees (e.g. Director of Finance, Director of Operations, Engineering Manager) the authority to execute such conveyances in the General Manager's absence.

- Execute settlements within Board approved parameters.

p. **Personnel Selection and Tenure.** The selection of agents, ~~employees, engineers, accountants, special consultants and attorneys~~ and consultants, including attorneys, of the District by the Board will be based upon the relative qualifications and capabilities of the applicants and shall not be based on political services or affiliations. Agents and ~~employees~~ consultants shall hold their offices at the pleasure of the Board. Contracts for professional services of engineers, accountants, special consultants and attorneys may be entered into on such terms and conditions as may seem reasonable and proper to the Board.

## SECTION 9. FINANCIAL ADMINISTRATION.

- a. **Fiscal Year.** The fiscal year of the District shall commence on January 1<sup>st</sup> of each year and end on December 31<sup>st</sup>.
- b. **Budget Committee.** There shall be a permanent Budget Committee composed of the Treasurer, and at least one other member of the Board appointed through the affirmative vote of a majority of the Directors present and voting. ~~appointed by a majority vote of the Board, the appointed by the President, and the administrator, if any, which~~ The Budget Committee shall be responsible for preparation of the annual budget of the District and such other matters as may be assigned to it by the President or the Board.
- c. **Budget.** On or before October 15<sup>th</sup> of each year, the Budget Committee shall prepare and submit to the Board a proposed budget for the ensuing fiscal year. Such proposed budget shall be accompanied by a statement which shall describe the important features of the budget plan and by a general summary wherein shall be set forth the aggregate features of the budget in such manner as to show the balanced relations between the total proposed expenditures and the total anticipated income or other means of financing the proposed budget for the ensuing fiscal year, as contrasted with the corresponding figures for the last completed fiscal year and the current fiscal year. It shall be supported by explanatory schedules or statements classifying the expenditures contained therein by services, subjects and funds. The anticipated income of the District shall be classified according to the nature of receipts.
- d. **Notice of Budget.** Upon receipt of the proposed budget, the Board shall cause to be published a notice that the proposed budget is open for inspection by the public at the business office; that the Board will consider the adoption of the proposed budget at a public hearing on a certain date; and that any interested elector may inspect the proposed budget and file or register any objections thereto at any time prior to its final adoption. Notice shall be posted or published in substantial compliance with law.
- e. **Adoption of Budget.** On the day set for consideration of such proposed budget, the Board shall review the proposed budget and revise, alter, increase or decrease the items as it deems necessary in view of the needs of the District and the probable income of the District. The Board shall then adopt a budget, either during the budget hearing or at a later date and time to be set by the Board, setting forth the expenditures to be made in the ensuing fiscal year. The Board shall provide for sufficient revenues to finance budgeted expenditures with special consideration given to the proposed ad valorem property tax levy.



- f. **Levy and Collection of Taxes.** On or before December 15<sup>th</sup> of each year, the Board shall certify to the Board of County Commissioners of the County or Counties in which the District is located the mill levy established for the ensuing fiscal year, in order that, at the time and in the manner required by law for the levying of taxes, such Commissioners shall levy such tax upon the assessed valuation of all taxable property within District.
- g. **Filing of Budget.** On or before January 30<sup>th</sup> of each year, the Board shall cause a certified copy of such budget to be filed with the Division of Local Government in the Colorado Department of Local Affairs.
- h. **Appropriating Resolution.**
1. At the time of adoption of the budget, the Board shall enact a resolution making appropriations for the ensuing fiscal year. The amounts appropriated thereunder shall not exceed the amounts fixed therefor in the adopted budget.
  2. The income of the District, as estimated in the budget and as provided for in the tax levy resolution and other revenue and borrowing resolutions, shall be allocated in the amounts and according to the funds specified in the budget for the purpose of meeting the expenditures authorized by the appropriation resolution.
  3. The Board may make an appropriation to and for a contingent fund to be used in cases of emergency or other unforeseen contingencies.
- i. **No Contract to Exceed Appropriation.** The Board shall have no authority to enter into any contract, or otherwise bind or obligate the District to any liability for payment of money for any purposes, for which provision is not made in an appropriation resolution, including any legally authorized amendment thereto, in excess of the amounts of such appropriation for that fiscal year. Any contract, verbal or written, contrary to the terms of this Section shall be void ab initio, and no District funds shall be expended in payment of such contracts.
- j. **Contingencies.**
1. In cases of emergency caused by a natural disaster, public enemy, or other contingency which could not reasonably have been foreseen at the time of the adoption of the budget, the Board may authorize the expenditure of funds in excess of the budget by resolution duly adopted by a two thirds (2/3<sup>rd</sup>) vote of the Board. Such resolution shall set forth in full the facts concerning the emergency and shall be included in the minutes of such meeting.

