



# California Association of Mutual Water Companies

*CalMutuals: The Voice of Small Water Systems*

## CalMutuals Monthly Newsletter

March 2015

### CAMWC Elects New Officers

Already, CAMWC has been very active in the first quarter of 2015. Along with electing our new board of directors in January, CAMWC's Board of Directors elected the following directors as officers.

By unanimous vote, CAMWC's board of directors voted at its February board meeting to elect:

- Jim Byerrum of CalDomestic Water Company as **President & Chairman of the Board**;
- Lisa Yamashita-Lopez of Rubio Cañon Land and Water Association as **Vice-President**;
- Dave Michalko of Valencia Heights Water Company as **Secretary** and;
- Ken Deck of Bellflower Somerset Mutual Water Company as **Treasurer**.



We congratulate the new officers and appreciate their leadership.

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### Update on New Hexavalent Chromium Standard of 10ppb

In previous newsletters, we have reported information on the California Department of Public Health's new standard for Hexavalent Chromium of a maximum contaminant level (MCL) of 10 parts per billion (10ppb) for Public Water Systems (PWS) that went into effect in July of 2014; the cost of complying with the new standard for Hexavalent Chromium ranges anywhere from \$30 to \$75,000 per connection (AWWA). Public Water Systems that are not in compliance with the new MCL must issue a public notification by July 1, 2015.



We want to keep our members apprised of our efforts to find solutions to mitigate the concerns posed by the new standard.

### **Actions Taken In 2014**

The California Manufacturer's Association filed a lawsuit against OEHHA (Office of Environmental Health Hazard Assessment) citing that OEHHA failed to incorporate relevant science in setting the public health goal (PHG) for Hexavalent Chromium.

In November 2014, State Attorney General Kamala Harris put forth a motion stating that it was invalid to challenge the PHG on the science because OEHHA had followed all the proper protocols. That motion is set to be heard this June. When that motion was made public, some mutual water companies that had considered becoming a part of the lawsuit against OEHHA decided it would be best to wait until spring 2015 to decide on whether or not their involvement in the lawsuit was necessary.

In December 2014, the Association sent a formal comment letter to the State Water Resources Control Board (SWRCB) regarding proposed actions in the draft of the Safe Drinking Water Plan that included comments about the failure to fully measure the costs associated with the new standard for Hexavalent Chromium, especially for smaller public water systems. In proposing a potential solution, the Association recommended that the State Board implement a multi-contaminant approach which would consider the pool of contaminants coming up for review, in addition to non-compliance with existing standards.

This would enable the indemnification of treatment systems that may treat more than one contaminant, and provide a more predictable means of identifying the enormous financial burdens on mutual water companies and small systems in general. For a copy of the comment letter, [please click here](#).

### **Update on Actions to Remedy Concerns Posed by New HexChrom Standard**

CAMWC has reached out to mutual water companies in the following, heavily Chrom6 impacted areas: San Benito, Santa Ynez, Coachella and Lancaster to discuss viable solutions. In addition to reaching out to mutual water companies, the Association has broached the issue with members of the legislature and other water purveyors who have also been impacted by the new standard. The result was SB385 by State Senator Ben Hueso which, if approved by Governor Brown before July 2015, will allow public water systems (including mutual water companies) to apply for a 5-year "variance" from the State Water Resources Control Board.

Each water system granted a variance must identify a treatment solution, and utilize the 5 year period to report implementation of the treatment method. The variance will also provide relief from liability for non-compliance during the 5 year period. CAMWC's legislative committee voted to support SB 385. For more information and how you can help support this bill, [please click here](#).

Our Association has been tracking, commenting and a part of conversations that involve finding a remedy or action that will alleviate the concerns posed by the new HexChrom standard. We hope our efforts lead to a positive outcome and will be updating our members in the coming months.

For more information please contact Executive Director, Adan Ortega, at 714-449-3397 or via email at: [AdanOrtega@me.com](mailto:AdanOrtega@me.com)

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## What You Should Know About Tiered Water Rates

In 2013, a judge ruled in favor of a group of San Juan Capistrano taxpayers who sued the City citing their tiered rate system was illegal, violating Proposition 218. In February of this year, an appeals court also heard the case; the ruling is expected in the near future.

The group of taxpayers sued the City on the basis that the law, Proposition 218, prohibits public agencies from charging more than the cost of service of providing water and argued that higher tiers are arbitrary.

Mutual water companies are also limited to charging only for the cost of service of providing water under California's Corporations Code, given our not for profit status. While different than public water systems that enjoy certain legal protections and immunities that mutual water companies do not have, mutual water companies should still pay careful attention to the relation of their water rates to costs that are associated with running and maintaining the water systems.

