



**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 Administrator
DATE: March 29, 2024
RE: April 04, 2024, Board Meeting

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

**Thursday, April 04, 2024
8:30 a.m.**

This meeting will be held in-person

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

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

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



**UPPER EAGLE REGIONAL
WATER AUTHORITY**

BOARD OF DIRECTORS REGULAR MEETING
April 04, 2024
8:30 a.m.
Walter Kirch Conference Room

GOVERNED BY:

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

The Town of Avon

AGENDA

- | | <u>Attachment Link</u> |
|---|-------------------------------|
| 1. Introductions | |
| 2. Public Comment | |
| 3. Action Items | |
| 3.1. Minutes from Feb. 22, 2024, Regular Meeting | Action Item |
| 3.2. Minutes from Feb. 22, 2024, Special Joint Meeting with ERWSD Board | Action Item |
| 3.3. Encroachment License Agreement | Action Item |
| 3.4. Major Facilities Funding Agreement with Traer Creek Metro District | Action Item |
| 4. Information Reports | |
| 4.1. Board committees | Informational |
| 4.2. February meeting summary – draft | Confidential |
| 4.3. Contract log | Informational |
| 5. Board Member Input | |
| 6. General Manager Report – Siri Roman | |
| 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 | |
| 6.3. 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 |
| 7. Water Counsel Report – Kristin Moseley | |
| 8. Water Quality Counsel Report – Steve Bushong | |
| 8.1. PFAS class action settlement update | Informational |
| 9. General Counsel Report – Kathryn Winn | |

10. Executive Session

- 10.1.** Receive legal advice regarding Bolts Lake and Battle North/Minturn Case
Nos. 21CW3029 and 21CW3030, pursuant to §24-6-402(4)(b), C.R.S.

11. Any Action as a Result of Executive Session

12. Adjournment



**UPPER EAGLE REGIONAL
WATER AUTHORITY**

BOARD ACTION REQUEST

TO: Board of Directors
FROM: Carter Keller, Project Manager
DATE: March 29, 2024
RE: Encroachment License Agreement

GOVERNED BY:

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

The Town of Avon

Summary of Subject: Staff requests the board approve the attached Encroachment License Agreement.

Discussion and Background: The Authority has a platted utility easement on property located on Elk Spring Trail in Edwards that was established to access the Fenno F7 Well. An encroachment license agreement is necessary to identify obstacles to accessing the well and clarify the responsibility that the homeowner assumes with having those obstacles in place.

This Agreement is related to an effort to perform a condition assessment on all seven of the Fenno wells in Cordillera. Well evaluation efforts are in final stages as UERWA has completed evaluations on six of the seven wells over the past two years. F7 well is the last to be evaluated and should be completed by early June. The well condition assessment will help identify any risk to our system and potential failures that can be addressed before needing to react to a failure. Once the encroachment agreement is approved, staff can finish the well assessment analysis and discuss next steps. Related to this easement encroachment is a separate letter agreement whereby the homeowner agreed to pay the extra cost of well access and inspection caused by the encroachments.

Recommendation: Approve the Encroachment License Agreement as presented.

Suggested Motion: I move to authorize staff to execute and record the attached Encroachment License Agreement, as presented.

Attached Supporting Documentation:

- Encroachment License Agreement

Staff and counsel will be available to answer questions. Thank you for your attention to this matter.

ENCROACHMENT LICENSE AGREEMENT

This Encroachment License Agreement (“Agreement”) is entered into this 4th day of April, 2024, by and between the **UPPER EAGLE REGIONAL WATER AUTHORITY**, a political subdivision of the State of Colorado (“Licensor”) and **Ian McClure and Heather McClure** (“Licensee” and, together with Licensor, the “Parties”).

WHEREAS, Licensor is the beneficiary of a platted utility easement as shown on the Final Plat Cordillera Subdivision Filing No. 7 recorded in the public records of the Eagle County, Colorado, Clerk and Recorder’s Office, (County Clerk) and described on **Exhibit A** attached hereto (the “Easement”); and

WHEREAS, Licensee is the fee owner of real property which is located at Lot 3 Block 607 of Filing 7 of the Final Plat Cordillera Subdivision, also known as **190 Elk Springs Trail, Edwards, CO 81632** (the “Property”), which is encumbered by the Easement; and

WHEREAS, Licensee desires to obtain Licensor’s consent to certain existing encroachments upon the Easement for the benefit of the Property that consist of various improvements within the Easement, including but not limited to trees, log fence, stone structures, asphalt driveway, wood bridge, landscaping (“Encroachments”) being more fully described on **Exhibit B** attached hereto (the area of the Encroachments being referred to as the “Encroachment Area”); and

WHEREAS, Licensor generally prohibits encroachments into Licensor’s easements, but recognizes extenuating circumstances occasionally make such an encroachment appropriate; and

WHEREAS, Licensor has, in this case, determined to consent to the Encroachments upon the terms and conditions contained herein;

NOW, THEREFORE, in consideration of the terms and conditions hereinafter set forth, the Parties agree as follows:

1. **Consent to Encroachments**. Licensor hereby consents to the Encroachments as fully described in Exhibit B. Any and all rights granted to Licensee under this Agreement shall be exercised at Licensee’s sole cost, risk and expense, and

shall be subject to the dominant and continuing right of Licensor to use any and all of the Encroachment Area for Licensor's purposes; and shall further be subject to all prior deeds, easements, dedications, conditions, franchises, covenants, restrictions, encroachments and claims of title of record that may affect the Encroachment Area. Nothing contained in this Agreement shall be deemed to grant, convey, create or vest in Licensee any real property interest in the land; including, but not limited to, any fee, leasehold interest, easement, servitude or irrevocable license.

2. Use of Encroachment Area. Licensee agrees that it will utilize the Encroachment Area solely for the Encroachments described on Exhibit B, and for no other purpose.

3. No Interference. All costs associated with modification, removal or damage to the Encroachments by the Licensor related to Licensor's use of the Easement (and all incremental costs initially incurred by Licensor in attempting to avoid the modification, removal or damage to Licensee's Encroachment) shall be solely the responsibility of Licensee. Licensee, in the performance and exercise of its rights under this Agreement, shall not damage or interfere in any way with the use, operation, maintenance, repair, or replacement of any facility that is owned, operated and maintained by Licensor or its assignees within the Easement. Should the Encroachments cause Licensor's use of the Easement and related facilities to be more costly, or to be interfered with or damaged, Licensee shall, within thirty (30) days of billing, pay all costs and expenses associated with Licensor's more costly use or with Licensor's repair of any damage to Licensor's facilities or removal of any interference. Under any and all circumstances, all work that is necessary to repair any damage to or remove any interference with the Licensor's facilities shall be at Licensee's sole cost and expense. Licensor, in emergency situations, may, at Licensee's sole cost and expense, repair any and all damage to and remove any and all interference with the Licensor's facilities without prior notice to Licensee. In using its Easement, Licensor agrees to make a reasonable effort to avoid damage to the Encroachments, but Licensor shall not be liable for any damage to the Encroachments. In the event Licensor incurs additional costs as a result of any efforts to avoid damage to the Encroachments, Licensee shall within thirty (30) days of billing, pay all costs and expenses associated with such efforts.

4. Compliance with Laws. Licensee shall comply with all federal, state and local laws in the exercise and performance of its rights and obligations under this Encroachment Agreement.

5. Encroachment Policy. This Encroachment Agreement is subject to the reasonable terms and conditions of any encroachment policy as it may now exist or may subsequently be amended by the Licensor at its sole discretion and without notice.

6. Indemnification and Waiver. To the extent authorized by law Licensee hereby agrees to indemnify, defend, protect and hold harmless Licensor, its officers and employees, from and against any and all claims, damages, losses, liabilities, fines, penalties, of whatsoever kind or nature, including, but not limited to reasonable attorneys' fees that are incurred by Licensor and that arise in connection with Licensee's activities that are undertaken, authorized or obligated pursuant to this Agreement. Such liability shall specifically, without limitation, extend to claims of third parties arising from the presence of the Encroachments.

7. Limitation on Licensor's Liability. Licensor shall have no liability to Licensee or third persons related to the Encroachments, including, but not limited to, damages to the Licensee's improvements resulting from Licensor's dominant use of the Encroachment Area or from the repair of Licensor facilities or the installation of any additional facilities in the future within the Easement.

8. Termination. Licensor may terminate this Agreement at any time, without notice, by recording in the Eagle County, Colorado, Clerk and Recorder's Office a notice of termination of Encroachment License Agreement if Licensor determines that the Licensee's improvements interfere with Licensor's current or prospective use of the Easement. Licensor shall endeavor, but not be obligated, to provide Licensee with thirty (30) days' notice of its intent to terminate the Agreement.

9. Successors and Assigns. The rights and obligations of this Agreement shall be appurtenant to and deemed to run with the Property, or until such earlier time as the Licensor terminates this Agreement or abandons the Easement. This Agreement shall be recorded against the Property in accordance with the laws of the State of Colorado.

10. Integrated Agreement. This Agreement contains the entire understanding between the Parties hereto with respect to the subject matter hereof. There are no representations, agreements or understandings (whether oral or written) between or among the Parties relating to the subject matter of this Agreement which are not fully expressed herein.

IN WITNESS WHEREOF, and in order to bind themselves legally to the terms and conditions of this Agreement, duly authorized representatives of the Parties have executed this Agreement as of the date first set forth above.

[Signature pages follow]

Upper Eagle Regional Water Authority

By: _____
Name: Siri Roman
Its: General Manager

LICENSEE: IAN MCCLURE

Signature: _____

Date: 3/1/24

STATE OF TEXAS

COUNTY OF COLLIN

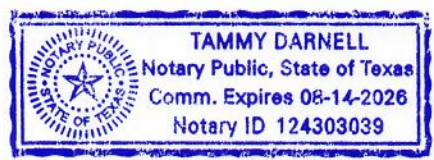
)
) ss.
)

The foregoing instrument was acknowledged before me this 1st day of March 2024, by Ian McClure.

Witness my hand and official seal.

My commission expires: 08/14/26

Tammy Darnell
Notary Public



LICENSEE: HEATHER MCCLURE

Signature: Heather McClure
Date: 3/1/24

STATE OF TEXAS)
COUNTY OF COLLIN) ss.

The foregoing instrument was acknowledged before me this 1st day of MARCH 2024, by Heather

McClure. Witness my hand
and official seal.

My commission expires: 08/14/26

Tammy Darnell

Notary Public

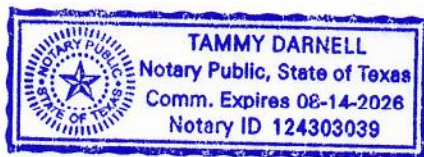
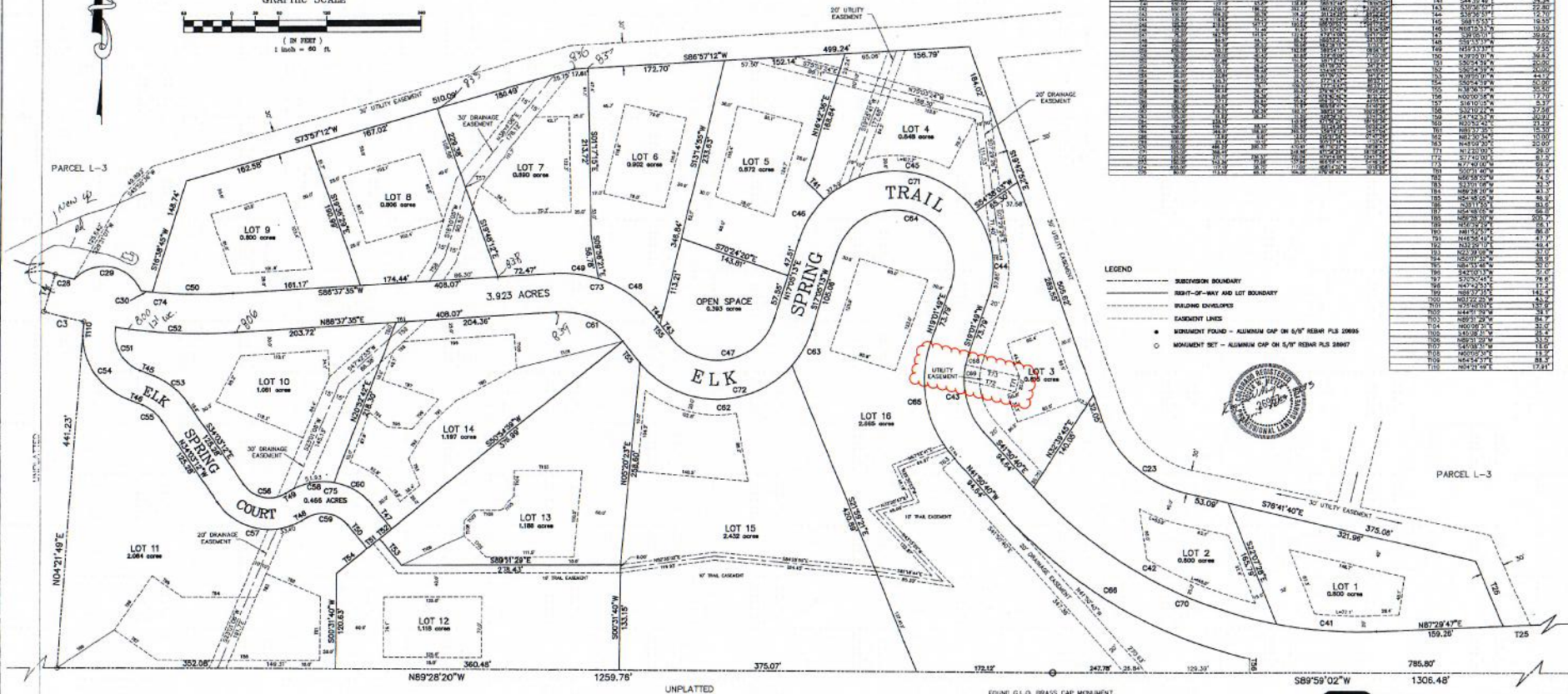
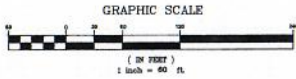


EXHIBIT A

(Description of Easement)

FINAL PLAT CORDILLERA SUBDIVISION, FILING NO. 7

A Resubdivision of Parcel L-3, Cordillera Subdivision, Filing No. 5,
Tract A, Cordillera Subdivision, Filing No. 6 and Portions of Land,
All Located in Sections 10, 11, 14 and 15, Tracts 53, 54, 55, 62 and 63,
Township 5 South Range 83 West of the Sixth Principal Meridian,
Eagle County, State of Colorado.



LINE	BEARING	LENGTH	AREA	PERIMETER	AREA	PERIMETER	AREA	PERIMETER	AREA	PERIMETER	AREA	PERIMETER	AREA	PERIMETER	AREA	PERIMETER	AREA	PERIMETER
1	N89°28'20"W	1259.78'																
2	S89°59'02"W	1306.48'																
3	N87°29'47"E	786.80'																
4	S78°41'40"E	375.06'																
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112	S78°41'40"E	375.06'																

LEGEND
 - - - - - SUBDIVISION BOUNDARY
 - - - - - RIGHT-OF-WAY AND LOT BOUNDARY
 - - - - - BUILDING ENVELOPES
 - - - - - EASEMENT LINES
 ● MONUMENT FOUND - ALUMINUM CAP ON 5/8" REBAR PLS 28885
 ○ MONUMENT SET - ALUMINUM CAP ON 5/8" REBAR PLS 28887



CORDILLERA

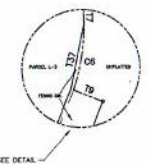
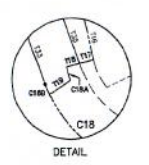
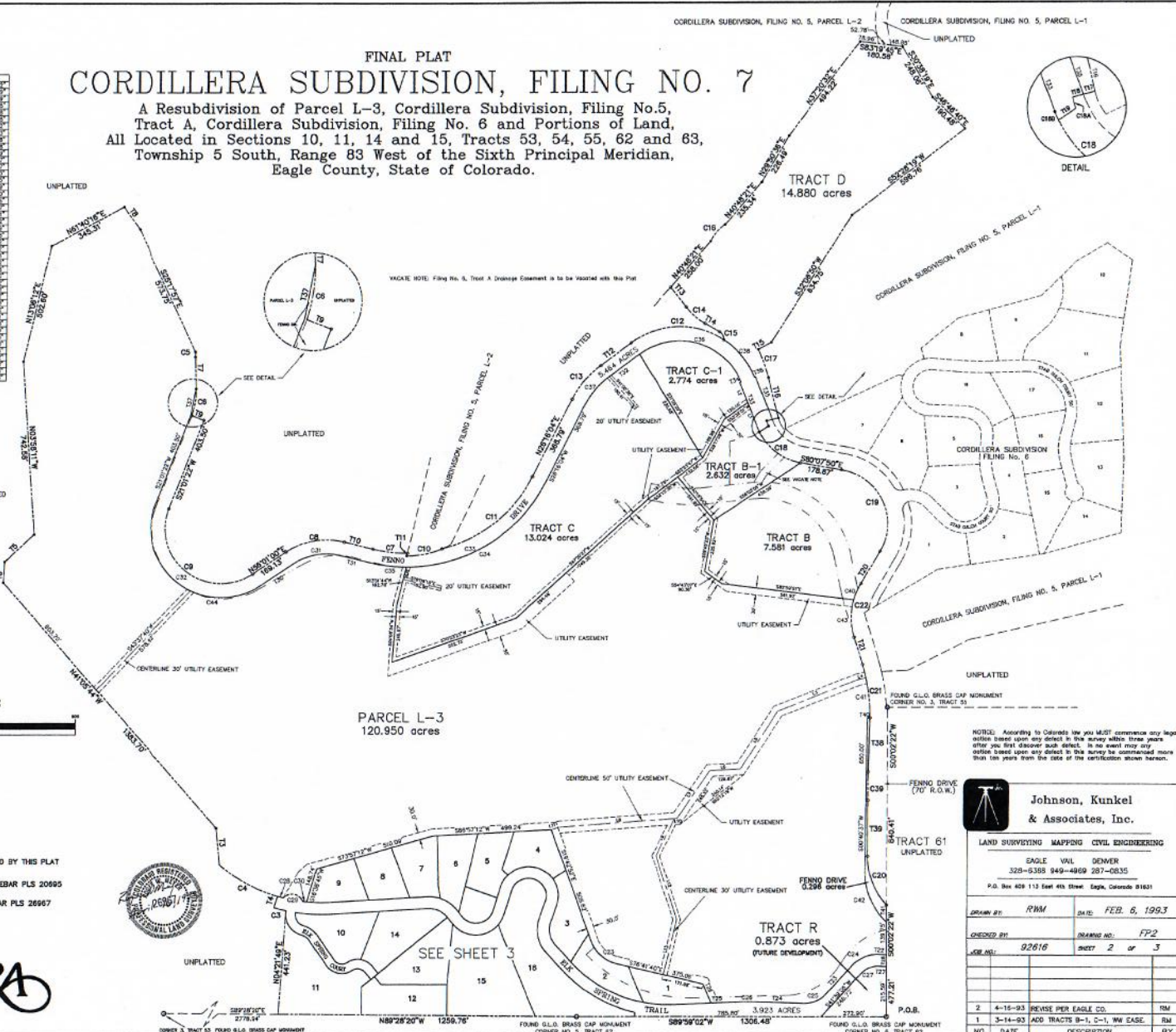
NOTICE: According to Colorado law you MUST commence any legal action based upon any defect in this survey

FINAL PLAT CORDILLERA SUBDIVISION, FILING NO. 7

A Resubdivision of Parcel L-3, Cordillera Subdivision, Filing No. 5, Tract A, Cordillera Subdivision, Filing No. 6 and Portions of Land, All Located in Sections 10, 11, 14 and 15, Tracts 53, 54, 55, 62 and 63, Township 5 South, Range 83 West of the Sixth Principal Meridian, Eagle County, State of Colorado.

