

Upper Eagle Regional Water Authority

Board of Directors Meeting

April 4, 2024

MINUTES

1 A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was
2 held April 4, 2024, at 8:30 a.m., in the Walter Kirch Room of the Eagle River Water & Sanitation District
3 (District), 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable statutes of the
4 state of Colorado.

ATTENDANCE

The following Directors were present and acting:

8 Geoff Dreyer, Arrowhead Metropolitan District
9 George Gregory, Berry Creek Metropolitan District
10 Kevin Hillgren, Beaver Creek Metropolitan District
11 Joanna Kerwin, Edwards Metropolitan District
12 Tamra Underwood, Town of Avon
13 Kim Bell Williams, EagleVail Metropolitan District

Also in attendance were:

15	<u>District Staff</u>	27	Jeffrey Schneider
16	Mike Baum	28	Brian Thompson
17	Jason Cowles	29	Mike Thompson
18	Tim Friday	30	Brad Zachman
19	Justin Hildreth	31	
20	Jesse Hooker	32	<u>Consultants</u>
21	Drew Isaacson	33	Kristin Moseley, Somach Simmons & Dunn
22	Robyn Janssen	34	Kathryn Winn, Collins Cole Flynn Winn & Ulmer PLLC
23	Diane Johnson	35	
24	Niko Nemcanin	36	<u>Public</u>
25	David Norris	37	Mike Towler, Beaver Creek Metropolitan District Alternate
26	Siri Roman		

DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST

38 The board noted it had received more than 72 hours prior to the meeting certain disclosures of potential conflicts of interest for the following
39 Directors indicating the following conflicts: Director Gregory disclosed that he occasionally undertakes minor development and construction
40 activities within the Authority's service area. Director Bell Williams disclosed that she is the Housing Director for Eagle County and works
41 with the Eagle County Housing and Development Authority Advisory Committee. Director Kerwin disclosed that she is a board member of
42 Mountain Recreation Metropolitan District, Mountain Recreation Foundation, Homestead Court Club Homeowners Association, Homestead
43 Owners Association, and Homestead Valley Association. Director Underwood disclosed that she was elected on Nov. 8, 2022, to a four-
44 year term on the Town Council of the Town of Avon, which is a member entity of the Authority.
45

CALL TO ORDER

46 Having determined that quorum was established, Chair Gregory called the meeting to order at 8:30 a.m.

PUBLIC COMMENT

47 Chair Gregory called for public comment and there was none.

ACTION ITEMS

51 **Consideration of Minutes** – The minutes of the Feb. 22, 2024, regular meeting and special joint
52 meeting with the District board were considered. Director Underwood and Treasurer Dreyer noted
53 updates to their disclosures of potential conflicts of interest. Upon motion duly made and seconded, it
54 was unanimously

55 **RESOLVED** that the minutes of the Feb. 22, 2024, regular meeting and special joint meeting
56 with the District board be accepted and hereby are approved as amended.

Upper Eagle Regional Water Authority

1 **Encroachment License Agreement** – Mr. Schneider presented a memorandum and the Agreement,
2 copies of which are attached hereto as **Exhibits A** and **B**, respectively, and incorporated herein by
3 this reference. He said this Agreement is necessary to access a well for inspection in Cordillera and
4 the property owner will put money in escrow to subsidize costs related to retaining permanent fixtures
5 installed on the Authority’s easement. Upon motion duly made and seconded, it was unanimously

6 **RESOLVED** to approve the Encroachment License Agreement as presented.

7 **Major Facilities Funding Agreement** – Mr. Cowles presented a memorandum and the Agreement,
8 copies of which are attached hereto as **Exhibits C** and **D**, respectively, and incorporated herein by
9 this reference. He said this Agreement was negotiated with Traer Creek Metropolitan District for the
10 Authority to design and construct certain major facilities in compliance with section 9.2.4 of the
11 Authority’s Rules and Regulations. Upon motion duly made and seconded, it was unanimously

12 **RESOLVED** to approve the Major Facilities Funding Agreement with Traer Creek
13 Metropolitan District as presented.

14 **FIELD OPERATIONS UPDATE**

15 Mr. Nemcanin said the Field Operations team was reorganized to provide greater team depth and response
16 capacity. He thanked the board for their continued support and recognized local entities for their collaboration
17 during the winter season. He also recognized supervisors Mike Baum, Drew Issacson, and Mike Thompson
18 for their leadership. The board thanked the Field Operations team for their excellent work and resilience.

