



**CalMutuals Board of Directors Meeting**  
**Tuesday, January 16, 2018**  
**2:00 p.m. or upon adjournment of the JPRIMA Board Meeting**  
VIA Teleconference  
Call-in Number: (712) 775-7031  
Access Code: 540-575-707#

**Agenda**

2:00 p.m.:

- 1) Call to Order (Chair Yamashita-Lopez)
- 2) Roll Call
- 3) Chair's Report
- 4) Budget Report
  - a. Demand Sheet
  - b. Financials
- 5) Director Comments
- 6) Executive Director's Report
  - a. Legislative and Regulatory Affairs Committee
  - b. 2018 Legislative Priorities
  - c. Annual Meeting
- 7) Adjourn (2:30 p.m.)

## 2018 CalMutuals Board Roster

Ms. Lisa Yamashita-Lopez - President  
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Mr. David Armstrong - Director  
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Mr. Ken Tcheng - Director  
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## **Staff**

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**California Association of Mutual Water Companies**  
**Demand Sheet – January 16, 2018**

<b>Date</b>	<b>Number</b>	<b>Description</b>	<b>Balance</b>
<b>Sloat, Higgins, Jensen &amp; Associates</b>			
1/1/2018	14863	Legislative Consulting Services-November 2017	\$5,000.00
<b>Allied Public Risk</b>			
1/15/18	27166	Water Plus Package PREMIUM & Policy Fee	\$1,103.00
<b>Adan Ortega Associates</b>			
1/5/2018	1206	Organization Management and Rent	\$ 10,250.00
1/5/2018	1207	Reimbursable Expenses	\$1,273.62
<b>TOTAL</b>			<b>\$ 17,626.62</b>

# California Association of Mutual Water Companies

## Balance Sheet

As of December 31, 2017

9:55 AM

01/16/18

Accrual Basis

	<u>Dec 31, 17</u>
<b>ASSETS</b>	
Current Assets	
Checking/Savings	
1210 · Wells Fargo Bank	86,030.28
Total Checking/Savings	86,030.28
Accounts Receivable	
1510 · Acc Receivables-Membership Dues	36,400.00
1550 · Acc Receivables-Insurance Fees	19.20
Total Accounts Receivable	36,419.20
Other Current Assets	
1540 · Receivable fr Calmutuals JPRIMA	38,041.03
Total Other Current Assets	38,041.03
Total Current Assets	160,490.51
<b>TOTAL ASSETS</b>	<b><u>160,490.51</u></b>
<b>LIABILITIES &amp; EQUITY</b>	
Liabilities	
Current Liabilities	
Accounts Payable	
2150 · Accounts Payable	1,436.98
Total Accounts Payable	1,436.98
Other Current Liabilities	
2170 · Unearned Membership Dues	89,000.00
Total Other Current Liabilities	89,000.00
Total Current Liabilities	90,436.98
Total Liabilities	90,436.98
Equity	
3900 · Retained Earnings	35,257.53
Net Income	34,796.00
Total Equity	70,053.53
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b><u>160,490.51</u></b>

# California Association of Mutual Water Companies

9:56 AM

## Profit & Loss

01/16/18

January through December 2017

Accrual Basis

	General	JPRIMA	Unclassified
<b>Income</b>			
4000 · Membership Dues			
4010 · Charter	114,600.00	0.00	0.00
4030 · Regular	46,350.00	0.00	0.00
4070 · Associate	5,625.00	0.00	0.00
4050 · Affiliate	10,550.00	0.00	0.00
<b>Total 4000 · Membership Dues</b>	<b>177,125.00</b>	<b>0.00</b>	<b>0.00</b>
4300 · Insurance Program Fees			
4310 · Property & Casualty	0.00	67,715.42	0.00
<b>Total 4300 · Insurance Program Fees</b>	<b>0.00</b>	<b>67,715.42</b>	<b>0.00</b>
4510 · Sponsorships	2,000.00	0.00	0.00
4530 · Advertising	1,275.00	0.00	0.00
4550 · Meetings	730.00	0.00	0.00
4910 · Interest Income	4.41	0.00	0.00
4990 · Misc Income	15.00	0.00	0.00
<b>Total Income</b>	<b>181,149.41</b>	<b>67,715.42</b>	<b>0.00</b>
<b>Expense</b>			
5010 · Management Contract	120,000.00	0.00	0.00
5030 · Lobbying Contract	60,000.00	0.00	0.00
5050 · Legal Fees	13,466.20	0.00	0.00
5310 · Meeting Expenses	4,619.87	0.00	0.00
5514 · Bank Service Charge	33.20	0.00	0.00
5530 · Filing Fees	30.00	0.00	0.00
5540 · Insurance	1,103.00	0.00	0.00
5550 · Marketing	1,880.84	0.00	0.00
5555 · Merchant Service Fees	59.13	0.00	2.48
5560 · Rent	3,000.00	0.00	0.00
5570 · Supplies	1,881.81	0.00	0.00
5575 · Tax Preparation	800.00	0.00	0.00
5585 · Travel	5,755.32	0.00	0.00
5990 · Misc Expense	1,436.98	0.00	0.00
<b>Total Expense</b>	<b>214,066.35</b>	<b>0.00</b>	<b>2.48</b>
<b>Net Income</b>	<b>-32,916.94</b>	<b>67,715.42</b>	<b>-2.48</b>