2. If so enacted, a copy of the resolution authorizing additional expenditures shall be filed with the Division of Local Government in the Colorado Department of Local Affairs and shall be published in compliance with statutory requirements.

**k. Payment of Contingencies.**

1. If there is unexpended or uncommitted money in funds other than those to which the emergency relates, the Board shall transfer such available money to the fund from which the emergency expenditure is to be paid.
2. To the extent that transferable funds are insufficient to meet the emergency appropriation, the Board may borrow money through (a) the issuance of tax anticipation warrants, to the extent that the mill levy authority of the District is available as provided by law, or (b) the issuance of bond anticipation notes payable from future bond proceeds or operating revenue, or (c) any other lawful and approved method.

**l. Annual Audit.**

1. The Board shall cause an annual audit to be made at the end of each fiscal year of all financial affairs of the District through December-31<sup>st</sup> of such fiscal year. In all events, the audit report must be submitted to the Board within six (6) months of the close of such fiscal year or as otherwise provided by law. Such audit shall be conducted in accordance with generally accepted auditing standards by a registered or certified public accountant, who has not maintained the books, records and accounts of District during the fiscal year. The auditor shall prepare, and certify as to its accuracy, an audit report, including a financial statement and balance sheet based on such audit, an unqualified opinion or qualified opinion with explanations, and a full disclosure of any violation of Colorado law pursuant to statutory requirements.
2. There shall be a permanent Audit Committee composed of the Treasurer and at least one other member of the Board appointed through the affirmative vote of a majority of the Directors present and voting. ~~at least one other Director appointed by a majority vote of the Board member of the Board appointed by the President.~~ The Audit Committee shall be responsible for the appointment, compensation, selection (to be approved by the Board), retention, and oversight of the work of any independent accountants engaged for the purpose of preparing or issuing an independent audit report or performing other independent audit, review or attest services for the District. The Audit Committee may, as necessary and to the

extent of its ability, provide independent review and oversight of the District's financial reporting processes, internal controls and independent auditors. All accountants thus engaged shall report directly to the Audit Committee.

3. A copy of the audit report shall be maintained by the District as a public record for public inspection at all reasonable times.
4. A copy of the audit report shall be forwarded to the State Auditor or other appropriate State official pursuant to statutory requirements.
5. Notwithstanding the foregoing audit requirement, the Board may file for an application from exemption from audit if the statutory criteria are met. If an audit extension is requested, the Board will be duly notified of the filing of such request.

**SECTION 10. CORPORATE SEAL.** The seal of the District shall be a circle containing the name of the District and shall be used on all documents and in such manner as seals generally are used by public and private corporations. The Secretary shall keep, or cause to be kept, the seal and shall be responsible for its safe keeping and care.

**SECTION 11. DISCLOSURE OF CONFLICT OF INTEREST.** A potential conflict of interest of any Director shall be disclosed in accordance with State law, particularly Article 18 of Title 24, C.R.S., and Sections 32-1-902(3) and 18-8-308, C.R.S.

**SECTION 12. COMPENSATION.** Each Director shall receive the maximum compensation authorized by statute, unless otherwise determined by the Board. No Director shall receive compensation as an employee of the District, except as may be provided by statute.