19 **INFORMATION REPORTS**

20 Directors reviewed board committees, draft February meeting summary, and contract log, copies of which are
21 attached hereto as **Exhibits E, F, and G**, respectively, and incorporated herein by this reference.

22 **BOARD MEMBER INPUT**

23 Secretary Bell Williams thanked Mr. Cowles for participating in the Apr. 2 work session with the Eagle Board
24 of County Commissioners regarding the State Land Board water dedication.

25 **GENERAL MANAGER REPORT**

26 Ms. Roman presented the report, a copy of which is attached hereto as **Exhibit H** and incorporated herein by
27 this reference. She said she is participating in the 2024 Yampa River Awareness Project trip with other
28 statewide water leaders. She also discussed vacancies on the Colorado Water Quality Control Commission.

29 **Shoshone Water Right Preservation Campaign** – Ms. Roman presented a PowerPoint and
30 referenced the memorandum from Colorado River Water Conservation District (“River District”),
31 copies of which are attached hereto as **Exhibits I** and **J**, respectively, and incorporated herein by this
32 reference. She reviewed the River District’s funding request from the Feb. 22 joint board meeting and
33 Chair Gregory reported on the Mar. 14 joint meeting of the District and Authority board budget
34 committees. He said committee members supported splitting a combined contribution between the
35 Vail Water subdistrict and the Authority based on the proportionality of SFEs. Discussion ensued
36 regarding balancing the importance of continued coalition leadership with prioritizing local water

Upper Eagle Regional Water Authority

1 affordability. Further discussion ensued regarding the contributions by Eagle County and other
2 Western Slope coalition members. Directors agreed to table action on this request so that staff can
3 check in with Eagle County representatives.

4 **Eagle Park Reservoir Company (EPRC)** – Ms. Roman reported on the Apr. 2 quarterly meeting of
5 the EPRC board of directors. She said the reservoir is expected to fill by snowmelt this spring and
6 staff will exercise the East Fork Pump Station as a routine operating practice. She also discussed the
7 proposal submitted by Climax Mine to change the molybdenum standard for water supply use from
8 the existing 210 ug/L to 1,600 ug/L, which has raised concerns regarding the applicable safety factors
9 and the inadequacy of the protections provided by this proposal.

10 **BUSINESS ADMINISTRATION REPORT**

11 Mr. Norris discussed the timelines for redesign of rates associated with Multi-family, Commercial, Mixed Use,
12 and Municipal account types.

13 **Billing statement improvements** – Ms. Janssen presented a PowerPoint, a copy of which is
14 attached hereto as **Exhibit K** and incorporated herein by this reference. She reviewed billing
15 statement updates to make terminology more consistent, clarify account types and rate tiers, improve
16 branding and digital accessibility, and update delinquency charge provisions. Directors thanked staff
17 for enhancing the transparency and clarity of billing statements.

18 **OPERATIONS REPORT**

19 Mr. Zachman presented the report, a copy of which is attached hereto as **Exhibit L** and incorporated herein
20 by this reference. He had no further items to discuss.

21 **Macroinvertebrate sampling** – The board noted a memorandum from Leah Cribari, a copy of which
22 is attached hereto as **Exhibit M** and incorporated herein by this reference. There was no discussion
23 on this item.

24 **ENGINEERING AND WATER RESOURCES REPORT**

25 Mr. Cowles presented the report, a copy of which is attached hereto as **Exhibit N** and incorporated herein by
26 this reference. He said the Eagle Board of County Commissioners discussed the water dedication for the
27 Colorado State Land Board parcel at Dowd Junction at its Apr. 2 work session and will consider a formal
28 agreement at their next meeting. He also discussed Eagle County's land use code reform project.

29 **Bolts Lake Update** – Mr. Hildreth presented a memorandum and a PowerPoint, copies of which are
30 attached hereto as **Exhibits O** and **P**, respectively, and incorporated herein by this reference. He said
31 the preliminary design of Bolts Lake Reservoir was completed in February. He then reviewed the
32 Total Cost Estimate and provided updates on project timelines. Mr. Cowles also discussed project
33 funding and a pending Congressional Directed Spending request.