# California Association of Mutual Water Companies

9:56 AM

## Profit & Loss

01/16/18

January through December 2017

Accrual Basis

	TOTAL
Income	
4000 · Membership Dues	
4010 · Charter	114,600.00
4030 · Regular	46,350.00
4070 · Associate	5,625.00
4050 · Affiliate	10,550.00
Total 4000 · Membership Dues	177,125.00
4300 · Insurance Program Fees	
4310 · Property & Casualty	67,715.42
Total 4300 · Insurance Program Fees	67,715.42
4510 · Sponsorships	2,000.00
4530 · Advertising	1,275.00
4550 · Meetings	730.00
4910 · Interest Income	4.41
4990 · Misc Income	15.00
Total Income	248,864.83
Expense	
5010 · Management Contract	120,000.00
5030 · Lobbying Contract	60,000.00
5050 · Legal Fees	13,466.20
5310 · Meeting Expenses	4,619.87
5514 · Bank Service Charge	33.20
5530 · Filing Fees	30.00
5540 · Insurance	1,103.00
5550 · Marketing	1,880.84
5555 · Merchant Service Fees	61.61
5560 · Rent	3,000.00
5570 · Supplies	1,881.81
5575 · Tax Preparation	800.00
5585 · Travel	5,755.32
5990 · Misc Expense	1,436.98
Total Expense	214,068.83
Net Income	34,796.00

**California Association of Mutual Water Companies**
**Budget and Cash Flow**

As of December 31, 2017

	2017 Budget	2017 Estimated Cash Flow				
		Q1 Actual	Q2 Actual	Q3 Actual	Q4 Actual	Total
<b><u>INCOME</u></b>						
Charter Membership	\$ 84,000	\$ 6,150	\$ 22,100	\$ 25,150	\$ 63,050	\$ 116,450
Regular Membership	54,000	9,050	14,350	14,300	5,100	42,800
Affiliate Membership	500	500	2,450	6,400		9,350
Associate Membership	9,000	900	2,900	1,300	2,000	7,100
Sponsorships	3,000	-	1,000	-		1,000
Advertising	1,800	450	375	75	375	1,275
Meetings	-	-	730	-	-	730
Loan from Third Parties	30,000	-	-	-	-	-
JPRIMA Loan Repayment	30,000	-	-	-	-	-
Insurance Fees	43,000	1,857	45,486	8,911	4,696	60,950
Interest Income		2	-	-	-	2
Miscellaneous		2,500	-	15		2,515
<b>Total Income</b>	<b>255,300</b>	<b>21,409</b>	<b>89,391</b>	<b>56,151</b>	<b>75,221</b>	<b>242,172</b>
<b><u>EXPENSE</u></b>						
Management Contract	120,000	30,000	30,000	30,000	30,000	120,000
Attorney Fees	24,000	2,308	3,540	5,166	2,453	13,467
Office Space/Rent	3,000	750	750	750	750	3,000
Accounting	-	-	-	-	-	-
Insurance	1,150	1,103	-	-	-	1,103
Staff Travel	12,000	1,023	883	2,642	1,292	5,840
Meetings	3,000	136	-	4,382		4,518
IT/Website	500	-	-	-	-	-
Supplies	-	1,720	241	67		2,028
Taxes	1,000	-	-	-	810	810
Telephone	840	-	-	-		-
Merchant/Bank Fees	500	50	30	2	12	94
Lobbying	60,000	15,000	15,000	15,000	15,000	60,000
Marketing	-	-	899	1,219		2,118
JPRIMA Loan	30,000	-	5,000	-	-	5,000
Miscellaneous	-	-	-	-		-
<b>Total Expense</b>	<b>255,990</b>	<b>52,090</b>	<b>56,343</b>	<b>59,228</b>	<b>50,317</b>	<b>217,978</b>
<b>Net Total</b>	<b>\$ (690)</b>	<b>\$ (30,681)</b>	<b>\$ 33,048</b>	<b>\$ (3,077)</b>	<b>\$ 24,904</b>	<b>\$ 24,194</b>
<b><u>Cash Flow</u></b>						
Beginning Balance		\$ 61,835	\$ 31,154	\$ 64,202	\$ 61,125	
Net Revenues		(30,681)	33,048	(3,077)	24,904	
Ending Balance		\$ 31,154	\$ 64,202	\$ 61,125	\$ 86,029	