CURVE	BEARING	LENGTH	TANGENT	CHORD	BEARING	AREA
C01	S89°59'24"W	52.50	83.30	52.50	N10°00'36"E	2439.94
C02	S89°59'24"W	52.50	83.30	52.50	N10°00'36"E	2439.94
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C07	S89°59'24"W	52.50	83.30	52.50	N10°00'36"E	2439.94
C08	S89°59'24"W	52.50	83.30	52.50	N10°00'36"E	2439.94
C09	S89°59'24"W	52.50	83.30	52.50	N10°00'36"E	2439.94
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C31	S89°59'24"W	52.50	83.30	52.50	N10°00'36"E	2439.94
C32	S89°59'24"W	52.50	83.30	52.50	N10°00'36"E	2439.94
C33	S89°59'24"W	52.50	83.30	52.50	N10°00'36"E	2439.94
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C38	S89°59'24"W	52.50	83.30	52.50	N10°00'36"E	2439.94
C39	S89°59'24"W	52.50	83.30	52.50	N10°00'36"E	2439.94
C40	S89°59'24"W	52.50	83.30	52.50	N10°00'36"E	2439.94
C41	S89°59'24"W	52.50	83.30	52.50	N10°00'36"E	2439.94
C42	S89°59'24"W	52.50	83.30	52.50	N10°00'36"E	2439.94
C43	S89°59'24"W	52.50	83.30	52.50	N10°00'36"E	2439.94
C44	S89°59'24"W	52.50	83.30	52.50	N10°00'36"E	2439.94

LINK	DIRECTION	DISTANCE
L1	S89°59'24"W	112.00
L2	S89°59'24"W	112.00
L3	S89°59'24"W	112.00
L4	S89°59'24"W	112.00
L5	S89°59'24"W	112.00
L6	S89°59'24"W	112.00
L7	S89°59'24"W	112.00
L8	S89°59'24"W	112.00
L9	S89°59'24"W	112.00
L10	S89°59'24"W	112.00
L11	S89°59'24"W	112.00
L12	S89°59'24"W	112.00
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L17	S89°59'24"W	112.00
L18	S89°59'24"W	112.00
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L99	S89°59'24"W	112.00
L100	S89°59'24"W	112.00



Johnson, Kunkel & Associates, Inc.
 LAND SURVEYING MAPPING CIVIL ENGINEERING
 EAGLE VILL DENVER
 328-6388 849-4869 287-0835
 P.O. Box 428 113 East 4th Street Eagle, Colorado 81631

DRAWN BY: RWM DATE: FEB. 6, 1993
 CHECKED BY: [] DRAWING NO.: FP2
 JOB NO.: 92616 SHEET 2 OF 3

2 4-16-93 REVISE PER EAGLE CO. RM
 1 3-14-93 ADD TRACTS B-1, C-1, WW EASE. RM
 NO. DATE DESCRIPTION BY



4/8/88

EXHIBIT B

(Description of Encroachment)



**UPPER EAGLE REGIONAL
WATER AUTHORITY**

GOVERNED BY:

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

The Town of Avon

BOARD ACTION REQUEST

TO: Authority Board of Directors
FROM: Jason Cowles, P.E.
DATE: March 27, 2024
RE: Major Facilities Funding Agreement with Traer Creek Metro District

Summary of Subject: Staff is requesting that the Board consider a Major Facilities Funding Agreement with Traer Creek Metropolitan District to fund the design and construction of major facilities including two booster pump stations and two water storage tanks that are necessary to provide water service to Planning Area K in the Village at Avon Planned Unit Development (PUD).

Discussion and Background: Section 9.2.4 of the Rules and Regulations requires that developments requiring the construction of Major Facilities such as treatment facilities, groundwater supply wells, pumping facilities, and storage facilities will be responsible for providing all funding necessary for the planning, design, and construction of the Major Facilities. The District is responsible for providing all project management services for design and construction of the Major Facilities.

Planning Area K (see attached map) of the Village at Avon PUD is located high above the valley floor and requires four new Major Facilities for water service: two booster pump stations and two water storage tanks. Representatives of the Traer Creek Metropolitan District approached us in January 2023 to begin the process for the design and construction of the Major Facilities. Staff worked with legal counsel to prepare a draft Major Facilities Funding Agreement which was presented to Traer Creek Metro District in April 2023. Following many months of revisions and negotiations with Traer Creek Metro District attorneys, the Major Facilities Funding Agreement is in a form that is acceptable to the parties.

Legal Issues: Legal counsel has been involved in the drafting of the agreement and will be available at the Board meeting to discuss the agreement and answer any questions that the Board may have.

Budget Implication: The agreement will not have a budget impact. All expenses including staff and consultant time for the design and construction of the major facilities will be advanced by the Traer Creek Metropolitan District.

Recommendation: We recommend that the Board approve the agreement as presented.

Suggested Resolution and Motion: I move to approve the Major Facilities Funding Agreement with Traer Creek Metropolitan District as presented.

Attached Supporting Documentation:

- Major Facilities Funding Agreement

Please let us know if you have any questions or would like additional information. Thank you.

**MAJOR FACILITIES FUNDING AGREEMENT
BETWEEN THE UPPER EAGLE REGIONAL WATER AUTHORITY
AND TRAER CREEK METROPOLITAN DISTRICT**

This Major Facilities Funding Agreement (the “**Agreement**”) is made, effective as of this 20th day of March, 2024 (the “**Effective Date**”) by and between the **UPPER EAGLE REGIONAL WATER AUTHORITY**, a political subdivision of the State of Colorado formed by intergovernmental agreement, pursuant to C.R.S. § 29-1-204(2) (“**Authority**”); and **TRAER CREEK METROPOLITAN DISTRICT**, a political subdivision of the State of Colorado (“**TCMD**”) and hereinafter collectively referred to as the “**Parties**” and individually as a “**Party**”.

WHEREAS, the Parties are legally empowered under their respective organizational documents and the laws of the State of Colorado to enter into this Agreement; and

WHEREAS, the real property (the “**Property**”) identified on Exhibit A, located in the Town of Avon, County of Eagle, Colorado is located within the boundaries of The Village (at Avon) and is served by TCMD; and

WHEREAS, the Property is in need of additional infrastructure to provide potable water to serve anticipated development in Planning Areas K, RMF-1, portions of Planning Area J, portions of Planning Area I, P3, all within The Village (at Avon) Master Plan development and depicted on Exhibit B (the “**Development**”), and it is anticipated that two booster pump stations and two water storage tanks will be required to serve the Development, which tanks and booster pumps are “**Major Facilities**” as defined in Section 2.74 of the Authority’s Rules and Regulations (“**Rules**”); and

WHEREAS, the Parties wish to enter into this Agreement to implement Section 9.2.4 of the Rules for the design and construction of the Major Facilities serving the Development, for which TCMD is solely responsible for providing all funds necessary for planning, design and construction, and whereby the Authority will provide all project management services, including planning, design, engineering, preparation of bid documents and construction cost estimate, bidding and awarding the contracts, and managing construction to completion.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Purpose.** The purpose of this Agreement is to implement the requirements of Section 9.2.4 of the Rules to set forth TCMD’s requirement to fund the planning, design and construction of Major

Facilities on the Property (the “**Project**”) and to establish the process by which TCMD’s participation will be accomplished.

2. **Eligible Costs.** The total eligible costs associated with the Project include, but are not limited to, design, permitting, engineering, construction management and construction, as well as Authority staff and consultant time and costs (collectively “**Eligible Project Costs**”). The Project is anticipated to be accomplished in three phases, to include the Planning Phase, the Design Phase, and the Construction Phase, as determined by the Authority as project manager in its sole discretion. The Project does not include planning, design, or construction of non-Major Facilities necessary to serve the Property, such as water and sewer mains, electrical, storm drainage, bridges, and roads, which are a separate responsibility of TCMD not encompassed in this Funding Agreement. However, TCMD shall coordinate with the Authority on design and construction of all facilities and infrastructure necessary for construction and operation of the Major Facilities (the “**Ancillary Facilities**”), and the Authority’s operation of the Major Facilities is expressly contingent upon completion of Ancillary Facilities to the Authority’s satisfaction.

3. **TCMD Funding.**
 - a. TCMD and the Authority shall collectively agree to the phasing of the Project, with TCMD’s approval not to be unreasonably withheld. At the time of commencement of any phase of the Project, the Authority will provide TCMD with an estimate of the Eligible Project Costs for that phase (the “**Estimated Costs**”), as well as timing. Within thirty (30) calendar days of receipt thereof, TCMD will deposit with the Authority cash in the amount of 110% of the Estimated Costs. The Authority will maintain the deposit on its balance sheet, allocate a budget line item, and pay all Eligible Project Costs from the same line item. TCMD will not be entitled to include in-kind costs for credit or Project cost purposes. The Authority shall, on a quarterly basis, provide TCMD with supporting documentation showing the payment and amount invoiced.

 - b. If the actual Eligible Project Costs for the Project or any phase (“**Actual Project Costs**”) are anticipated to or actually exceed the deposit amount, TCMD shall deposit such additional funds with the Authority within thirty (30) calendar days upon receipt of Notice from the Authority. The Authority may stop work on the Project until the required funds are received and TCMD will be responsible for any additional cost increases that result from stopping work.

- c. The Authority shall maintain full and complete records of Actual Project Costs incurred in accordance with generally accepted accounting principles. Authority will provide TCMD with an accounting of the deposited funds. and any activity quarterly. Within 60 days of final completion of the Project the Authority will refund any remaining funds to TCMD. For purposes of this section, “final completion of the project” means upon final acceptance of the Project following any applicable warranty periods.
- d.
- e. The Parties agree that TCMD will not be required to provide a warranty on the Major Facilities for any improvements being constructed by or through the Authority. The Authority shall be required to obtain from the general contractor any customary or appropriate warranties from the general contractor or any subcontractors constructing the Major Facilities.

4. Project Implementation.

- a. The Authority will implement and oversee the Project, inclusive of the retention of any necessary consultants and contractors to perform the work necessary to complete the Project. The Authority shall cause the Project to be completed in accordance with the applicable laws, rules, and regulations of all governmental entities having proper jurisdiction over the Project.
- b. The Authority practices regional planning of its water infrastructure. If the Authority determines that the Major Facilities could be utilized to provide water service to nearby properties or development outside of the Property, the Authority may require oversizing of the Major Facilities and any appurtenant facilities. At the time that the need for oversizing is determined, the Parties will discuss and agree in writing to any cost sharing prior to the incurring of any additional costs on behalf of TCMD.

- 5. Authority’s Duties; No Liability.** The Authority will use best efforts in serving as the project manager to complete the Project and shall fully enforce the terms of any design or construction contracts pertaining to the Project. However, in no event shall the Authority be liable to TCMD or any third party for any delay in completion or failure to complete the Project. Any Project delays shall be communicated to TCMD. The Authority shall be responsible for obtaining all customary and appropriate insurance, warranties, bonding and security related to the construction of the Major

Facilities, as well as any other associated improvements and facilities that are part of the Project.

6. **Additional Documentation Needed for TCMD Verification.**

The Authority acknowledges that TCMD may be using District funds and may require certification of costs shared, contributed or advanced by TCMD for the construction of improvements. For purposes of TCMD accounting and financing provided, the Authority shall provide upon completion of the Project copies of any certifications of capital costs and initial acceptance confirmation including the following:

- a. **Engineer's Certification:** Copies of any written certification by a licensed Engineer that the improvements for construction of the Project have been fully constructed and installed in substantial conformance with the Plans and Specifications.
- b. **Cost Affidavit and Summary:** Copies of any final affidavit of the Project's construction cost and any costs attributable to and provided by TCMD. Any public improvements constructed by or through the Authority and funded by TCMD will require additional documentation for use of public funds and the Authority agrees to cooperate with TCMD in providing the documentation necessary to access and utilize TCMD public funding sources.

7. **Insurance.** The Authority and TCMD shall insure themselves separately against liability, loss and damages arising out of the operation of and performance under this Agreement and the construction, use or operation of the Major Facilities. The Authority shall assure that the contractor(s), engineers, and other design professionals selected to perform any work on the Major Facilities and Project retain all insurance coverages required by any law as well as those that are customary in the industry and appropriate for the Project as determined by the Authority, and name TCMD (and any other property owners) as additional insureds, as well as negotiate sufficient bonding and security for the construction, completion and warranties needed for the Project. The Authority shall share copies of all final contracts for the construction of the Project with TCMD.

8. **Term of Agreement; Termination.**

- a. This Agreement shall be effective upon the Effective Date and, except as set forth herein, shall terminate upon the completion and

close out of the Project and a final accounting of the Actual Project Costs being provided by the Authority to TCMD.

- b. Any party shall have the right to terminate this Agreement after thirty (30) days written notice to the other party in the event of a default which is not cured within thirty (30) days after delivery of the written notice of default. Termination shall not be effective if reasonable action to cure the breach has been taken by the defaulting party before the effective date of the termination, and such actions are pursued diligently to a successful completion within thirty (30) days from inception of the actions. If such actions are not successful within said period of time, the non-defaulting party shall have the right to terminate this Agreement upon written notice to the other party.
- c. The Authority may stop work on the Project if TCMD fails to provide funds as set forth in Section 3(a) and 3(b) herein, and during any other period of breach by TCMD. In such case, TCMD shall be responsible for all additional incurred or increases to the Eligible Project Costs, as well as any reasonable termination costs or other fees resulting from the termination and stopping of work. Similarly, if either party terminates this Agreement for any reason, the Authority may stop work and abandon the Project immediately upon termination. Upon such termination, TCMD will not be eligible for any refund of amounts previously deposited which will be used to pay any outstanding Eligible Project Costs and TCMD shall remain liable for any termination costs or other fees resulting from the termination and stopping of work.

9. **Ownership of Work Product.** All documents such as reports, plans, drawings and contract specifications, information, and other materials prepared or furnished by the Authority (or the Authority's contractors, independent professional associates, permitted subcontractors, and consultants and paid for pursuant to this Agreement) are property of the Authority.

10. **Representatives.**

- a. **Authority Representative.** The Authority hereby designates: Jason Cowles (with an email address of jcowles@erwsd.org) as the Authority's representative to coordinate all communication with TCMD related to the Project, including issues arising under this Agreement.

- b. TCMD Representative. TCMD hereby designates Eric Applegate (with an email address of ericapplegate@traercreek.com) as TCMD's representative to coordinate all communication with the Authority related to the Project, including issues arising under this Agreement.

11. **Notice.** The addresses of the Parties are listed below. Any and all notices allowed or required to be given in accordance with this Agreement will be deemed to have been given when delivered to the other parties five (5) days following the date the same is emailed and deposited in the United States mail, registered or certified mail, postage prepaid, return receipt requested, addressed to the other Party at the addresses noted, or such address as is subsequently endorsed in writing.

To Authority: Upper Eagle Regional Water Authority
Attn: General Manager
864 Forest Road
Vail, CO 81657
sroman@erwsd.org

with required copies to: Collins Cole Flynn Winn & Ulmer, PLLC
165 S. Union Blvd., Suite 785
Lakewood, CO 80228
Attn: Kathryn G. Winn
kwinn@cogovlaw.com

To TCMD: Traer Creek Metropolitan District
Attn: District Manager
c/o CliftonLarsonAllen LLP
8390 East Crescent Parkway, Suite 300
Greenwood Village, CO 80111-2814
Email: Denise.Denslow@claconnect.com

with required copies to: Spencer Fane LLP
Attn: David S. O'Leary, General Counsel
1700 Lincoln Street, Suite 2000
Denver, Colorado 80203
Email: DOLeary@SpencerFane.com

12. **Miscellaneous.**

- a. Remedies. The terms of this Agreement shall be specifically enforceable from and after the Effective Date.

- b. Annual Appropriation. The Parties are political subdivisions of the State of Colorado and, as such any and all financial obligations described hereunder are subject to the annual appropriation of funds by that Party's Board of Directors.
- c. Governmental Immunity. Each Party and their respective elected officials, directors, officials, officers, agents and employees are relying upon and do not waive or abrogate, or intend to waive or abrogate by any provision of this Agreement the monetary limitations or any other rights immunities or protections afforded by the Colorado Governmental Immunity Act, §§24-10-101 *et seq.*, C.R.S., as the same may be amended from time to time.
- d. Independent Contractors. It is the intention of the Parties that the parties shall be, and remain, independent contractors. The Parties do not intend and nothing contained in this Agreement shall be deemed to create a partnership, co-tenancy, joint venture or agency of any kind.
- e. Attorney's Fees. If any legal proceeding is commenced to enforce or interpret any provision of this Agreement, the substantially prevailing Party (or Parties) in such suit shall be entitled to recover its reasonable attorneys' fees and expenses from the non-prevailing Party (or Parties). The provisions of this Section 13(e) shall survive the term of this Agreement.
- f. Severability. The Parties acknowledge and represent that the terms and provision of this Agreement have been bargained for based on the assumption that each and every provision is legally valid and enforceable. If any part, term, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining portions or provisions of this Agreement will continue in full force and effect so long as enforcement of the remaining provisions would not be inequitable to the Party against whom they are being enforced under the facts and circumstances then pertaining, or would substantially deprive such Party of the benefit of its bargain. A court order that invalidates, voids, or renders unenforceable any provision that concerns a material term of the Agreement, including, but not limited to, monetary payments, warranties, representations, disclosures, indemnifications, remedies, water and sewer service, conveyance of real property, and conveyance of water rights, or otherwise renders the Agreement inequitable, shall require the Parties to amend the Agreement, or in the absence of

mutual agreement to amend the Agreement any Party may seek a Court order to judicially reform the Agreement, in a manner which re-establishes the equities and benefits of the bargain and most fully implements the Parties' original intent and objective.

