



**Water Rights Committee Report**  
**Karl Davis, Committee Chairman**  
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**Written and submitted by:** Karl Davis

**Date:** December 8, 2020

**Charter:** To protect the water rights decreed to Big Elk Meadows.

**Committee Members:** Karl Davis as Chairman, Members as Bob Forsberg, Victoria J. Darling-Orth, Roy McCutcheon, Bill Tolle, Paul Flanagan, Alan Hatfield, and Patrick F. Gill.

### **Meeting with HROD and Applegate**

A meeting was held on December 8<sup>th</sup> with John Dingess and Jared Dains to discuss water and well problems that develop when we release water from BEM. One option we can pursue is to have an upstream water rights holder including Pinewood Springs make a release for us. This option is not ideal. We would need to file for emergency water assistance. This would not have to be approved through the courts. It can be handled through the state but might take a month or more. This option is also limited by the number of years we can file for assistance. The state would ask that we look for options within BEM to improve the water quality and supply of water at the well sites. The water rights committee has discussed and implemented other release options to minimize releasing water from BEM.

### **Water Rights are Out of Priority**

The water level in Jackson Lake is low. They are calling for water.

### **Bad Sutron on Lower Flume**

Sensor test for SDI-12 fails. Sutron can't determine the float height so we can't set the stage (height of water through flume). We can record the discharge manually if it is not fixed by the start of Spring runoff.

### **Contracts with Riverglen and Osborn-Caywood**

Our contract with River Glen will end at the end of December 2021. We will need to begin work on a new contract by July 1, 2021. We have the option of renewing our contract for another 10 year period.

Our contract with Osborn Caywood auto renews every 10 years. The fees adjust every 5 years.

### **Diligence Filings 11/2022 and 11/2023**

The deadline for the Water Court application for our exchange right is November of 2022, while the deadline for Big Elk Meadows' other conditional water rights are due in November of 2023. In the most recent decrees for these conditional water rights, the Water Court found that the conditional water rights are features of an "integrated water system." This is an important finding because it allows BEM to claim work on one feature of system as reasonable diligence towards the development of water rights for all features of the entire system. Accordingly, BEM should track all expenditures of resources for development and improvement of its water system, as most if not all of those activities can be used to support a "finding of reasonable diligence", which is the legal standard BEM must satisfy to maintain its conditional water rights.

Some examples of how we continue to be diligent are the ongoing expenditures for our legal and engineering professionals, the Water Compliance Audit, and our work with Riverglen, Osborn-Caywood, and our spreadsheet reporting effort which is very costly.