**Notes:**

**[A]** 2017 Charter Membership dues in the amount of \$60,000 were collected in 2016.

**[B]** 2017 Charter Membership dues from Rubio Canon, Bellflower Somerset, Covina Irrigating Co, Valencia Heights, Sunnyslope Water Company, California Domestic Water Co., Lincoln Avenue Water Valley Water Co. and South Mesa Water Co.

**[C]** Loan from AAWDM & California Domestic Water Co.





White Paper  
An Act to Adopt Federal Compliance Process for  
Enforcement of Drinking Water Contaminant Standards  
Sponsored by the California Association of Mutual Water Companies

## Background

Small water supply systems receive special consideration from United States EPA (“EPA”) and some states. More than 90 percent of all public water systems (PWSs) are considered to be “small,” which is defined as serving less than 10,000 people. These systems may face additional challenges in providing safe water at affordable rates in light of their limited rate base over which they can spread operational and capital improvement costs. The federal SDWA provides states with tools to help make compliance with standards affordable for small systems. Unfortunately, California does not utilize these tools and treats small systems the same as larger systems when setting contaminant standards and establishing enforcement dates for meeting those standards.

Unlike California, when setting new primary standards, EPA and some states identify technologies that achieve compliance and are affordable for systems serving fewer than 10,000 people. These may include packaged or modular systems and point-of-entry/point-of-use treatment devices under the control of the water system. When such technologies cannot be identified, EPA must, in connection with establishing those standards, identify affordable technologies that maximize contaminant reduction and protect public health.

Under Federal rules, primary standards go into effect three years after they are finalized. If capital improvements are required, EPA's Administrator or a state may allow this period to be extended up to two additional years. Under certain circumstances, exemptions from standards may be granted by states to allow extra time for systems to seek other compliance options or financial assistance. After the exemption period expires, the public water system must be in compliance. While the California State Water Resources Control Board may exercise some discretion in allowing for time before a new drinking water standard takes effect, it has not done so in recent instances. With respect to hexavalent chromium, the State Legislature enacted SB 385 to provide such a compliance period. The State Board recently refused to allow for a compliance period in connection with its establishment of a new MCL for 1, 2, 3-TCP.

### **California Compliance Procedures**

The California Code of Regulations for drinking water operate by establishing a “compliance cycle” as well as a “compliance period.” However, as evidenced by the regulations set forth below, those provisions do not set forth a satisfactory system that allows for economically feasible compliance mechanisms to be implemented.

#### **§64400.20. Compliance Cycle.**

“Compliance cycle” means the nine-year calendar year cycle during which public water systems shall monitor. Each compliance cycle consists of three three-year compliance periods. The first calendar year cycle began January 1, 1993 and ends December 31, 2001; the second begins January 1, 2002 and ends December 31, 2010; the third begins January 1, 2011 and ends December 31, 2019.

#### **§64400.25. Compliance Period.**

“Compliance period” means a three-year calendar year period within a compliance cycle. Within the first compliance cycle, the first compliance period runs from January 1, 1993 to December 31,

Source: U.S. EPA Website: <https://www.epa.gov/dwregdev/how-epa-regulates-drinking-water-contaminants-develop> ; California Regulations for Drinking Water (2016)

**DRAFT**

1995; the second from January 1, 1996 to December 31, 1998; the third from January 1, 1999 to December 31, 2001.