- g. No Third-Party Beneficiaries. Enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, will be strictly reserved to the Parties and their successors and assigns. Nothing contained in this Agreement will give or allow any claim or right of action by any other or third person under this Agreement. Any person other than the Parties or their successors and assigns, receiving services or benefits under this Agreement will be deemed to be an incidental beneficiary only.
- h. Assignment. No Party shall have the right or power to assign this Agreement or parts thereof, or its respective duties, without the express written consent of the other Party. Any attempt to assign this Agreement in the absence of such written consent, shall be null and void *ab initio*.
- i. Choice of Law; Venue. The Parties hereto hereby expressly agree that the terms and conditions hereof, and the subsequent performance hereunder, shall be construed and controlled by the laws of the State of Colorado. Venue for any legal action relating to this Agreement shall be the State District Court in and for the County of Eagle, Colorado.
- j. Entire Agreement; Amendments. This Agreement contains the entire agreement of the Parties with respect to its subject matter. Any amendments or modifications to this Agreement must be in writing executed by the Parties in order to be valid and binding.
- k. Waiver. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other of the provisions of this Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed a waiver of any subsequent default hereunder.
- l. Counterparts; Electronic Signatures. This Agreement may be executed in multiple counterparts, each of which will be deemed to be an original and all of which taken together will constitute one and the

same agreement. The facsimile or pdf signature of any Party on this this Agreement (and on any instrument required or permitted to be delivered to a Party pursuant to this Agreement) will be deemed an original for all purposes.

[Signature Pages and Exhibits Follow]

EXHIBIT A

Legal Description of the Property

EXHIBIT B

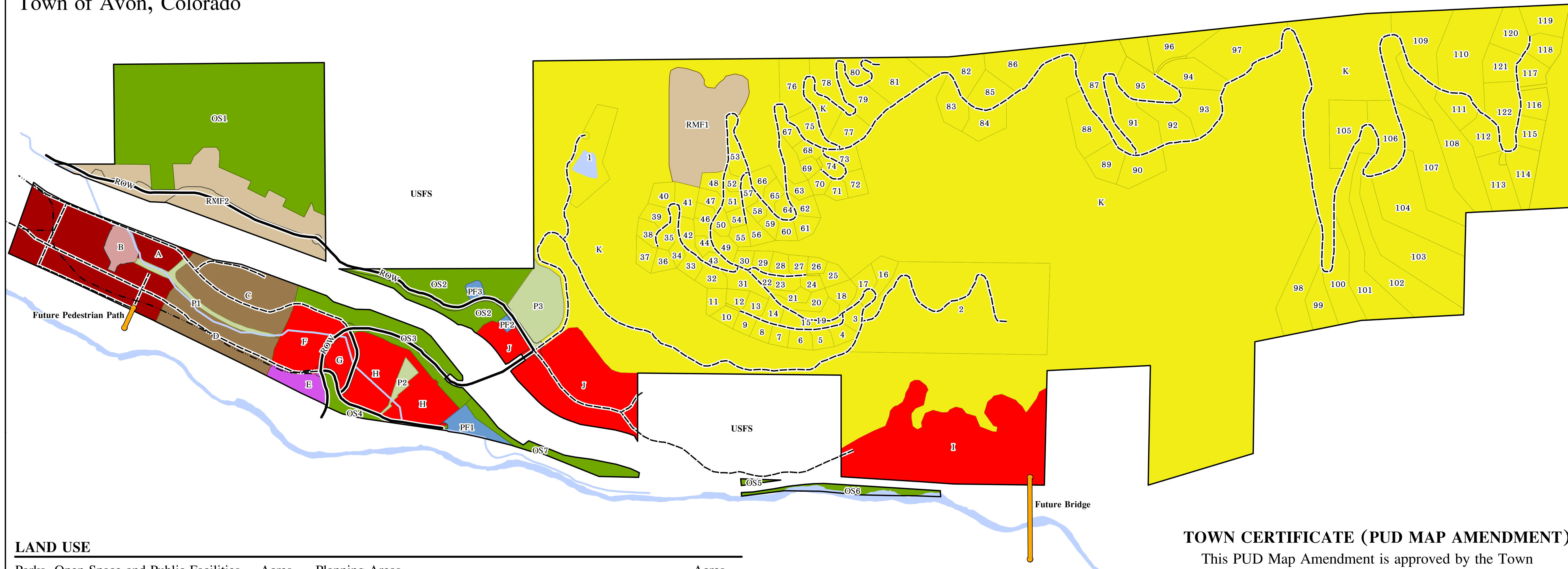
Map of the Development



The Village (at Avon) PUD Master Plan

Amended and Restated PUD Guide

Town of Avon, Colorado



LAND USE

Parks, Open Space and Public Facilities	Acres	Planning Areas	Acres
OS - Natural Open Space OS1 - OS7	157	A - Village Center Mixed Use Project	43
P1 - Parkland	4	B - Community Facilities	4
P2 - Parkland	2	C - Village Residential Mixed Use Project	24
P3 - Parkland	13	D - Village Residential Mixed Use Project	16
PF1 - Public Facility	4	E - School	4
PF2 - Public Facility	1	F - Regional Commercial Mixed Use Project	13
PF3 - Public Facility	1	G - Regional Commercial Mixed Use Project	5
		H - Regional Commercial Mixed Use Project	24
		I - Regional Commercial Mixed Use Project	57
		J - Regional/Neighborhood Commercial and Residential Mixed Use Project	38
		K - Hillside Residential; K - Hillside Residential	1303
		RMF1 - Residential Multi Family	27
		RMF2 - Residential Multi Family	39
SUBTOTAL	182	SUBTOTAL	1597
SUBTOTAL	0	PROJECT TOTAL	1779

NOTES

- Pursuant to Section 7.16.140(d) of the Avon Municipal Code: "Approval of this plan constitutes a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended and Title 7, Chapter 16 of this Municipal Code, as amended."
- A minimum of 29.5% of the acreage of Planning Area K shall be reserved and maintained as open space, and such open space shall be subject to the development standards for open space planning areas as set forth in Section D.11 of The Village (at Avon) PUD Amended and Restated PUD Guide.
- The street and road alignments depicted hereon are either designated as either permanent, temporary (not permanent and intended to be replaced in the future) or conceptual alignments. Until such time as made permanent or temporary in connection with an approved final plat, the conceptual alignments are non-binding and provided only for illustrative purposes to show one of various potential alignments, general circulation patterns, vehicular ingress and egress to and from planning areas and traffic connectivity to adjacent property outside of The Village (at Avon).
- The layout, location, size and number of lots within Planning Area K as depicted hereon are conceptual, non-binding and provided only for illustrative purposes. The precise layout, location, size and number of lots and the precise location of the building envelope for each lot within Planning Area K will be as established by and reflected in the final plat creating the lot, and shall be based on various site specific features of the lot such as the topography, grade, natural vegetation and similar matters, but shall generally comply with the building envelope requirements set forth in Section D.8(d) of The Village (at Avon) PUD Amended and Restated PUD Guide unless such compliance is determined to be impractical or unreasonable.
- The layout and location of the Future Bridge and the Future Pedestrian Path as depicted hereon are conceptual, non-binding and provided for illustrative purposes only. There shall be no obligation to construct the Future Bridge or the Future Pedestrian Path, provided that if the Future Bridge and/or the Future Pedestrian Path shall be constructed, the precise layout and location of the same will be established by the building permit and/or construction plans, as applicable, approved by the Town of Avon for such construction.
- See Exhibit F of The Village (at Avon) PUD Amended and Restated PUD Guide for street types and standards applicable to the roads depicted hereon.

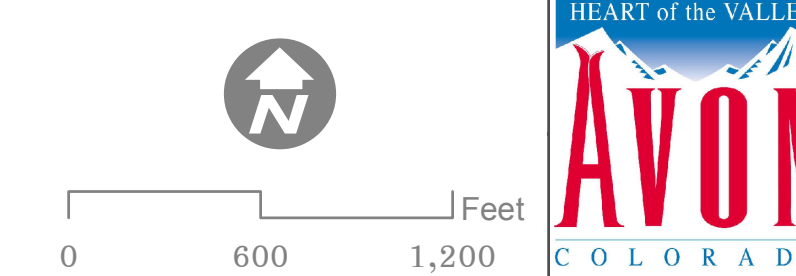
TOWN CERTIFICATE (PUD MAP AMENDMENT)

This PUD Map Amendment is approved by the Town Council of the Town of Avon, County of Eagle, State of Colorado this 7th day of November 2012, subject to the findings and conditions of Ordinance No. 12-10.

WITNESS MY HAND AND SEAL OF THE TOWN OF AVON

BY MAYOR:

ATTEST: TOWN CLERK





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)*

 2024 UERWA 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
24.20.003	03/14/24	On Call Design Services For Edwards DWF Clearwell Improvements	Western Water Solutions LLC	\$50,000.00	M. Harris	20.1.2.00.00.043	\$50,000.00	Design Services Agreement	On-Call engineering design work at Edwards DWF to include, but not limited to, vent and overflow design work for EDWF clearwell.		
24.20.004	Pending	Avon DWF Filter and Backwash Area Crack Repair	Restruction Corporation	\$12,425.00	M. Mantua	20.1.2.00.00.375	\$12,425.00	Services Agreement	Crack injection at filter and backwash area.		
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
24.15.019	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 and wastewater system *This agreement is approved for a not to exceed amount of 25k but is allocating 20k.	\$15,000.00	\$5,000.00
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
24.15.024	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



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

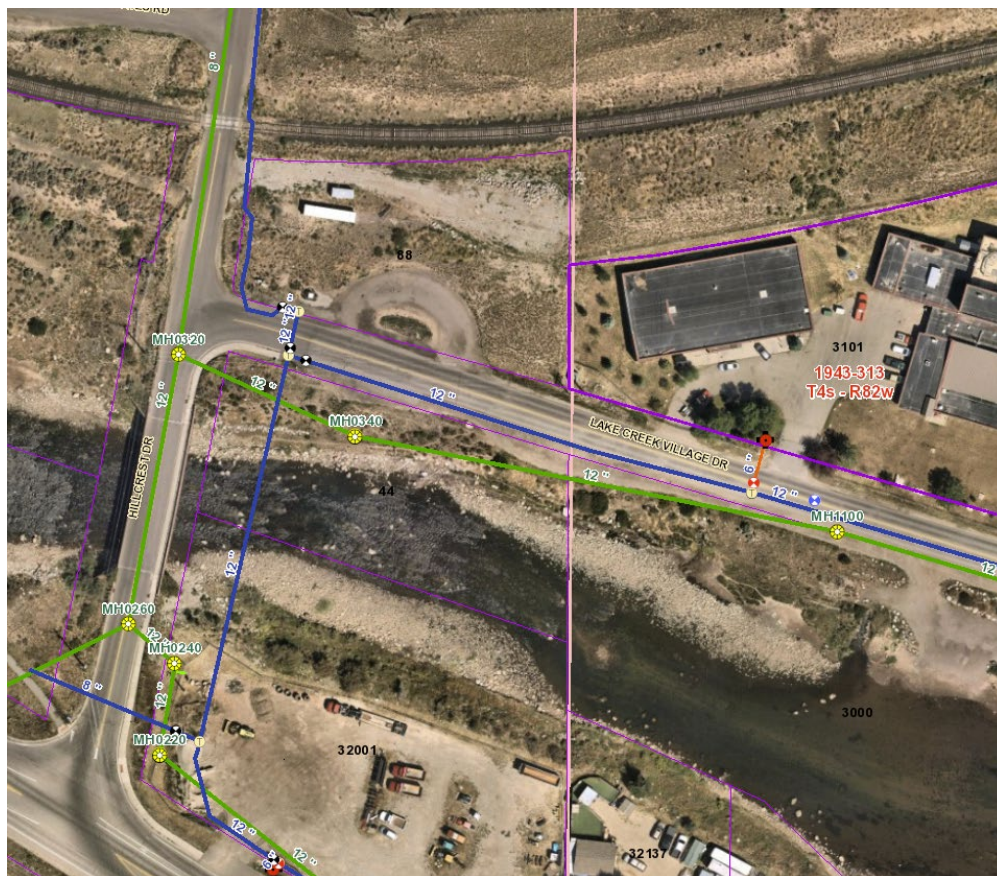
On Mar. 27, David Norris and I wrapped up the 2023-24 water conservation and rate change roadshow with a presentation to the Cordillera Property Owners Association (POA). The Cordillera POA was very receptive to the water conservation message and has recently reduced lawn limitations to 3,000 sf (from 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

MEMORANDUM

TO: BOARD OF DIRECTORS, UPPER EAGLE REGIONAL WATER AUTHORITY

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

REQUESTED ACTION: The Colorado River District respectfully requests that the Upper Eagle Regional Water Authority 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 Upper Eagle Regional Water Authority 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 Upper Eagle Regional Water Authority 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
Total:	\$14.65M

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



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
Total:	\$3M

**Anticipated commitment to be formalized on April 4th, 2024.*

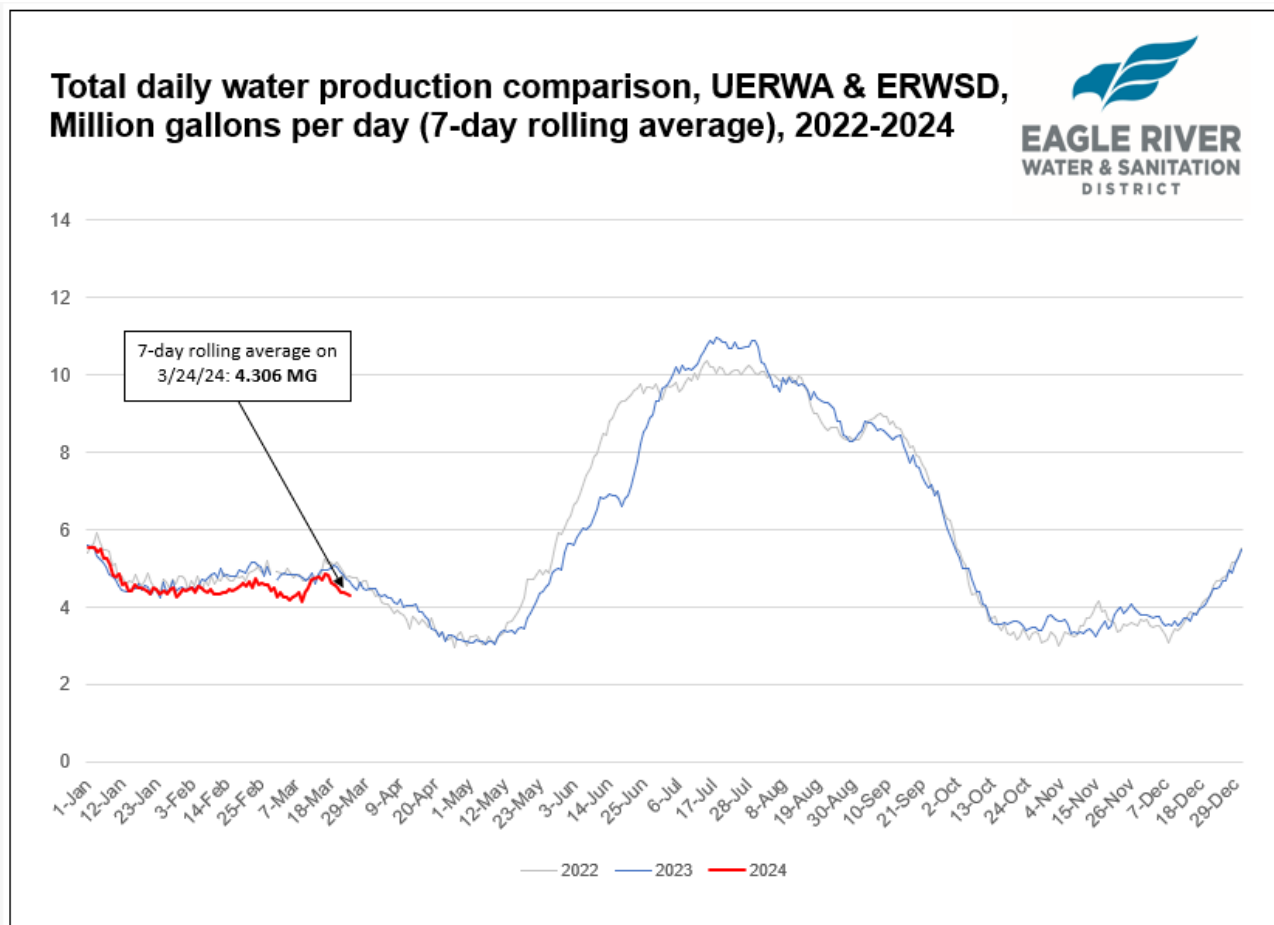


OPERATIONS MONTHLY REPORT APRIL 2024

WATER

Kailey Rosema

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

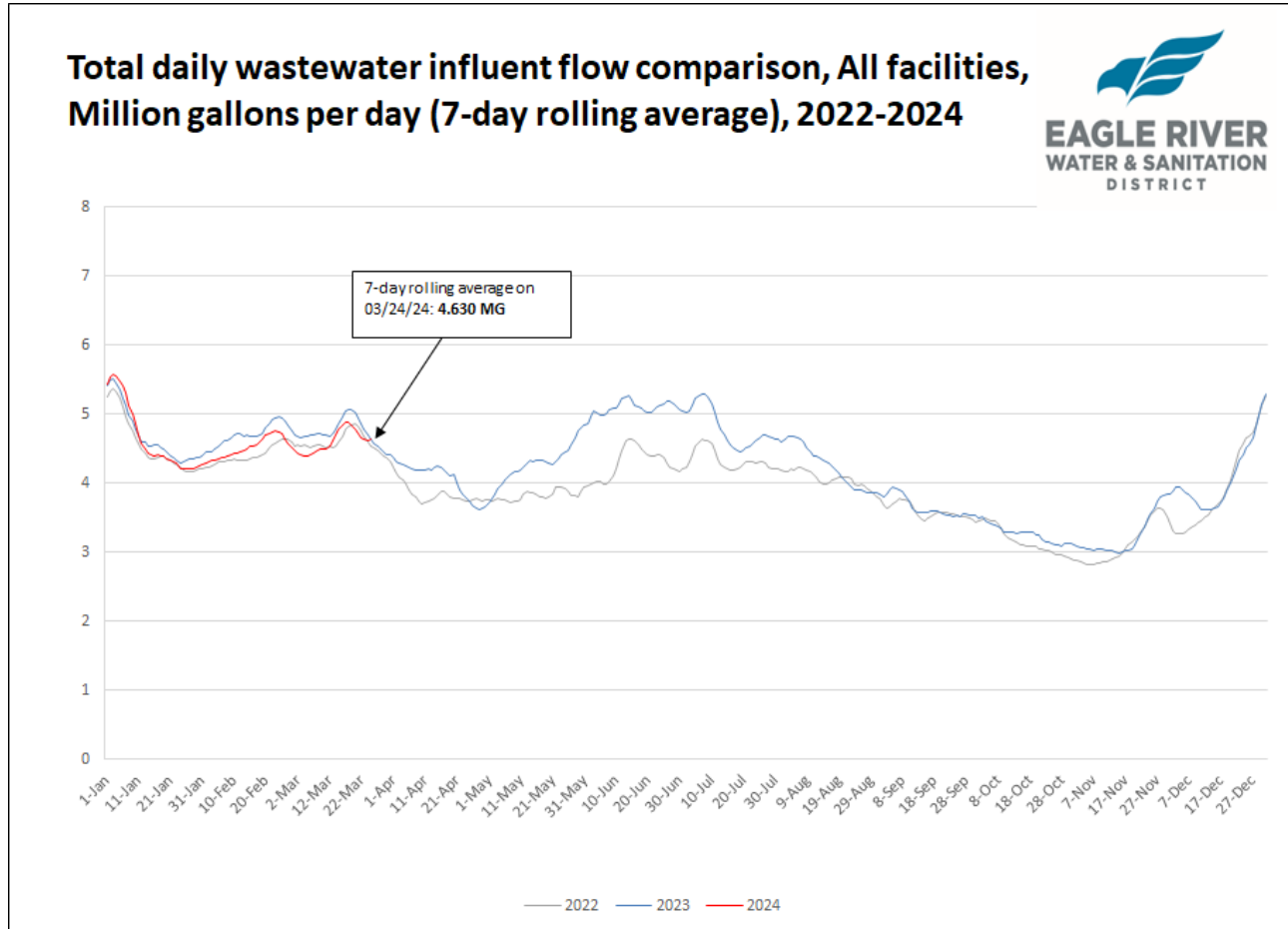


Vail Well R7, which experienced major damage during a utility power failure on Jan. 4, is currently being repaired. The pump and motor were removed and the well casing was video inspected on Mar. 19. The video inspection revealed several small holes in the well casing located approximately 10 feet below 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

