

Bear Creek Watershed Association

Approved: October 8, 2014

BCWA Policy 34 - BCWA Phosphorus WLA Purpose



Statement of Basis and Purpose

The Bear Creek Reservoir Control Regulation at 5 C.C.R. 1002-74 establishes an annual total wasteload allocation for all wastewater treatment facilities in the Bear Creek Watershed. Each individual discharger in the Bear Creek Watershed is limited to an annual wasteload of total phosphorus which shall not be exceeded, except as provided for through trading provisions. The control regulation defines the total phosphorus wasteload allocation as:

"Wasteload Allocation" means the portion of receiving water's assimilative capacity that is allocated to a specific point source(s) of pollution.

The Water Quality Control Commission notes in the state of basis and purpose of the control regulation that *allocations of phosphorus or modifications to phosphorus wasteload allocations require a rulemaking hearing by the Commission*. The intent of the total phosphorus wasteload allocation is to protect water quality in the watershed by reducing the phosphorus contributions from point sources. The Commission determined that point source phosphorus controls could produce significant water quality improvements and bring Bear Creek Reservoir to a trophic status of mesotrophic to eutrophic, with chlorophyll a concentrations during the growing season substantially reduced from conditions found during the DRCOG Phase I Clean Lakes Diagnostic/Feasibility Study done in 1988 and 1989.

Since the total phosphorus allocations can be changed by the Commission through a rulemaking process, the Commission intended the allocations to be an assigned use limit to protect water quality and not a property right. No discharger who is assigned a total phosphorus wasteload allocation owns that allocation. The allocations are used in discharge permits by the Water Quality Control Division as regulatory limits. Wasteload allocations are subject to the Commission's determination that the overall results of these allocations under the regulation are achieving the desired results in terms of phosphorus loading and reservoir water quality. As such, the total phosphorus allocations may be modified or revoked by the Commission.

The control regulation does allow total phosphorus trading among the Association membership. The control regulation allows point source to point source trades, nonpoint source to point source trades, temporary or permanent trades into and out of the reserve pool, and alternative trading subject to Division approval. Trading can be either temporary or permanent. The BCWA does have a total phosphorus trading program (*BCWA Policy 1 Trading Program*). Trading policies determine eligibility (*BCWA Policy 19 Nutrient Trading Program Eligibility*) and administration (*BCWA Policy 26 Point to Point Trade Administration*). The BCWA has established Trading Guidelines (*Total Phosphorus Trade Program and Nonpoint Source Trading Guidelines*, Affirmed by majority vote January 12, 2012). BCWA Trade Credits are not a property right and a discharger does not own them and they may be modified or revoked by the Association, the Division or the Commission.

Policy Positions

1. The BCWA acknowledges that the total phosphorus wasteload allocations contained in the Bear Creek Control Regulation are a water quality protection regulatory limit established and maintained by the Water Quality Control Commission and the Commission can modify or revoke these allocations through a rulemaking process.
2. The Water Quality Control Division uses the total phosphorus wasteload allocations in the discharge permitting process as a discharge limit to protect downstream water quality in Bear Creek Reservoir.
3. Total phosphorus wasteload allocations are a use limit and not a property right.
4. Total phosphorus can be traded among BCWA members consistent with BCWA trade policies and subject to approvals by the Water Quality Control Division and Commission. The Commission can modify or revoke any established BCWA trade through a rulemaking process.
5. While *BCWA Policy 26 Point to Point Trade Administration* assigns a “value” price per pound of phosphorus that is used in trades, there is no guarantee this value will remain valid in the future if the Commission modifies or revokes the total phosphorus wasteload allocations.