34 **Sustainability statistics and progress** – Mr. Friday presented a PowerPoint, a copy of which is
35 attached hereto as **Exhibit Q** and incorporated herein by this reference. He provided an overview of
36 the District's sustainability program and reviewed 2023 statistics and accomplishments. Highlights

Upper Eagle Regional Water Authority

1 included completing the Greenhouse Gas Emissions Inventory, reducing natural gas use, and
2 attaining the “Colorado Green Business Network” certification by the Colorado Department of Public
3 Health and Environment and the “Actively Green” certification by Walking Mountains Science Center.
4 2024 goals include maintaining these certifications and pursuing grants to advance renewable energy
5 priorities. In response to a question, he discussed the District’s participation in Holy Cross Energy’s
6 PuRE program.

7 **COMMUNICATIONS AND PUBLIC AFFAIRS REPORT**

8 Ms. Johnson presented the report, a copy of which is attached hereto as **Exhibit R** and incorporated herein
9 by this reference. She said that Gov. Polis signed SB24-005, Prohibit Landscaping Practices for Water
10 Conservation, into law and noted supportive committee testimony provided on behalf of the District and
11 Authority. She provided other updates on relevant legislation, including two competing bills regarding dredge
12 and fill activities in state waters: SB24-127 and HB24-1379. She also discussed upcoming customer outreach
13 campaigns and community events.

14 **Bylaw amendments** – Mr. Thompson presented a memorandum and a redlined draft of updated
15 Authority bylaws, copies of which are attached hereto as **Exhibits S** and **T**, respectively, and
16 incorporated herein by this reference. He said the bylaws were last updated in 2019 and recent
17 statutory changes necessitated several of the proposed revisions. He highlighted the revision to
18 section 8(m) clarifying that the General Manager is authorized to execute a real property conveyance
19 if it aligns with board policy and direction, does not deviate from standard templates developed by the
20 Authority’s legal counsel, and does not result in the loss of a property right or interest; otherwise, the
21 conveyance would require board approval. The updated bylaws will be considered for adoption at the
22 next board meeting.

23 **Digital accessibility** – Mr. Thompson presented a memorandum, a copy of which is attached hereto
24 as **Exhibit U** and incorporated herein by this reference. He reported on Colorado’s Rules Establishing
25 Technology Accessibility Standards, 8 CCR 1501-11 (“Rules”) adopted Feb. 29 by the Governor’s
26 Office of Information Technology. He said staff continues to learn about the requirements, standards,
27 and enforcement of the Rules and will develop a plan to meet the Jul. 1, 2024, compliance deadline
28 for all Colorado public entities. He also said the Rules require the adoption of an accessibility
29 statement, which will be based on a policy that will be presented at the next board meeting.

30 **WATER COUNSEL REPORT**

31 Ms. Moseley did not have a report or items to discuss.

32 **WATER QUALITY COUNSEL REPORT**

33 **Per- and polyfluoroalkyl substances (PFAS) class action settlements** – The board noted a memorandum
34 by Steve Bushong, a copy of which is attached hereto as **Exhibit V** and incorporated herein by this reference.
35 Chair Gregory confirmed the acceptance of the Authority’s exclusions from the 3M and DuPont class action
36 settlements.

Upper Eagle Regional Water Authority

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GENERAL COUNSEL REPORT

Ms. Winn did not have a report or items to discuss.

EXECUTIVE SESSION

Ms. Moseley requested the board move into Executive Session to 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. Upon motion duly made and seconded, it was unanimously

RESOLVED to enter into Executive Session at 10:50 a.m. to discuss matters regarding Bolts Lake and Battle North/Minturn Case Nos. 21CW3029 and 21CW3030 pursuant to §24-6-402(4)(b), C.R.S., with no electronic record created as Ms. Moseley opined the contents of the discussion would contain privileged attorney-client communications.*

Open session resumed at 11:01 a.m. During the executive session, the board did not take any formal action or discuss any matters not enumerated in §24-6-402(4), C.R.S.

Upper Eagle Regional Water Authority

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ADJOURNMENT

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

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

FURTHER RESOLVED, that the meeting be adjourned at 11:01 a.m.

Respectfully submitted,

Secretary to the Meeting

**MINUTES APPROVED, FORMAL CALL, AND
NOTICE OF MEETING WAIVED**

Arrowhead Metropolitan District

Town of Avon

Beaver Creek Metropolitan District

Berry Creek Metropolitan District

EagleVail Metropolitan District

Edwards Metropolitan District

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

Kristin Moseley, Water Counsel