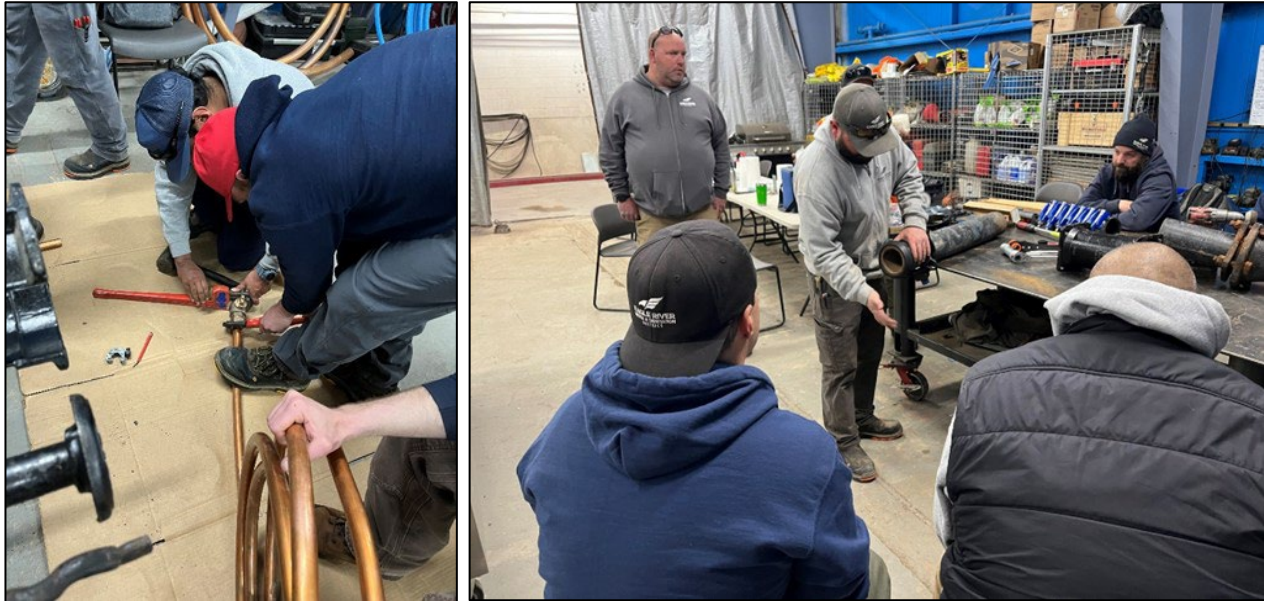
The results of the 2022 macroinvertebrate sampling program were received in March. In general, the results are similar to previous years. A summary memo is provided in the board packet.

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

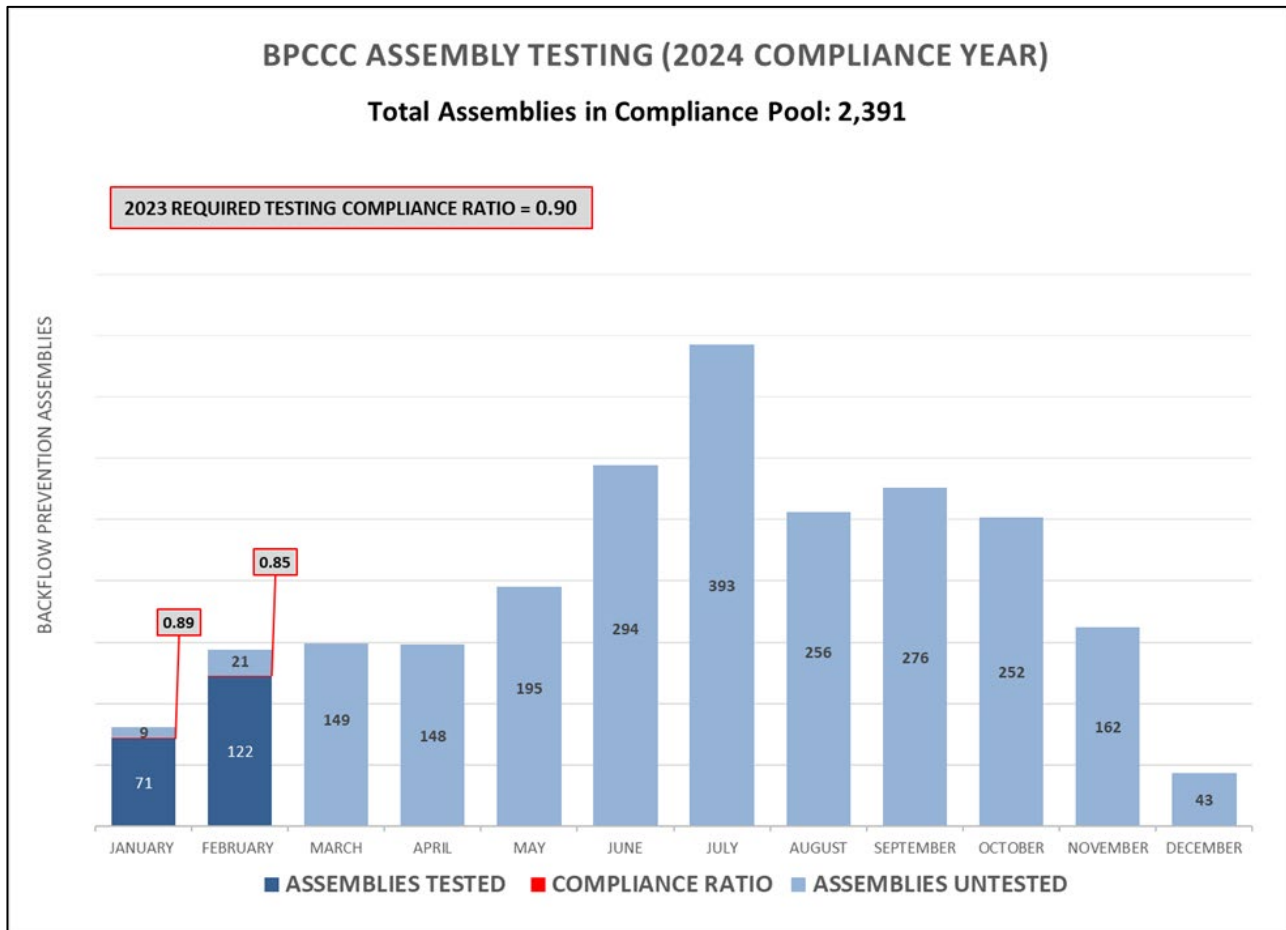
Meter Services

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		
AMI SYSTEM STATUS	ERWSD	UERWA	TOTAL
(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
<i>Meter Services – Advanced Metering Infrastructure (AMI) Status (Updated 3-18-2024)</i>			

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

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

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

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.

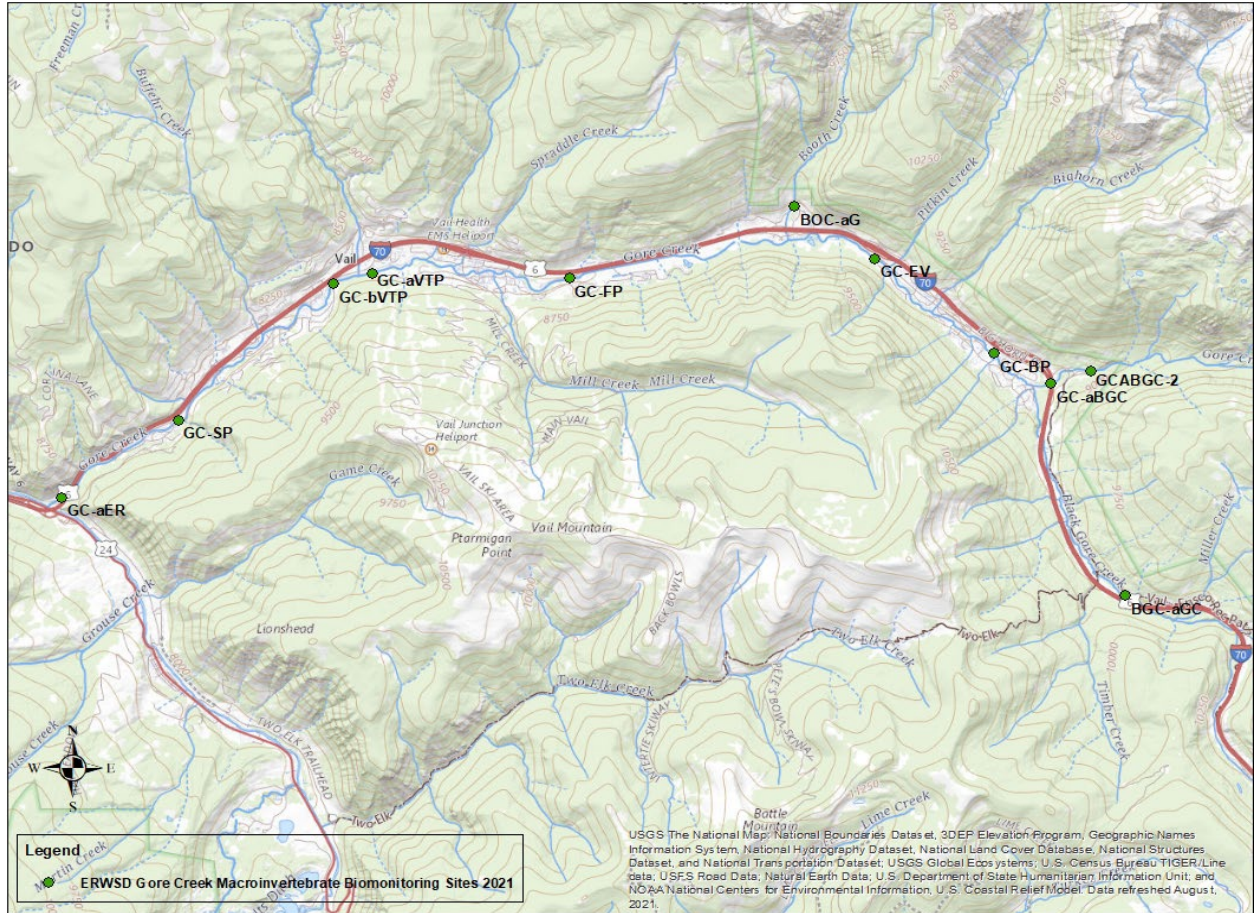
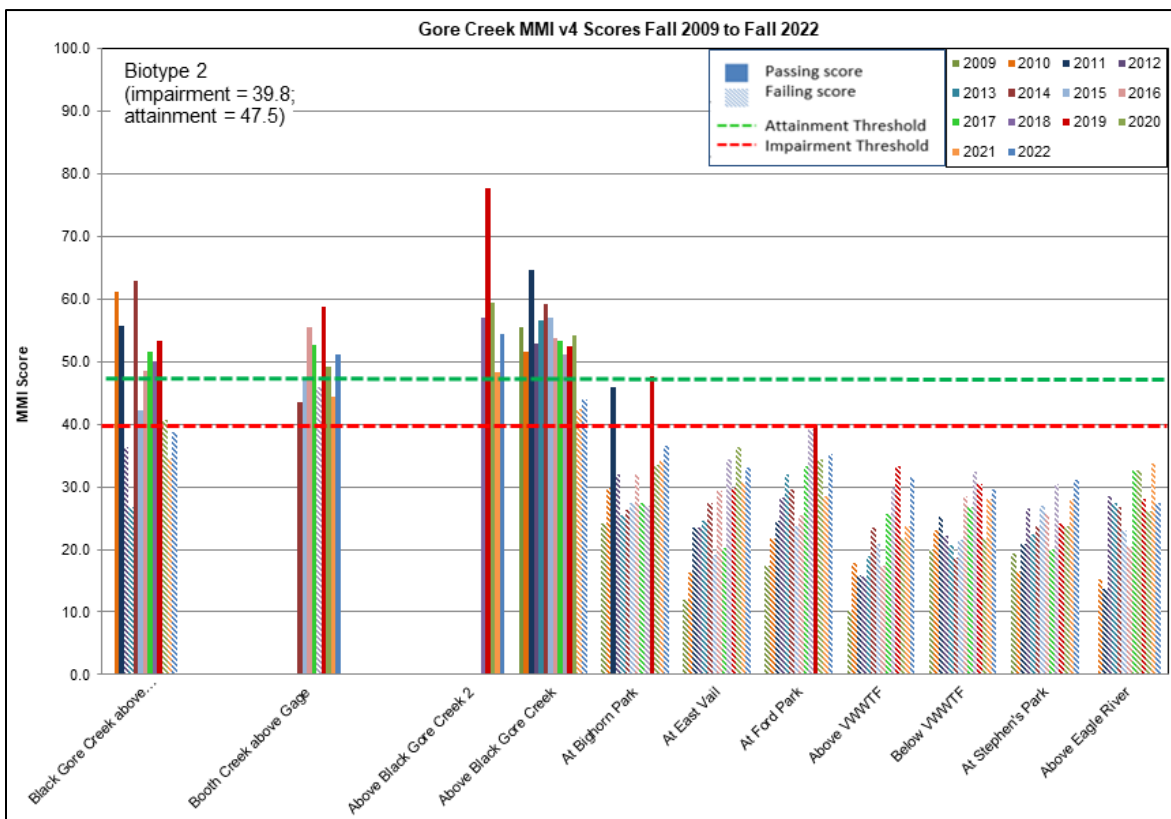
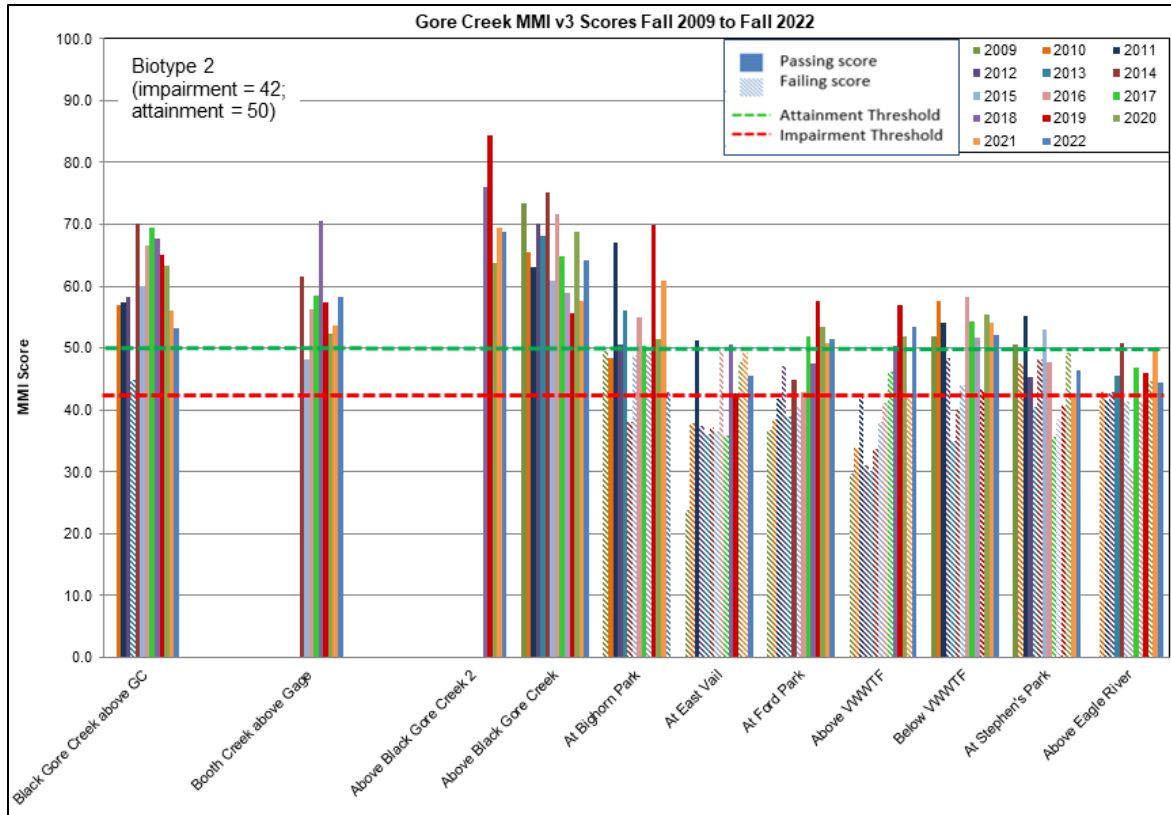


Figure 1. 2022 Gore Creek Macroinvertebrate Biomonitoring Sites



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.

