



**Water Rights Committee Report  
October 17, 2020  
Karl Davis, Committee Chairman**

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

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

- **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.

- **Expanded use of the wells**

During the dry summer, we started putting the other wells into service for beneficial uses. But are the wells dependent on the lakes for water? Below, I have the lake storage volumes at times during the last 3 years. We have had more water through 2020 than anytime in 2018 and 2019.

11/2017	17.14
02/2018	34.17
04/2018	58.88
05/2018	70.59
08/2018	74.17
11/2018	60.89
04/2019	68.13
05/2019	74.46
08/2019	68.13
11/2019	70.43
04/2020	93.87
05/2020	101.45
08/2020	94.03
11/2020	77.13



Why are we having so many problems with the well water volumes? It was a dry summer and the lakes must not contribute much water to the wells. Paul and I would like to see how the wells do when the lakes are full at this time of year. The hypothesis is that the full four upper lakes containing 77 acre feet will contribute to the wells versus the 53 acre feet currently in three of the four upper lakes. It also appears that Meadow Lake does not contribute to the Meadow Well unless the lake is full at 14 feet. Meadow well quickly lost height and volume when I started releasing water.

- **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.

- **Water Rights Strategy**

The state requires us to check the flumes every other day when our water rights are out of priority and make sure the sutrons are recording the water flow accurately. They would like us to match their flows then increase the lower flume flow so we release any water stored out of priority. If one or more lake staff gauges show a drop in lake level then we will decrease the amount of out of priority water. So what the state requires is reasonable but we should also try to release all the water we have stored in the Ish Reservoir. Starting with the first weekend of May, if our rights are out of priority then start releasing water for return flow. Afterwards, we can start releasing the remaining water for augmentation. Each augmentation release will decrease the need to release water from BEM. In some years, this strategy plus the water which naturally evaporates and lowers the lake levels will be enough so we don't have to release much water from BEM to balance the owed to river account on our spreadsheet.

- **Water Releases for 2020 Irrigation Season**



In my September 2020 committee report, I described the events which led the district water commissioner to revoke our rights as stated in our decree 95CW238 under paragraph 13. Paragraph 13 describes how the consumptive use of water in BEM will be replaced using the water we store in the Ish Reservoir each irrigation season. On July 22<sup>nd</sup> I had 11.5 acre feet of water left in the Ish reservoir and 9.3 acre feet of water stored out of priority in our lakes. The plan at the time was to continue releasing the remaining Ish water for augmentation purposes then make up the difference through evaporation and releases from BEM.

On July 22<sup>nd</sup> that right was revoked in favor of paragraph 16, subparagraph I, which requires that we move augmentation releases to the BEM lakes. This was necessary because of the conditions stated in paragraph 17, subparagraph E, points 3 and 5. Our right of exchange is not valid without a continuous live stream in the West reach of the Little Thompson River. We were under this condition from July 22<sup>nd</sup> until August 24<sup>th</sup> 2020. I released the 9.3 acre feet of water stored out of priority plus any additional accumulation of water stored out of priority up to August 24<sup>th</sup>. Then our rights reverted back to paragraph 13 and I released 2 acre feet of water from the Ish Reservoir in early September. There was no reason to make further release from Ish. During September and October our lakes continue to evaporate thus lowering the lake levels and this eliminates the need to release water.

**Big Elk Meadows Association**

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