For mutuals it is important to note the following:

- What is the logic behind your rate structure? There needs to be story as to why tiers are going up. Example: An objective reason as to why meter charges vary based on logic mostly having to do with the cost of purchasing water, power to run the pumps, and reserves needed to maintain the water systems in order to avoid charges that the water rates are subjective or punitive.
- Include the cost of providing service and rates that reflect operational and maintenance costs
- Record keeping is key! Document "your story" to provide background as to how the rate structure was developed.
- Transparency: make detailed administrative records on water rates accessible and readily available on your website and/or office

Rates should be structured in a way that avoids users from perceiving their costs as unfair



penalties. Water providers must be able to prove that rates are not arbitrary and capricious. Sanjay Guar, economist/water rate study expert, has worked with many water providers on developing rate structures. He advises water providers to establish rates that are proportional to the usage of the system as there is a difference between a tax and fee.

*“Water is a service; water is a fixed cost business. Rates should be able to answer the question, why are tiers going up? ,”* he said. In most cases, especially during a drought, customers who use more than their baseline of water require that water suppliers purchase more expensive sources of water.

For more information on tiered rates or for water rate study expert referrals, please contact Denise Peralta Gailey at 714-449-3397 or via email at [Denise@CalMutuals.org](mailto:Denise@CalMutuals.org)

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## **Urban Water Conservation Emergency Regulations Adopted by the Office of Administrative Law - Effective Immediately**

The Office of Administrative Law (OAL) on March 27 approved the expanded and extended [Urban Water Conservation Emergency Regulations](#) issued by the



**Updated Mandatory Watering Restrictions**

State Water Resources Control Board in response to the continuing drought. The regulations, which were adopted by the State Board on March 17, are effective immediately.

Urban water suppliers (with 3,000 or more connections or serving 3,000 acre-feet or more per year) must now impose a mandatory limit on the number of days per week that customers can irrigate outdoors. Outdoor irrigation is limited to no more than two days per week, or as specified in the water supplier’s Water Shortage Contingency Plan. If the plan contains no specific limit on the number of days per week that customers can irrigate, it may be amended to include such a limit. But the amended plan must be adopted and implementation must begin within 45 days (that is, by May 11, 2015).

### **Emergency Regulations Extended**

The emergency regulations the State Board issued last summer are now extended for another 270 days, to Dec. 23, 2015, and add several new provisions.

All California water users continue to be prohibited from:

- Washing down sidewalks and driveways;
- Washing a motor vehicle with a hose, unless the hose is fitted with a shut-off nozzle
- Operating a fountain or decorative water feature, unless the water is part of a recirculating system

## New Requirements

All water users:

- Prohibited from irrigating turf or ornamental landscapes during and 48 hours following measurable rainfall or snowfall.

Commercial businesses:

- Restaurants and other food service establishments can serve water to customers only on request
- Operators of hotels and motels must provide guests with the option of choosing not to have towels and linens laundered daily; notice of this option must be prominently displayed

Water suppliers:

- Must notify customers when they are aware of leaks that are within the customer's control
- Must limit outdoor irrigation to specified days per week (as described above)
- Must report the number of days to which outdoor irrigation has been limited, and describe compliance and enforcement efforts as part of ongoing monthly reporting to the State Board

***For smaller water suppliers (fewer than 3,000 connections or providing less than 3,000 acre-feet per year), they must limit outdoor irrigation to two days per week or the supplier must instead implement other mandatory measures designed to achieve a 20% reduction in water consumption.***

## Enforcement

Although not specified in the emergency regulations, water suppliers may enforce these and other locally-imposed conservation requirements and impose locally-adopted fines using existing powers and practices (including exceptions or variances, and continued exercise of administrative discretion).

***Mutual water companies should review their governing documents (particularly their Bylaws) regarding the company's power to impose such fines and, if applicable and/or authorized, should adopt Rules and Regulations to allow for such fines to ensure compliance with the State's requirements.***

The emergency regulations authorize water suppliers to impose fines on customers of up to \$500 a day for violations of water use prohibitions.

The State Board can issue cease-and-desist orders against water agencies that don't impose mandatory conservation measures upon their retail customers. Violations of cease-and-desist orders are subject to civil liability penalties of up to \$10,000 a day.

## Recommendations

Mutual water companies should take the following steps:

- 1) Immediately inform customers of the continued and new provisions of the emergency regulations. If applicable to you and if you are not already doing so, immediately implement the mandatory outdoor irrigation limitations or amend your Water Shortage Contingency Plan to include the required limitations by May 11, 2015.
- 2) If applicable to you and if you are not already doing so, immediately begin customer leak notification as required.
- 3) Continue monthly reporting (or start such reporting if you have not been doing so) and include new water use information, days per week irrigation limitations, and enforcement actions as required. You can regularly monitor your agency performance metrics as they appear in the State Board reporting portal by [clicking here](#).
- 4) Carefully document water waste reports, customer contacts and education, and enforcement activities.
- 5) Consider outreach to commercial and institutional customers as needed to further promote water conservation. The Save Our Water program has outreach tools and resources that water suppliers may use at no charge. Visit [www.saveourwater.com](http://www.saveourwater.com) for more information.

Please feel free to contact the California Association of Mutual Water Companies through its website at: <http://calmutuals.org/contact-us/> if you have any questions regarding these requirements.



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