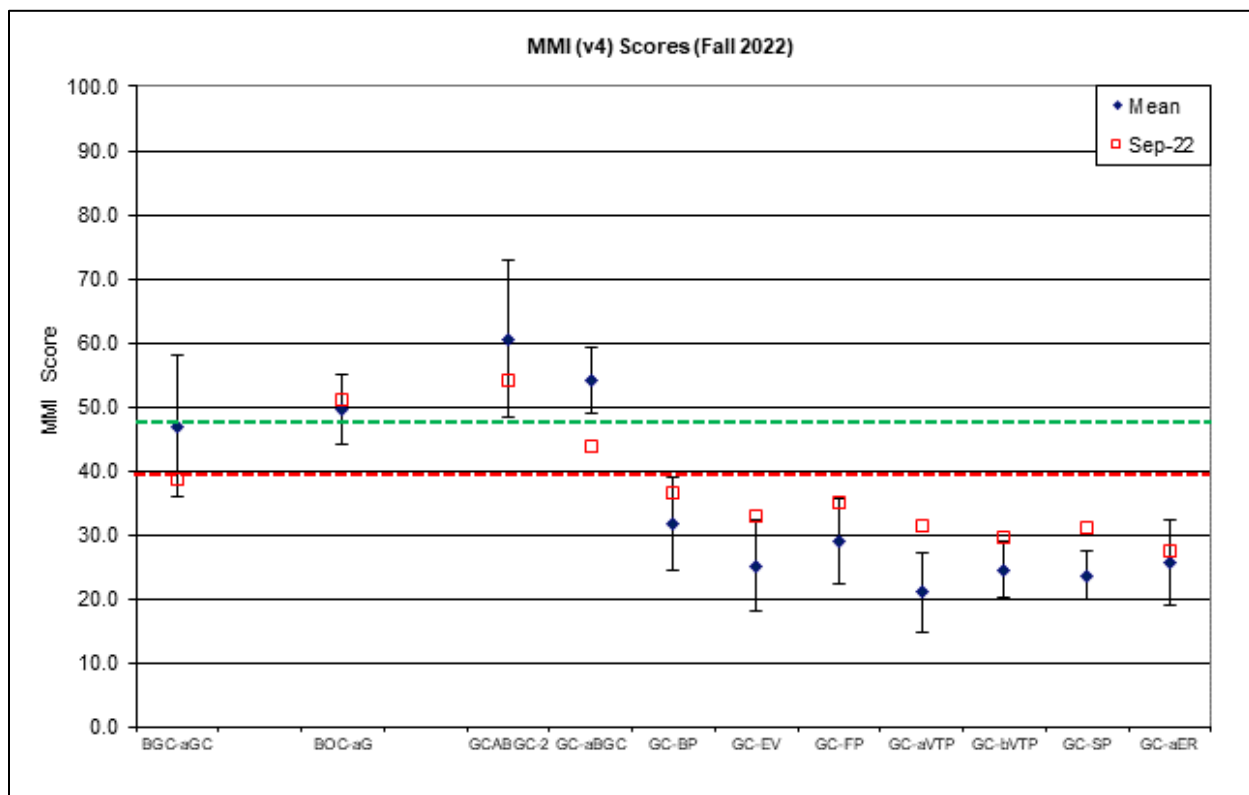


Figure 4. MMI (v4) scores from the fall of 2022 and mean MMI v4 scores (±1 standard deviation) from previous sampling events at study sites on Gore Creek.

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).

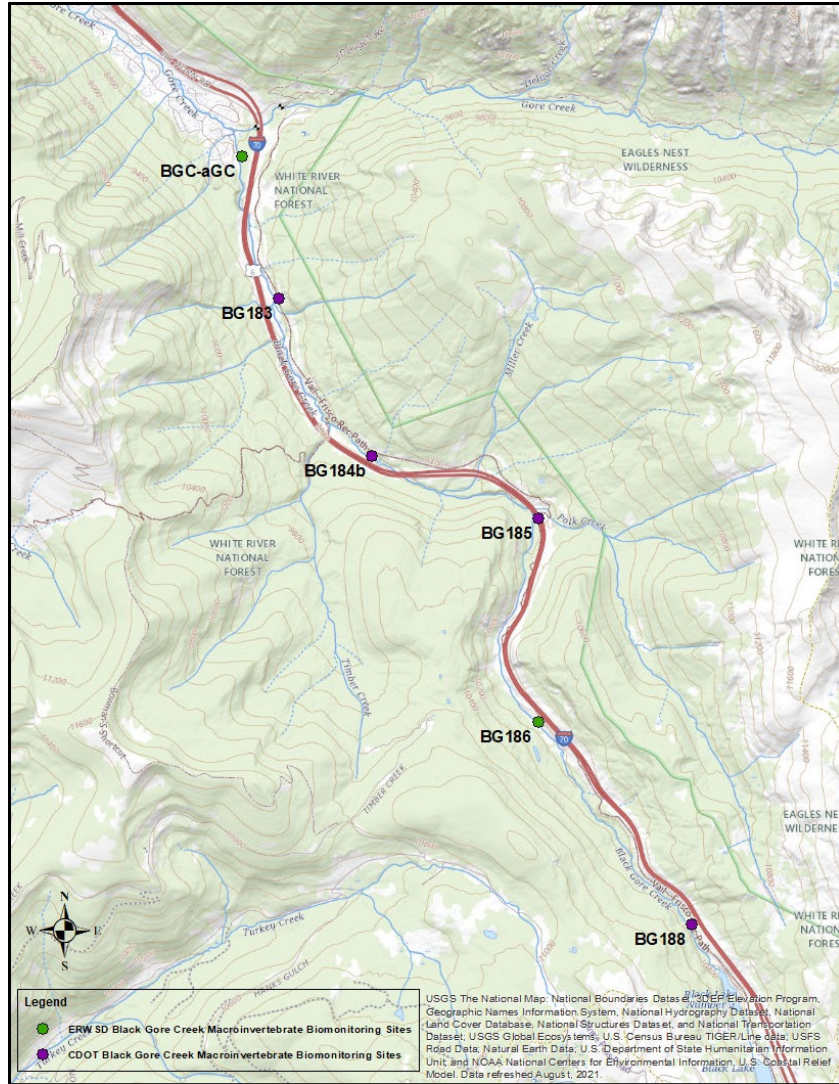
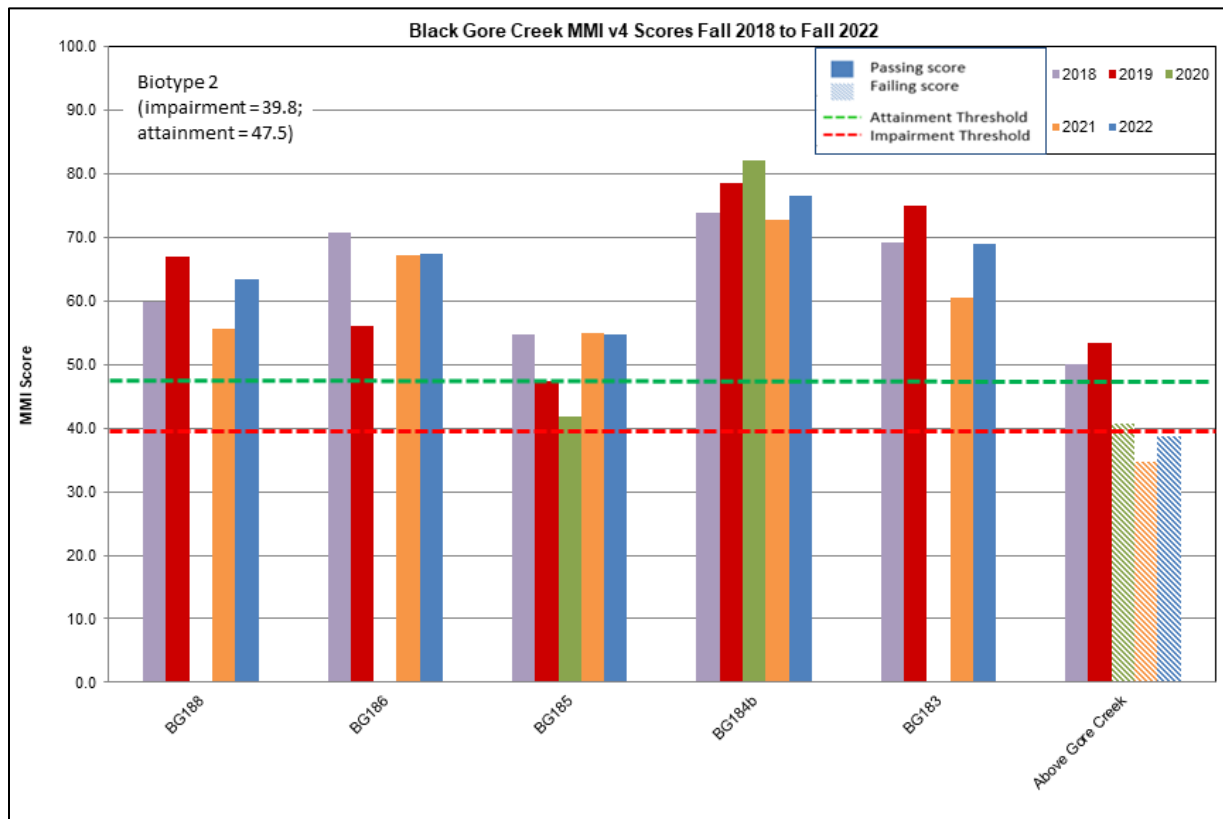
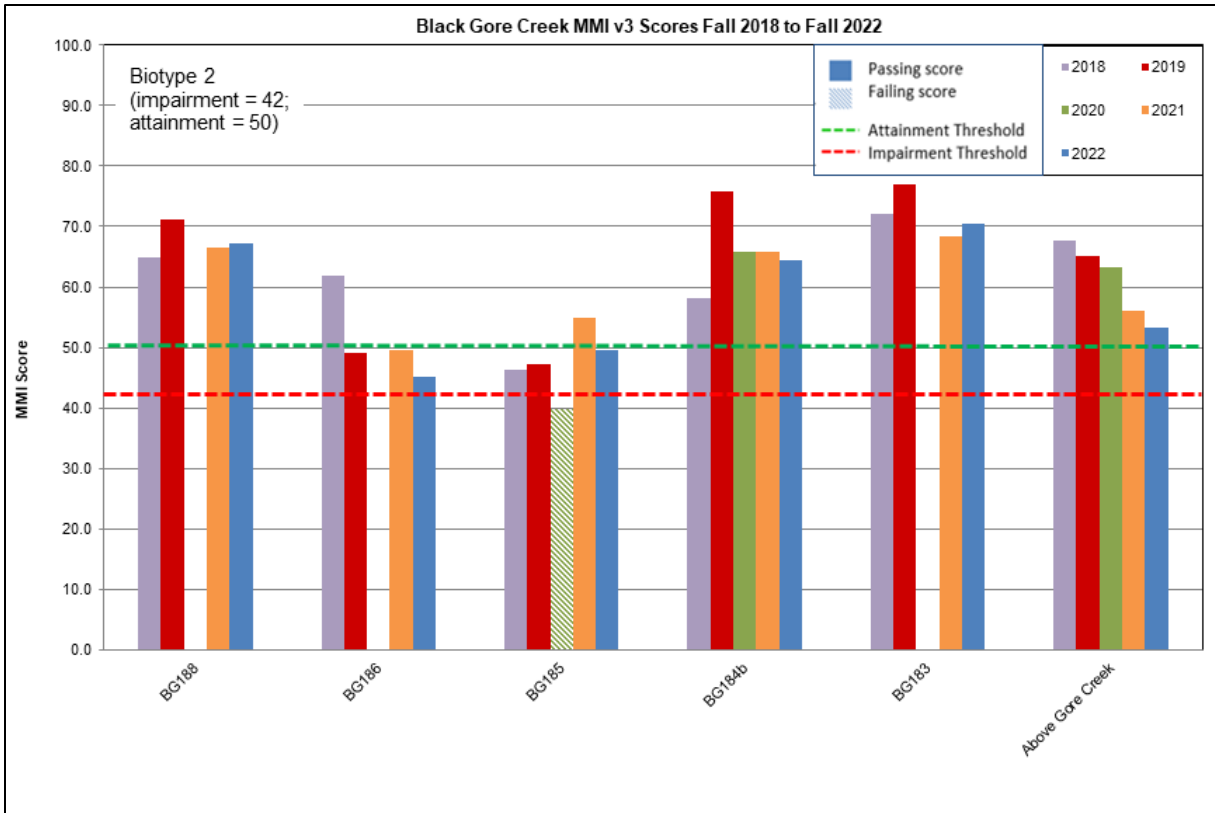


Figure 5. 2022 Black Gore Creek Macroinvertebrate Biomonitoring Sites



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.

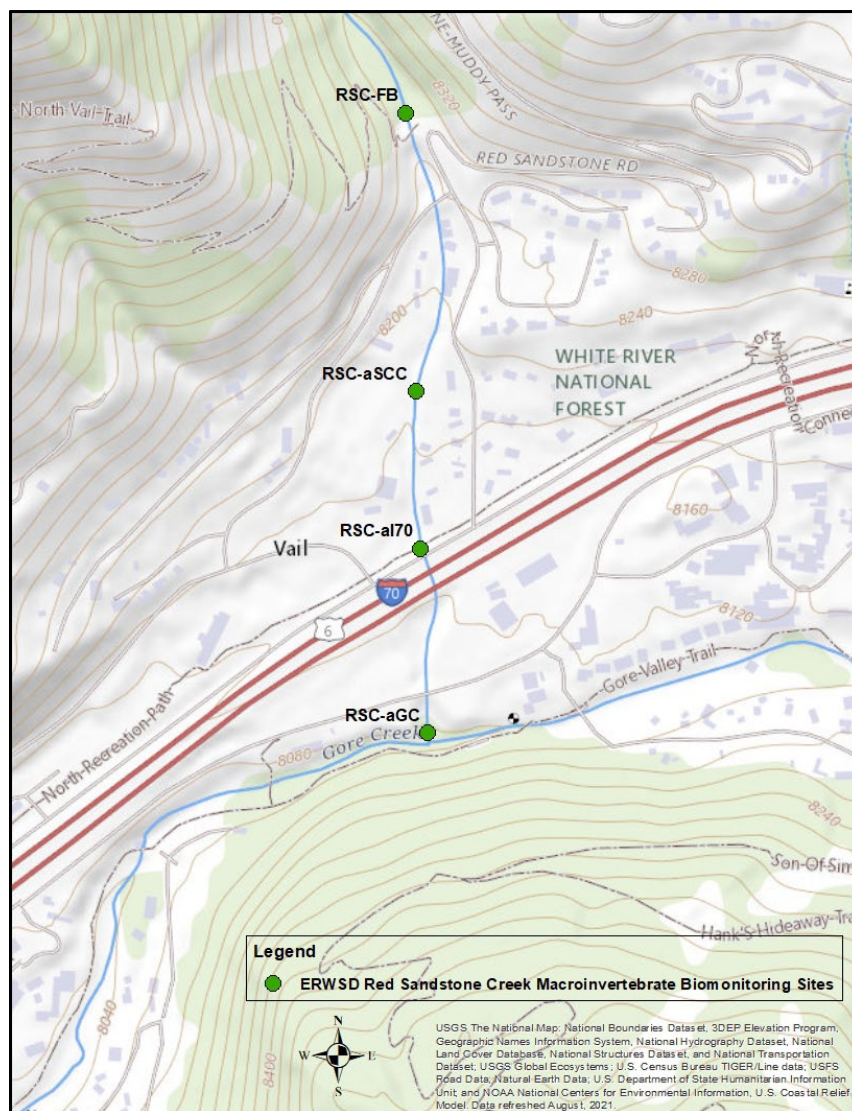
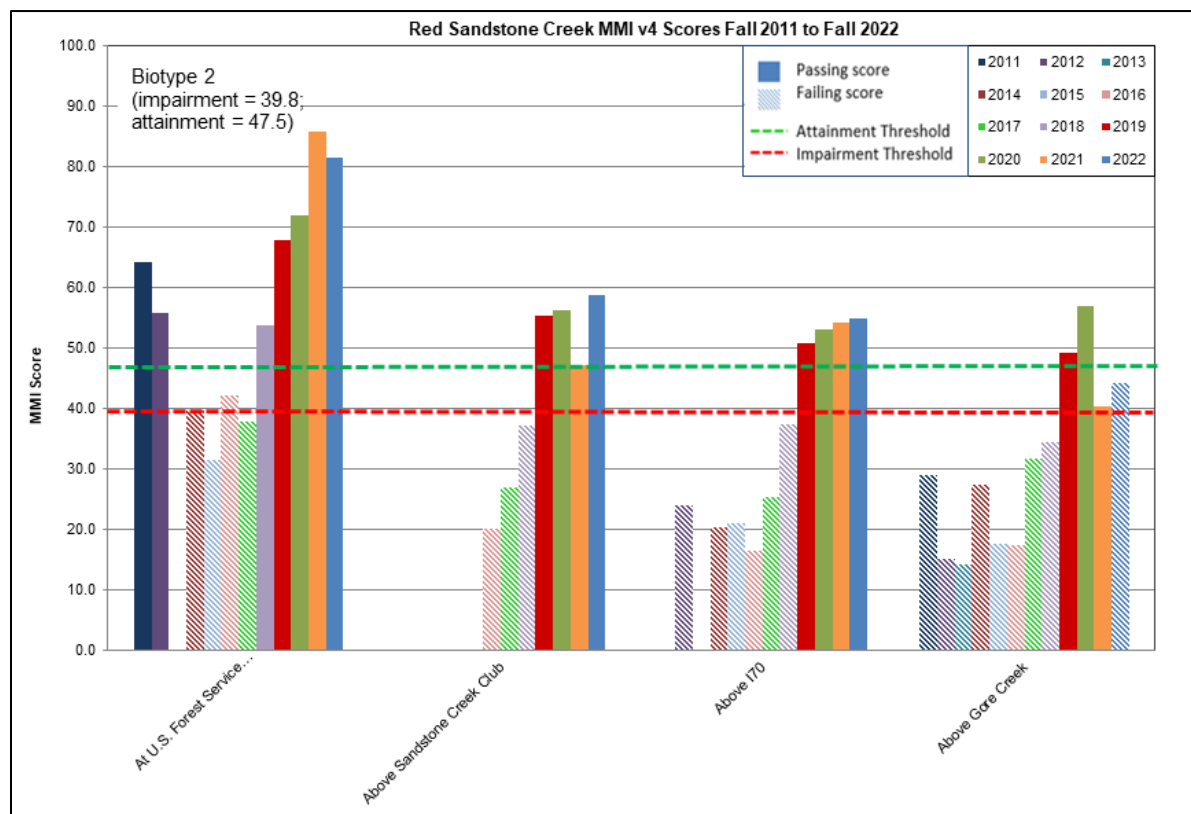
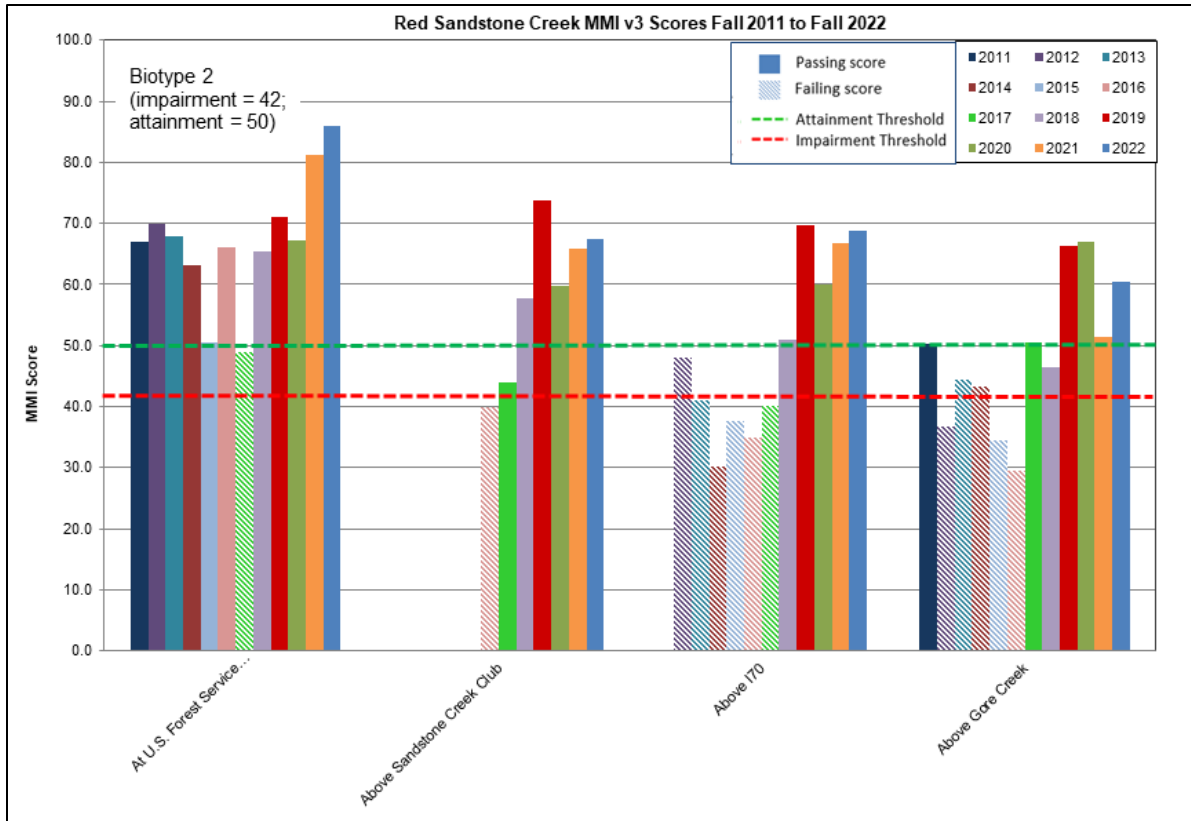