**SECTION 13. INDEMNIFICATION OF DIRECTORS AND EMPLOYEES.** The District shall defend, hold harmless and indemnify any Director, officer, agent, or employee, whether elective or appointive, against any tort or liability, claim or demand, without limitation, arising out of any alleged act or omission occurring during the performance of official duty, as more fully defined by law or by an indemnification resolution, if any. The provisions of this Section shall be supplemental and subject to and, to the extent of any inconsistency therewith, shall be modified by the provisions of the Colorado Governmental Immunity Act, § 24-10-101, et seq., C.R.S.

**SECTION 14. BIDDING AND CONTRACTING PROCEDURES.** Except in cases in which the District will receive aid from a government agency, a notice shall be published for bids on all construction contracts for work or material, or both, involving an expense of ~~\$60,000 or more of~~ District funds in or above the amounts set forth in § 32-1-1001(1)(d)(I), C.R.S. The Board may reject any and all bids, and if it appears that the District can perform the work or secure material for less than the lowest bid, it may proceed to do so in accordance with law. Notwithstanding the foregoing, the District

may award an integrated project delivery (IPD) contract to a single participating entity for the design, construction, alteration, operation, repair, improvement, demolition, maintenance, or financing, or any combination of these services, for a public project upon a determination by the Board that IPD represents a timely or cost effective alternative to a conventional bidding process for the public project and notice is published pursuant to relevant statutes. The District may accept the proposal that represents the best value to the District, not necessarily the low bid. IPD contracts shall be in compliance with all laws applicable to public projects.  ~~, pursuant to §32-1-1801, et seq., C.R.S. upon (i) the determination of the Board that integrated project delivery represents a timely or cost-effective alternative for a project; (ii) publication of a request for qualifications and/or request for proposals; and (iii) compliance with Part 18 of Article 1, Title 32, C.R.S. All other statutory requirements relating to performance bonds, retainage, and similar matters shall also be complied with.~~

**SECTION 15. RECORDS MANAGEMENT.** The District shall comply with, and adopt and maintain policies as necessary for compliance with, applicable records retention, destruction, and disclosure requirements, including the Colorado Open Records Act, State Archives and Public Records law, and various consumer privacy legislation. The District may charge any fees for production of records, including a research and retrieval fee, as permitted by law, as permitted by law, including a research and retrieval fee (after the first hour) of not to exceed thirty-three dollars and fifty-eight cents (\$33.58) per hour, or up to the maximum amount allowed by the Executive Committee of the State Legislative Council, whichever is greater.

**SECTION 16. MODIFICATION OF BYLAWS.** These Bylaws may be altered, amended or repealed at any regular or special meeting of the Board to become effective immediately or at a subsequent date.

**SECTION 17. SEVERABILITY.** If any part or provision of these Bylaws is adjudged to be unenforceable or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of these Bylaws, it being the Board's intention that the various provisions hereof are severable.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 20~~19~~24, by the Board of Directors of Eagle River Water and Sanitation District.

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## MEMORANDUM

**TO:** Board of Directors  
**FROM:** Brian Thompson, Government Affairs Supervisor  
**DATE:** Mar. 29, 2024  
**RE:** Technology Accessibility

### Summary:

On Feb. 23, 2024, the Governor's Office of Information Technology ("OIT") permanently adopted [8 CCR 1501-11, Rules Establishing Technology Accessibility Standards](#) ("Rules"). Public entities, including special districts, are required to comply with these Rules by July 1, 2024. Across the state, public entities are working to understand these new requirements and the potential implications. While there is still much to learn about these Rules, this serves as an introduction to this new regulation in advance of the board considering a policy in May.

### Background and Discussion:

OIT was directed to create Rules Establishing Technology Accessibility Standards by [HB21-1110](#) and the subsequent "cleanup bill" [SB23-244](#). These bills expanded the Colorado Anti-Discrimination Act (CADA) to include "digital content that reasonably enables an individual with a disability to access the same information, engage in the same interactions, and enjoy the same services offered to other individuals, with the same privacy, independence, and ease of use as exists for individuals without a disability."

To this end, the Rules set standards and compliance parameters regarding the accessibility and usability of government information. The Rules apply to all Information and Communication Technology (ICT) that is procured, developed, maintained, or used by a public entity. ICT includes websites, electronic documents, video, audio, and third-party tools. The Rules apply to both public-facing and internal-facing ICT.