Figure 8. 2022 Red Sandstone Creek Macroinvertebrate Biomonitoring Sites



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).

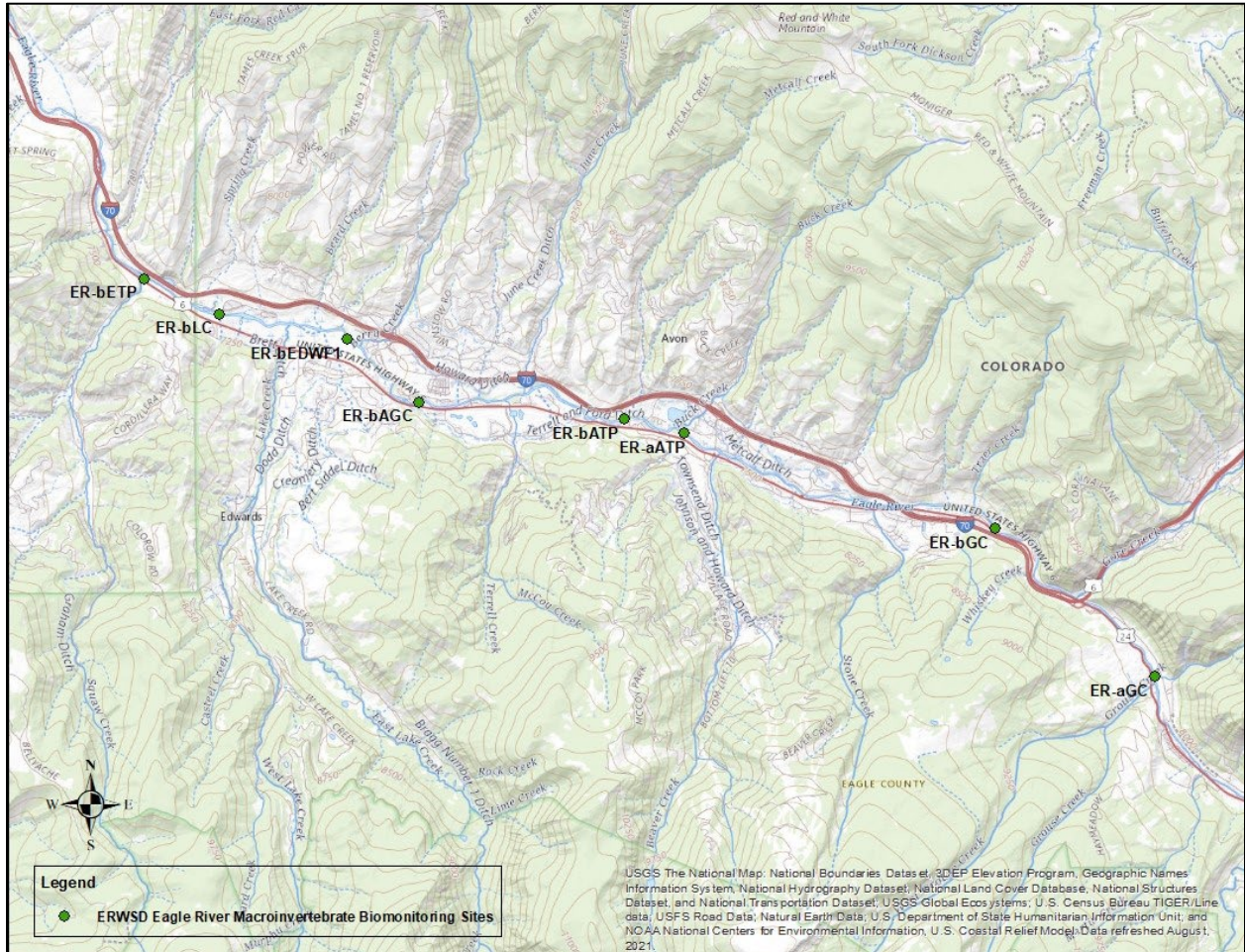
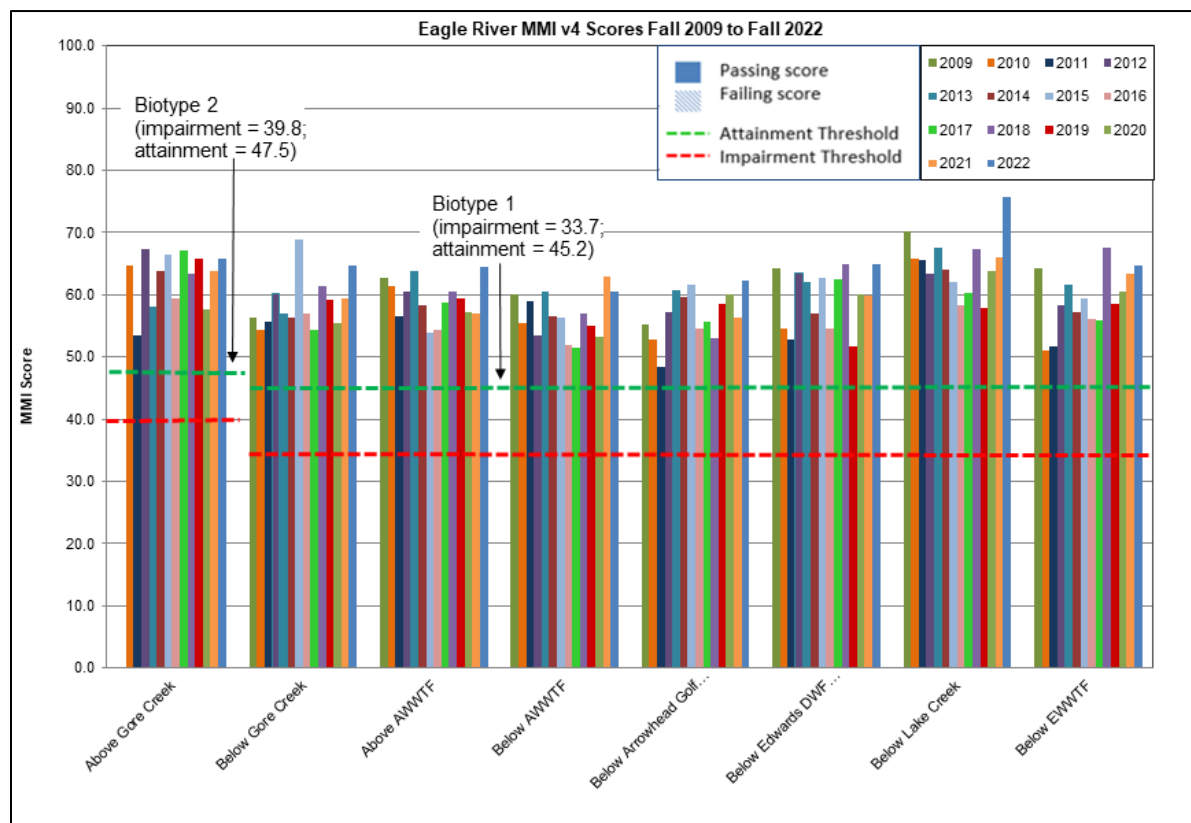
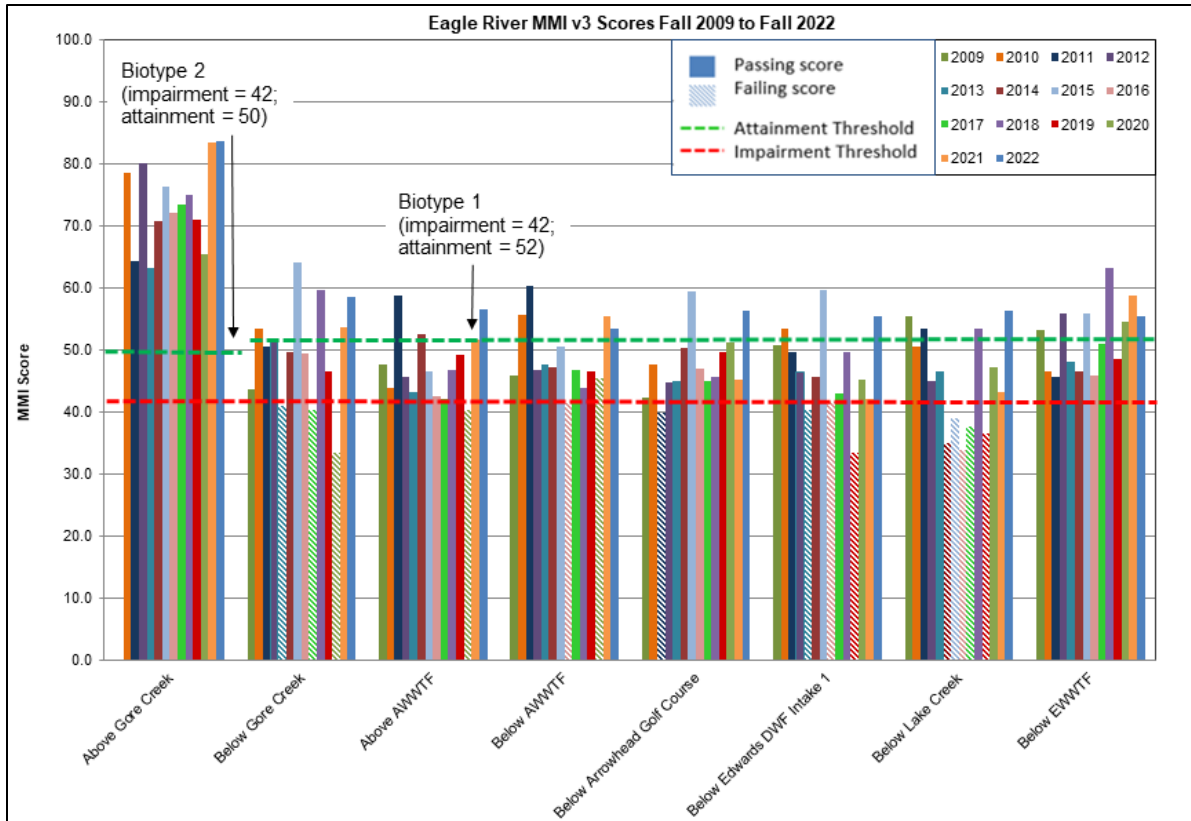


Figure 11. 2022 Eagle River Macroinvertebrate Biomonitoring Sites



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

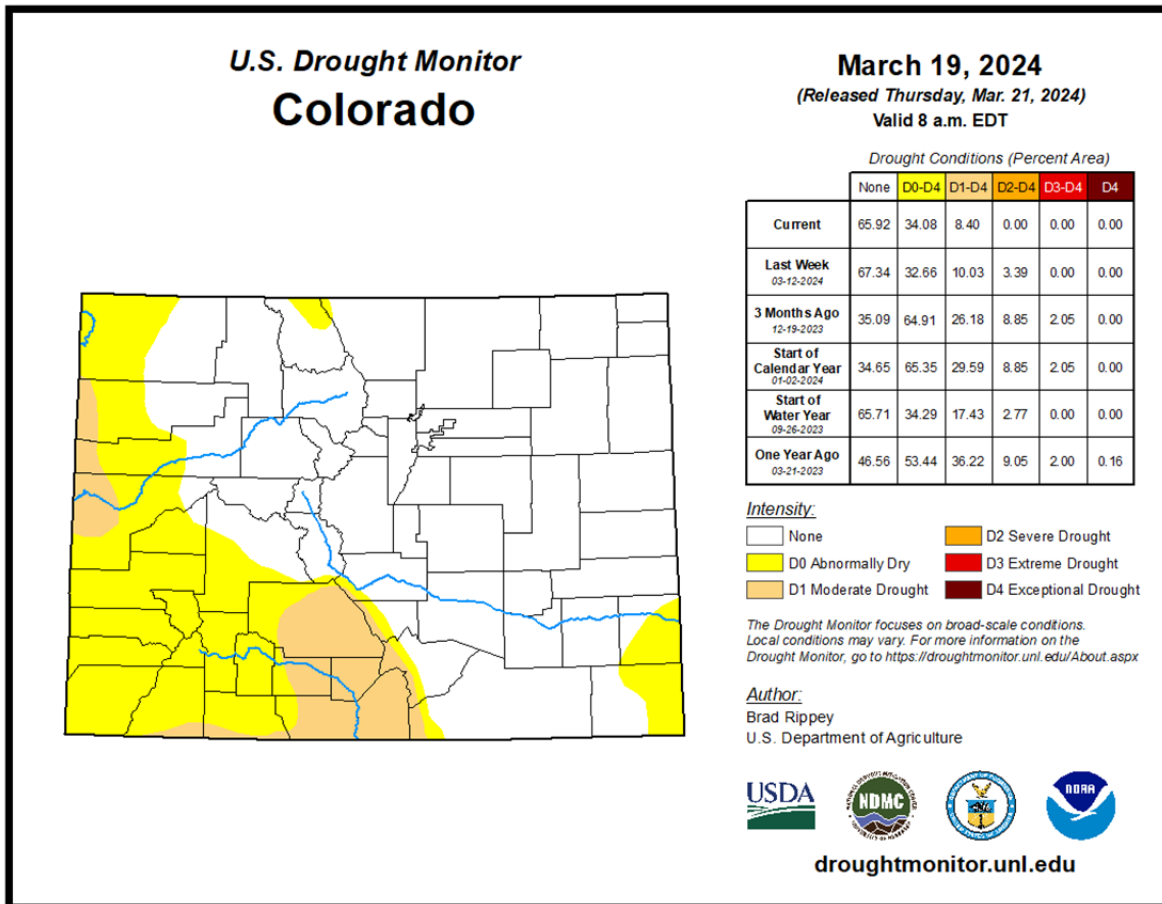
Water Resources Report

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)

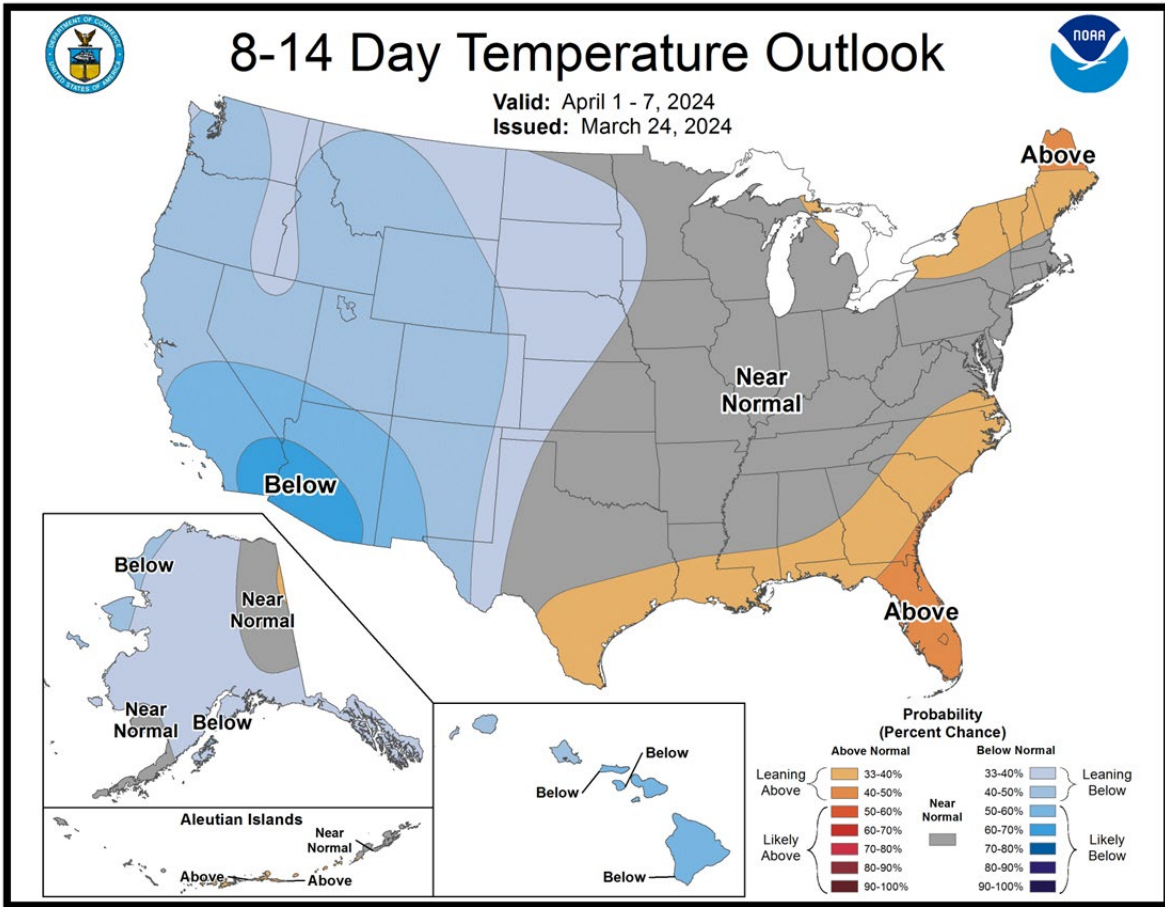
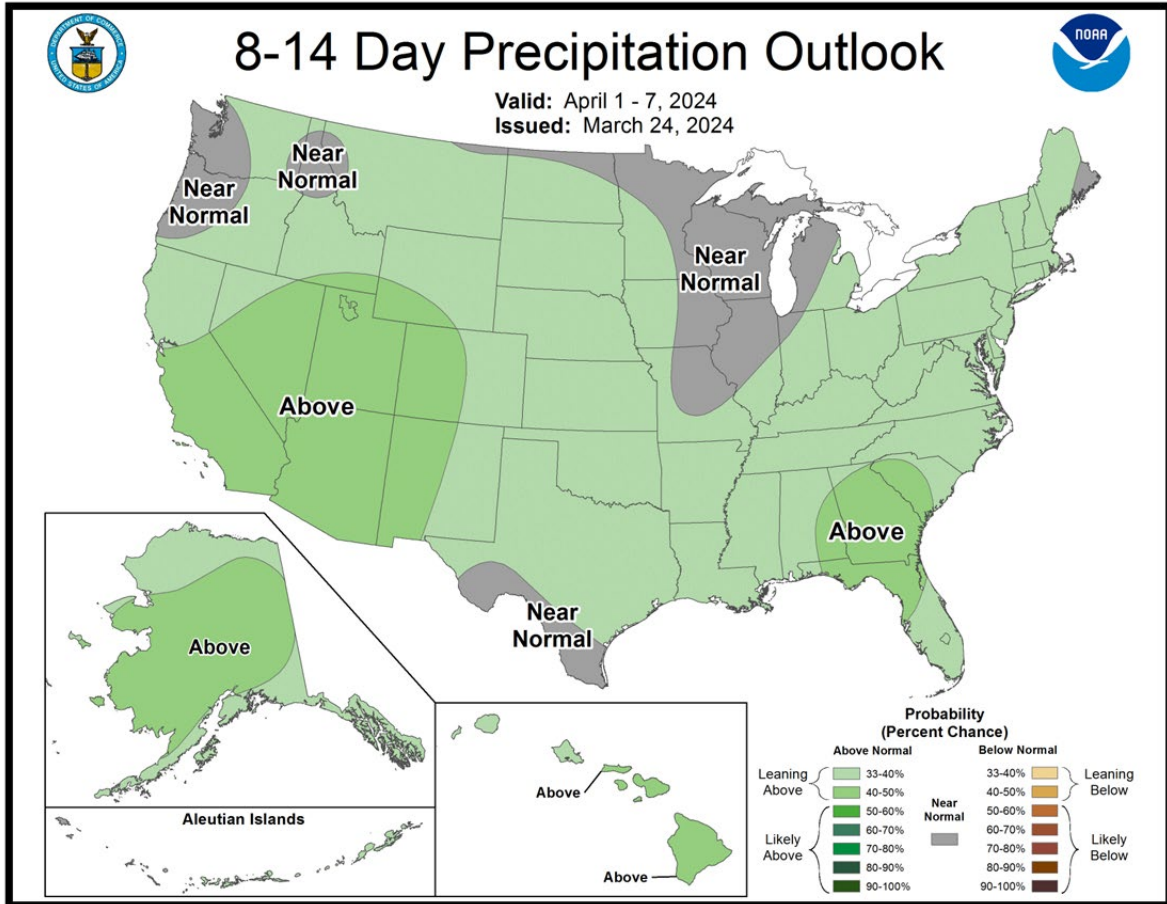


Figure 3: 8-14 Day Precipitation Outlook – March 25, 2024 (NOAA/National Weather Service Climate Prediction Center)



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)

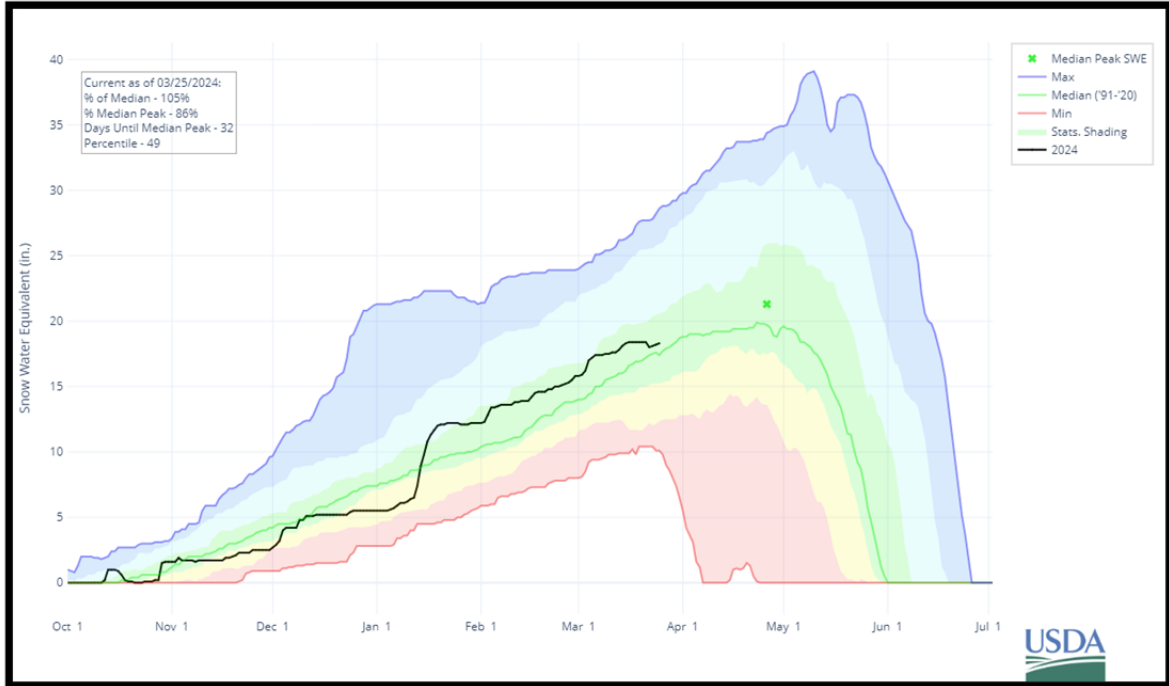
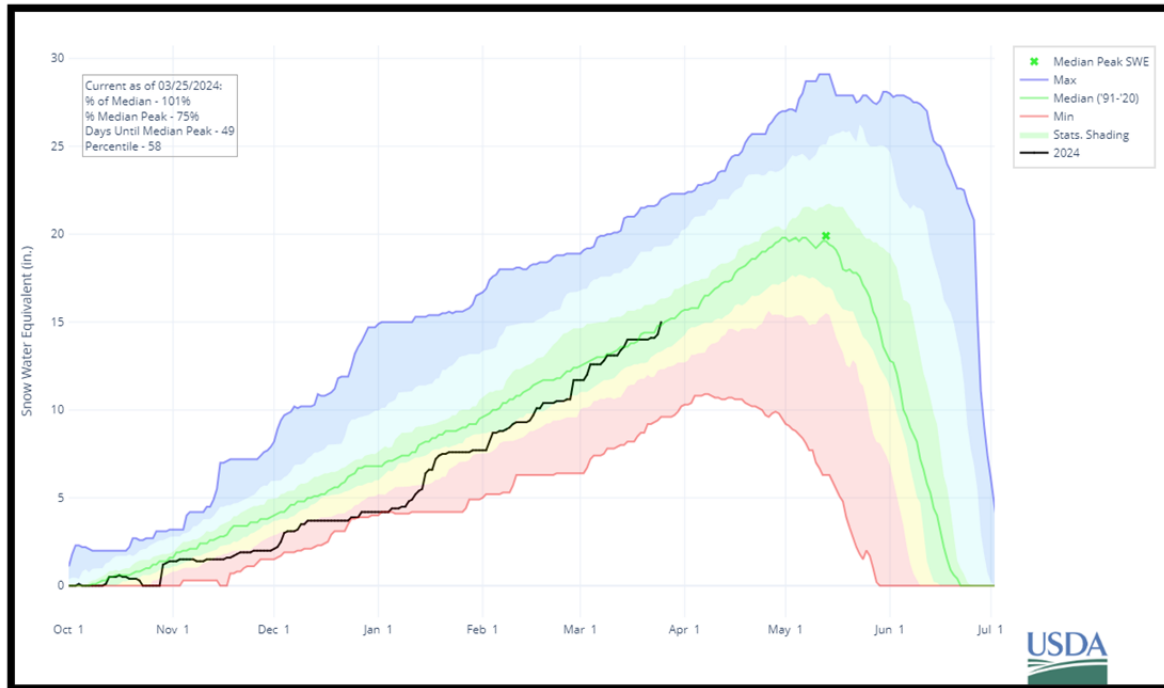


Figure 5: Accumulated Precipitation at Fremont Pass SNOTEL station, March 25, 2024 (USDA)



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).

March 1, 2024 Volumes in Storage (acre-feet) and Percentages of Full:						
Reservoir	ERWSD		UERWA		Total	
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

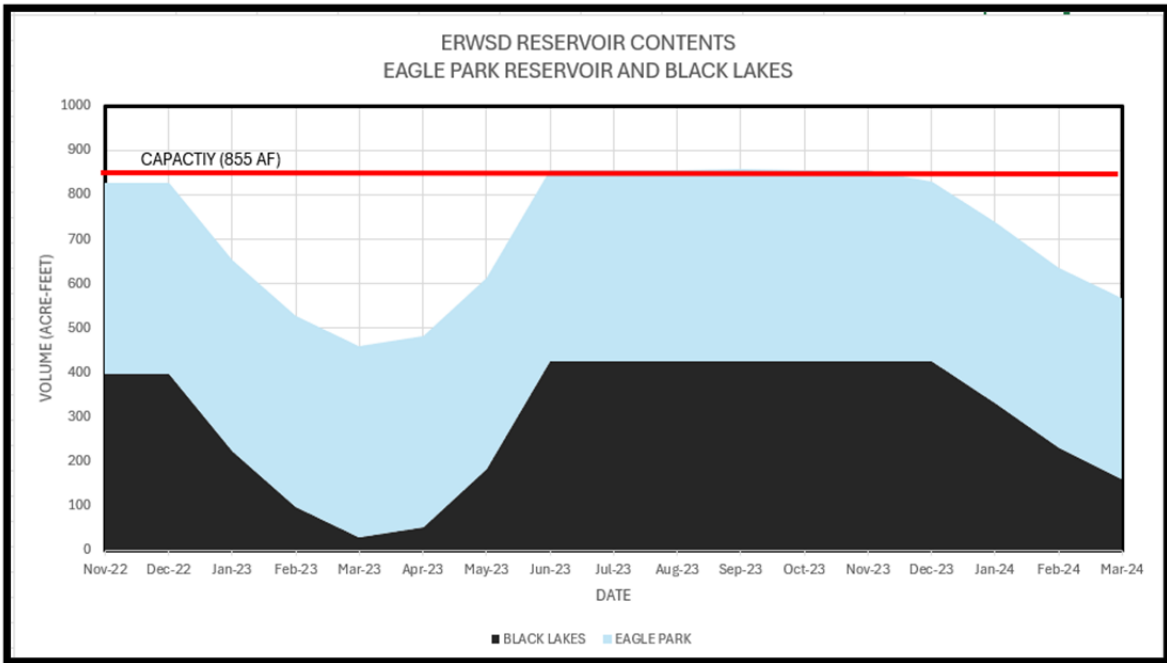


Figure 7: ERWSD Green Mountain and Wolford Reservoir Contents

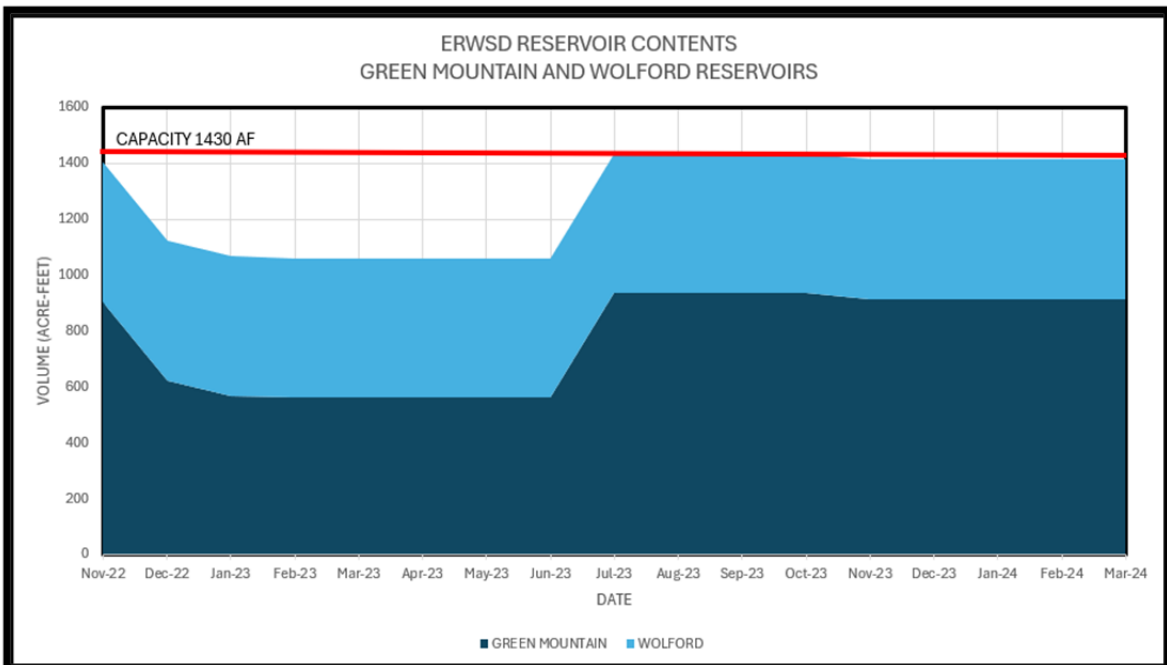


Figure 8: UERWA Eagle Park Reservoir Contents

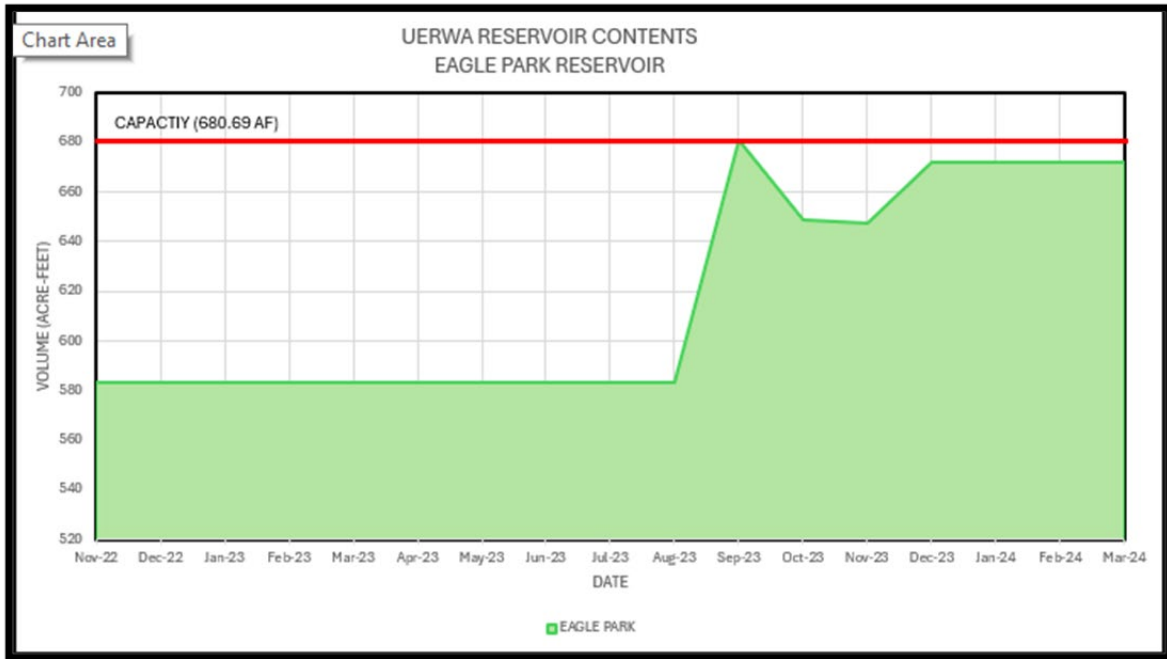
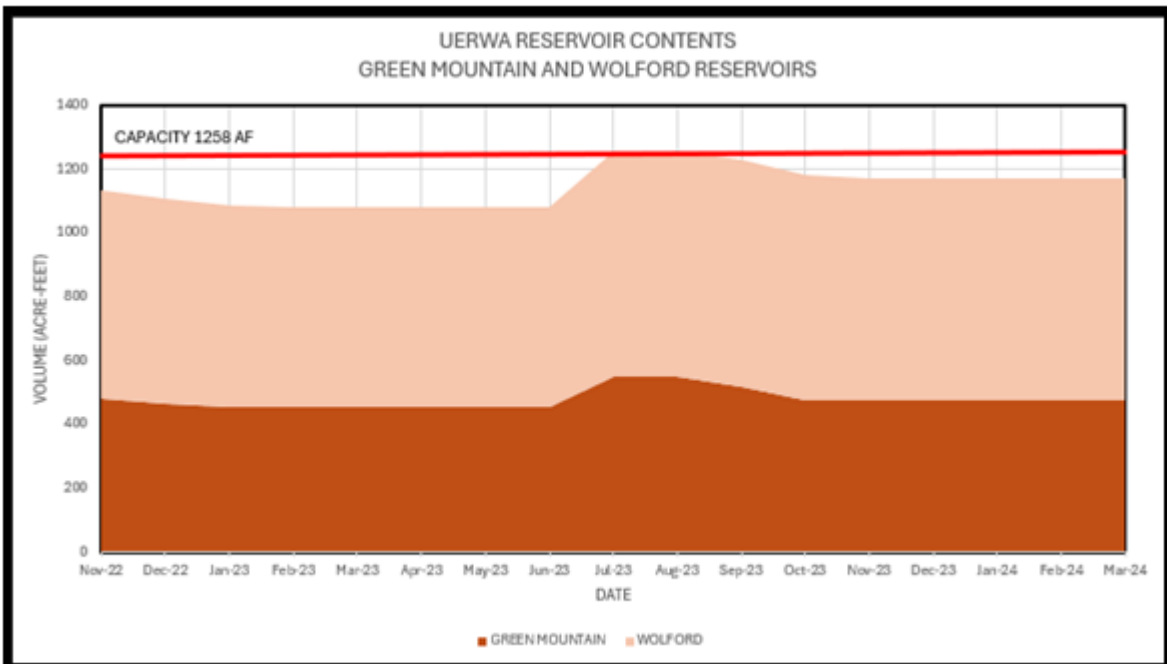