The Rules require ICT to conform to Colorado's adopted technical standards, which are anchored to the [World Wide Web Consortium's Web Content Accessibility Guidelines \(WCAG\)](#). WCAG defines how to make Web content more accessible to people with disabilities and set "success criterion" for compliance. Examples of these guidelines include color contrast ratios, alternative text on non-text content, and understandability through screen reading technology.

Under SB23-244, ICT that does not comply to these Rules may constitute discrimination under CADA. Any individual with a disability may bring a civil suit against a public entity, with penalties including a \$3,500 statutory fine "payable to each plaintiff for each violation."

During the rulemaking process from October 2023 to January 2024, OIT facilitated several rounds of public input. While encouraging the goal of equitable and nondiscriminatory access to public information, public entities expressed concerns that making all ICT fully conform to WCAG standards, particularly archived content, would be overwhelming, unfeasible, and, in some cases, impossible. There were also concerns about the potential impacts of excessive penalties on local governments.

The final Rules attempt to strike a balance by distinguishing between ICT that is created before the July 1, 2024, compliance deadline, e.g. archived content, and ICT that is created on or after July 1, 2024:

- The Rules do not apply to pre-July 1, 2024, ICT unless 1) the ICT is altered or updated, or 2) when an accessible version is requested by an individual with a disability.
- The Rules, including conformance to WCAG standards, apply to all ICT that is in active use (“regularly used by members of the public”) or that that is newly created on or after July 1. There are narrow conformance exceptions, including undue burden.

In addition, if an ICT does not fully conform to WCAG standards, an entity may still be in compliance if a user with a disability reports that an ICT is inaccessible and the entity provides a reasonable modification or accommodation that does not “substantially hinder access or ease of use.” An example would be if a user reports they cannot read text on an electronic document because of the color contrast (difference in foreground and background colors), the entity could send a conforming version to the user with altered color contrast.

An entity does not have to provide a modification/accommodation that would require significant financial, technical, or administrative difficulty or expense. Also, if an entity is unable to provide a “fully conforming” modification/accommodation, the entity may still be in compliance if it is “making good faith progress on its plan to remove accessibility barriers across its inventory of ICT.”

The Rules also require that all public entities develop a Technology Accessibility Statement (state agencies are required to submit a Statement to OIT; special districts are only required to develop and publicly post). The Statement must include, at a minimum: 1) a commitment to a timely response to reports of inaccessible ICT or requests for a reasonable accommodation or modification; and 2) a prominent notice on how to request reasonable accommodations or modifications or to report inaccessible ICT.

To ensure compliance by the July 1 deadline, we are in the process of developing this Statement, as well as internal protocols and processes. To guide staff in this development, the board will be asked to consider a Technology Accessibility Policy at the May 23 meeting. This policy will align with the District’s values of providing fair service and clear transparency to the entire community.

# Bushong & Holleman PC

A t t o r n e y s · a t · L a w

1525 Spruce Street, Suite 200, Boulder, Colorado 80302

TO: Boards of Directors for the Eagle River Water & Sanitation District and  
the Upper Eagle Regional Water Authority.

FROM: Steve Bushong

DATE: March 27, 2024

RE: PFAS Update Memorandum

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As you know, ERWSD and UERWA filed the required documents to opt out of the 3M and DuPont class actions settlement agreements per the decisions by the Boards. There was initially considerable chaos over which opt-outs were accepted, and which were being challenged by Class Counsel for technical reasons. We can now report that ERWSD's and UERWA's opt-outs were all accepted by the Court.

Although discussions were held between Marten Law and Class Counsel in an effort to address some of the concerns with the settlement agreements, ultimately there were no material changes made to the form of the agreements that ERWSD and UERWA based their decisions upon.

Marten Law's efforts on ERWSD's and UERWA's behalf should be completed. If Marten Law identifies future options to seek compensation for PFAS costs outside of the 3M and Dupont settlements we will keep you appraised, but will consult before making any decisions.