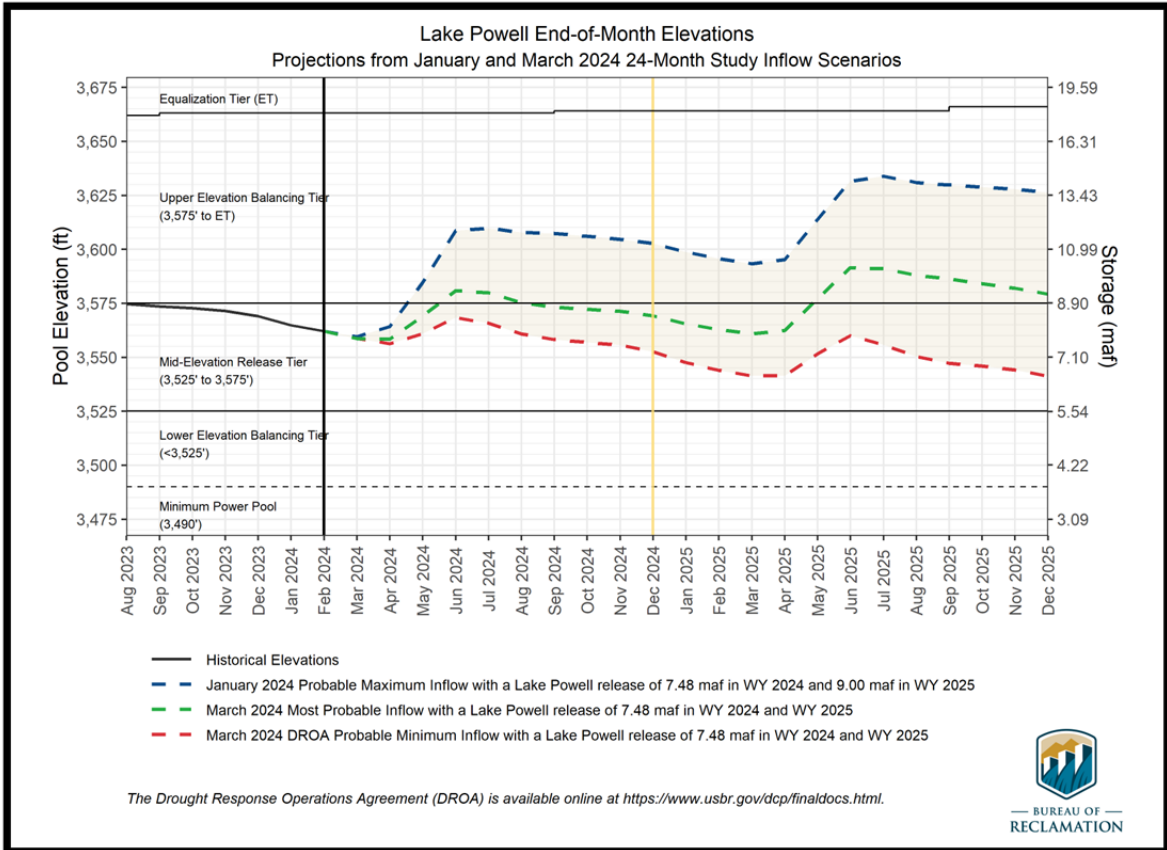
Figure 9: UERWA Green Mountain Reservoir and Wolford Reservoir Contents



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 ²	In-basin Reservoir Storage, acft Unrestricted ³
Available Unallocated In-Basin Storage¹	87.40	75.00
Dedication Requirements for New Projects		
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
Total Pending Dedications	19.28	1.33
Remaining Unallocated In-Basin Storage	68.12	73.67

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
Projects Completing Warranty Period						
VVMC Phase II-East Wing, Vail Marriot Residence Inn, Residences at Main Vail						
Development Approval Process Steps:	1. Connection Application		2. Water Demand Worksheet Analysis	3. Conditional Capacity to Serve Letter	4. Water Rights Allocation & Service Agreement	5. Ability to Serve Letter
Construction Approval Process Steps:	0. Conceptual		1. Plan Review	2. Plan Approval	3. Under Construction	4. Final Acceptance



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							
Development Approval Process Steps:	1. Connection Application			2. Water Demand Worksheet Analysis	3. Conditional Capacity to Serve Letter	4. Water Rights Allocation & Service Agreement	5. Ability to Serve Letter
Construction Approval Process Steps:	0. Conceptual			1. Plan Review	2. Plan Approval	3. Under Construction	4. 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.

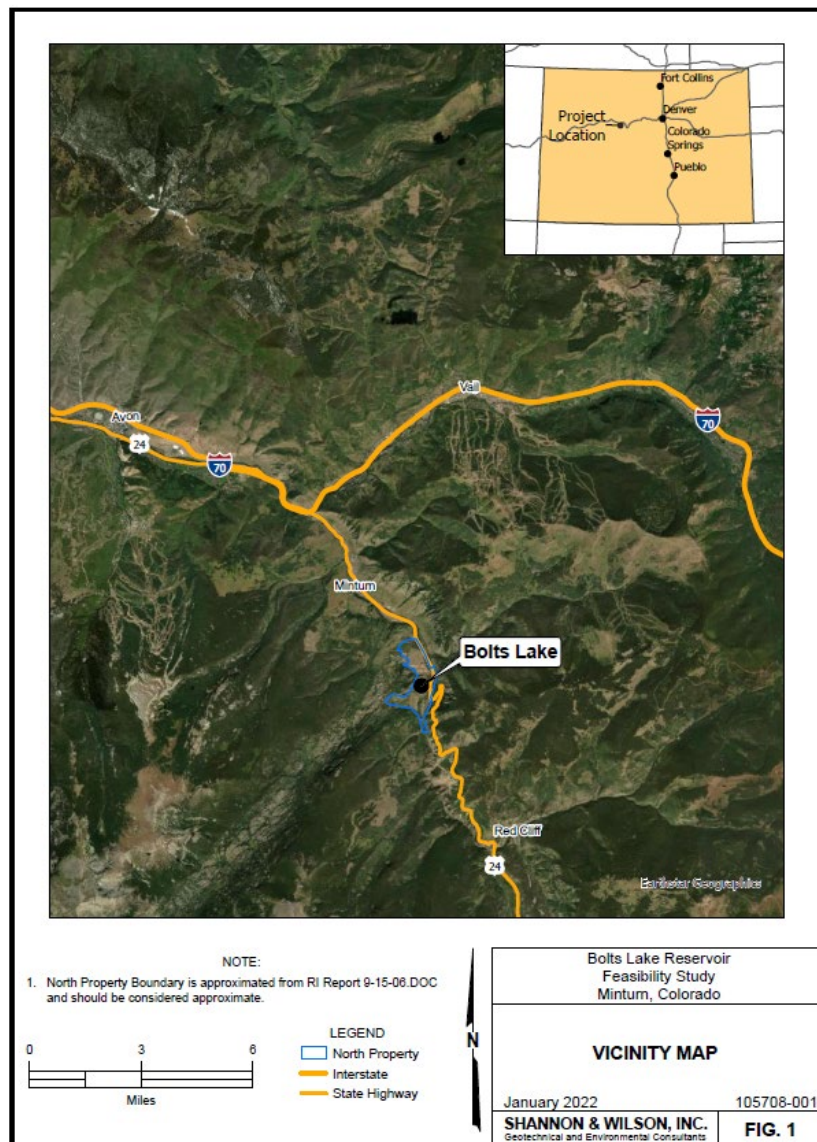


Figure 1: Vicinity Map

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	
Opinion of Probable Construction Cost Estimate	\$ 76,524,471	
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)
PROJECT BUDGET			
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
GRAND TOTAL		\$ 101,777,546	\$ 122,133,056

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

Entity	\$101,777,546 Project Cost (Medium Cost Scenario)	\$122,133,056 Project Cost (High Cost Scenario)
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

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
Subtotal Project Cost	\$62,614,926
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
Opinion of Probable Construction Cost – Point Estimate	\$76,524,471
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:

Item Number	Item Description (Direct cost only)	Quantity	Unit of Measure	Unit Price (Direct price only)	Total Price (Direct price only)
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

News [FOLLOW NEWS](#) | Mar 22, 2024



Elliott Wenzler [FOLLOW](#)
ewenzler@vaildaily.com



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

News [FOLLOW NEWS](#) | Mar 16, 2024



Ali Longwell [FOLLOW](#)
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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."



**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: March 29, 2024
RE: Authority Bylaw Amendments

Summary of Subject: A draft of updated Authority 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 is required to “adopt such bylaws as appropriate for the conduct of its business.” *Authority Agreement Amending and Restating the Agreement Establishing the Upper Eagle Regional Water Authority and the Master Services Contract §8.k(1)*. The bylaws may be “altered, amended or repealed at any regular or special meeting of the board.” *Authority Bylaws §16*. The bylaws were last updated 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. 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** – Notice requirements for regular, special, and emergency meetings were reworded for consistency.
4. **Section 7.d** – Order of Business was updated to reflect current agenda structure.
5. **Section 8.b** – Provisions regarding the bonds of officers were updated to align with Sec. 9(d) of the Authority Agreement.
6. **Section 8.d** – A provision was added allowing the board to appoint an acting officer at the request of any individual 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.d** – Officer elections were updated to reflect current statute. 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.h** – 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).
9. **Section 8.m** – The provision related to the General Manger (GM) was updated to clarify that the GM of the Eagle River Water & Sanitation District serves as the GM of the Authority.
10. **Section 8.m** – The GM’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. The revisions would be delegate execution authority to the GM “when the conveyance is consistent with Board direction or does not deviate from standard templates and terms developed in consultation with the Authority’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 an Authority 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.
11. **Sections 9.b and 9.k** – The provision that committee members be appointed by the President was changed to “appointed by a majority vote of directors” to reflect current practice.
12. **Section 14** – The provision related to 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.
13. **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

AUTHORITY BYLAWS

SECTION 1. AUTHORITY. The Upper Eagle Regional Water Authority (“Authority”) is a political 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 29-1-204.2 et seq., C.R.S. The Authority was formed by Intergovernmental Agreement in 1984 for the purpose of providing regional water service to its Participating Members, 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 Authority, consistent with the availability of revenues, personnel and equipment, to use its best efforts to provide the quality services as authorized under the 1984 Establishing Agreement and the 1998 Master Service Contract, or by law, or any replacement Authority Agreement.

SECTION 4. BOARD OF DIRECTORS. All powers, privileges and duties vested in, or imposed upon, the Authority 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 Authority 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 Authority 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 Authority.
- 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. The Board may, on a limited basis and by resolution, give General Manager or other appointed signatory the power to sign contracts and other official documents on behalf of Authority.
- 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 Authority 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 Authority.

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 8:30 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 chance meetings or social gatherings where discussion of public business is not the central purpose, shall be open to the public.
- c. **Notice of Meetings.** Adoption of a regular meeting schedule by the Board shall constitute~~Section 6.a~~ 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 Authority 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 copy provided to each director.
- 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 (2/3rd) 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 Authority'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 Authority 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 Authority, without notice if notice is not practicable. ~~Notice of such emergency meeting shall be given to the Board by whatever means are reasonable to meet the circumstances of the emergency. If possible, notice of such emergency meeting may be given to the Board by telephone or whatever other 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-mail ~~exchanged~~ between three (3) Directors (or, when two Directors constitutes a quorum, two Directors) that discusses pending resolutions or other Authority 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 Authority and the health and safety of Authority residents so dictate, then those Directors available at the time may undertake whatever action is considered necessary and may so instruct the Authority'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 Authority, 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 Authority's consent or authorization to bind Authority 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
2. Changes to Agenda;
3. Public 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 §18-9-108, C.R.S.);
4. Public hearings (if any) (3 minute time limit);
5. Consent matters, including approval or modifications of the Minutes of the previous meeting or other matters as determined by the board to be routine in nature;
6. Action items, including items requiring approval by the board
7. Board member input
- ~~4.8. Non-action items, including staff and consultant reports~~
- ~~2. Changes to Agenda;~~
- ~~3. Approval (or approval, as modified) of the Minutes of the previous meeting;~~
- ~~1. Public input (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 §18-9-108, C.R.S.);~~
- ~~2. Public hearings (if any) (3 minute time limit);~~
- ~~3. Officers, Committees and professional consultants;~~
- ~~4. Unfinished business;~~
- ~~5. New business and special orders;~~

~~6.9.~~ Executive Session, if needed; and

~~7.10.~~ Adjournment

~~d.e.~~ **Public Conduct at Meetings.** Comments by members of the public shall be made only during the “Public ~~Comment~~ ~~input~~” 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 Authority 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. 911 will be called at any time that the Board or staff feels threatened or endangered during a public meeting.

~~e.f.~~ **Motions and Resolutions.** Each and every action of the Board necessary for the governance and management of the affairs of Authority, for the execution of the powers vested in Authority, 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.

~~f.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 appointed by the Contracting Parties. The number, appointment, and terms of Directors

shall be pursuant to Section 8 of the Authority Agreement Amending and Restating the Agreement Establishing the Upper Eagle Regional Water Authority and the Master Service Contract, dated May 27, 2015 (“Authority Agreement”). Each Director shall sign an oath of office.

a.b.

b. Faithful Performance Bonds. Pursuant to Section 9(d) of the Authority Agreement, ~~Each Director shall to furnish, at the expense of the Authority, a bond in such sum and with such surety as the Board shall determine, 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 a bond, at the expense of the Authority, in such sum and with such surety as the Board shall determine. The Board, in its discretion, may also require any other Officer, agent or employee of the Authority to furnish a bond, at the expense of the Authority, in such amount and with such surety as shall be determined. 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 Authority 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 Authority, 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 Authority. 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 Authority 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, Vice Chair/ Vice President, Secretary, Treasurer, and Assistant Secretaries and/or Assistant Treasurers who shall be the officers of the Board of Directors and of the Authority. The 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 at the first regular meeting of the Board following a Regular Special District Election, as prescribed by statute. The election of the officers shall be conducted biennially at the first regular meeting of the Board following the regular biennial election of the Contracting Parties Directors held in May of even 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. **Chair and President.** The Chair shall preside at all meetings. The Chair shall also be the President of the Authority. The President is authorized to sign all contracts, deeds, notes, debentures, warrants and other instruments on behalf of the Authority when authorized by Board action. The Chair shall assist the General Manager in interpreting Board direction, represent the Authority 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.
- g. **Vice Chair/Vice President.** The Vice Chair is also Vice President is also authorized to sign all contracts, deeds, notes, debentures, warrants, checks, and other instruments on behalf of the Authority.
- h. **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 Authority; 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 custodian of the seal of Authority. The Secretary

shall have the authority to affix such seal to and attest all contracts and instruments authorized to be executed by the Board.

- i. **Treasurer.** The Treasurer (or designee) shall be authorized to invest or cause to be invested all surplus funds or other available funds of the Authority in permitted investments authorized by law or as specified by the Board. The Treasurer shall ~~be chairman of the~~ serve on 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 Authority in permanent records.
- j. **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 Authority. In the event that dual signatures of Authority officers are required on any instrument, then two (2) different officers shall sign such instrument.
- k. **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.
- l. **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 Authority, by law, or by special exigencies, which shall later be ratified by the Board.
- m. **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.~~ The General Manager of the Eagle River Water and Sanitation District serves as the General Manager for the Authority, unless otherwise determined by the Board. Such General Manager shall have general supervision over the administration of the affairs, employees and business of the Authority and shall be charged with the hiring and discharging of employees and the management of Authority properties. Such General Manager shall have the care and custody of the general funds of the Authority and shall deposit or cause to be deposited the same in the name of Authority in such banks or savings associations as the Board may select. Such General Manager will approve or establish a system for approval for all vouchers, orders and checks for payment, and

shall cause to be kept regular books of account of all Authority transactions and shall obtain, at the Authority'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 Authority 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 Authority property rights and interests, and to delegate to management-level employees (such as the Director of Finance, the Director of Operations, the Engineering 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 Authority 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 Authority'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 Authority 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.

- n. **Personnel Selection and Tenure.** The selection of agents, ~~employees, engineers, accountants, special and~~ consultants, ~~including and~~ attorneys, of the Authority 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 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 Authority shall commence on January 1st of each year and end on December 31st.
- b. **Budget Committee.** There shall be a permanent Budget Committee composed of the Treasurer, and at least one member of the Board appointed through the affirmative vote of a majority of the Directors present and voting. ~~appointed by the President, and the administrator, if any, which~~ The Budget Committee shall be responsible for preparation of the annual budget of the Authority and such other matters as may be assigned to it by the President or the Board.
- c. **Budget.** On or before October 15th 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 Authority 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 Authority and the probable income of the Authority. 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. **Filing of Budget.** On or before January 30th 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.

g. **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 Authority, 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.

h. **No Contract to Exceed Appropriation.** The Board shall have no authority to enter into any contract, or otherwise bind or obligate the Authority 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 Authority funds shall be expended in payment of such contracts.

i. **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 (2/3rd) 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.

j. 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 bond anticipation notes payable from future bond proceeds or operating revenue, or (b) any other lawful and approved method.

k. 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 Authority through December 31st 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 Authority 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 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 Authority. The Audit Committee may, as necessary and to the extent of its ability, provide independent review and oversight of the Authority'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 Authority 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 Authority shall be a circle containing the name of the Authority 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 Authority, except as may be provided by statute.

SECTION 13. INDEMNIFICATION OF DIRECTORS AND EMPLOYEES. The Authority 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 Authority 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 \$6120,000 or more~~ of Authority 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 Authority 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 Authority 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 Authority may accept the proposal that represents the best value to the Authority, not necessarily the low bid. IPD contracts shall be in compliance with all laws applicable to public projects, contract 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 Authority 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 Authority may charge any fees, including a research and retrieval fee, for production of records ~~permitted by law (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 _____, 2019~~24~~, by the Board of Directors of Upper Eagle Regional Water Authority.



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

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.