Other than those two regulations, California makes no provision for the special needs of small water systems, or any other sized systems, before contaminant standards become enforceable to, among other things: a) Identify suitable and scalable treatment technologies; b) Source potential vendors of such technologies; c) Finance the cost of suitable and scalable technologies through water rate increases, assessment of local taxes, state/federal grants and loans, and recovery of costs from identified polluters; d) Educate communities about new standards, trade-offs, risks, supply options and financial challenges; e) Apply and process applicable permits and environmental studies involved in building treatment systems and disposing residuals, with jurisdictional local, regional, state, and federal agencies; f) Acquire land and construct treatment systems.

### **Legislation is Necessary to Correct the Inequitable Application of Drinking Water Standards**

Legislation is necessary to require the California State Water Resources Control Board to provide a pathway for small water systems to comply with safe drinking water contaminant standards in order to:

1. Remove the unnecessary stigma, threatened loss of public confidence and potential liability of being out of compliance before a small system has been able to identify scalable and suitable treatment technologies.
2. Provide for an adequate period to identify, finance, permit, and construct scalable and suitable treatment systems.
3. Allow the State Water Resource Control Board to develop the means to plan and deploy technical assistance and financial assistance for small water systems in such need.

### **Proposed Legislation**

That in the adoption of a contaminant standard by the State Water Resources Control Board, that the process of adopting contaminant standards include the identification of technologies that achieve compliance and are affordable for systems serving fewer than 10,000 people. These may include packaged or modular systems and point-of-entry/point-of-use treatment devices under the control of the water system. When such technologies cannot be identified, the SWRCB must identify affordable technologies that maximize contaminant reduction and protect public health.

Small systems are considered in three categories serving:

- 3,301-10,000 people
- 501-3,300 people
- 25-500 people

Under this legislation, primary standards go into effect for small systems three years after they are finalized. If capital improvements are required, the SWRCB may allow this period to be extended up to two additional years. Under certain circumstances, the SWRCB may grant exemptions from standards as allowed under Federal law, to allow extra time to seek other compliance options or financial assistance.

**TAX-EXEMPTION FOR MUTUAL WATER COMPANIES:  
THE NEED FOR A CALIFORNIA TAX-EXEMPTION  
EQUIVALENT TO INTERNAL REVENUE CODE SECTION 501(c)(12)**

Statement of the Problem:

- Mutual water companies are not-for-profit corporations that provide water service to their shareholders at cost (see Corporations Code section 14300 and Public Utilities Code section 2705).
- Mutual water companies are able to be tax-exempt entities under federal law pursuant to Internal Revenue Code section 501(c)(12) (see below).
- Thus, many mutual water companies, including ones formed under the general corporation law and others formed under the Non-Profit Mutual Benefit Corporation Law, have taken advantage of section 501(c)(12) to be exempt from income tax on the federal level.
- Unlike many other areas of California's tax law which mirrors federal tax law, California's Revenue and Taxation Code does not include a provision that is the equivalent of Internal Revenue Code section 501(c)(12).
- This has led to confusion among some mutual water companies, which believe they are tax-exempt entities under California law, and thus are eligible for much needed grant funding, because they have that status under federal law.
- The failure of California law to provide for tax-exempt status of mutual water companies has also led to delays in distributing some grant funds to small mutual water companies who are not able to demonstrate tax-exempt status at the state level.

Discussion:

As mentioned above, the crux of this problem is that the Revenue and Taxation Code does not contain an exemption that is the equivalent to Internal Revenue Code section 501(c)(12). The Revenue and Taxation Code does provide some tax relief to mutual water companies in section 24405, which allows a mutual water company to deduct all of its income resulting from sales to its shareholders/members. However, that section does not provide for an overall "tax exemption" that would satisfy the need for a mutual water company to be "tax exempt" under California law.

The closest existing grounds for exempting a mutual water company from tax is Revenue and Taxation Code section 23701t, which is the exemption for homeowners associations. However, the Franchise Tax Board applies several revenue-oriented tests for any mutual water company seeking to apply for that exemption that a typical mutual water company simply cannot

meet. For example, “if you use water meters, then income from metered assessments, when combined with other nonexempt function income, does not exceed 40 percent of the total receipts.” The FTB further states, “We consider metered charges based on use as income for services and taxable.” That position also appears to set forth a disincentive for a mutual water company to have metered services, a position directly contrary to Governor Brown’s position, as set forth in his April 1 Executive Order.

Simply put, having to have mutual water companies attempt to qualify for tax exemption under the homeowners association exemption is “like trying to fit a square peg in a round hole.” As mutual water companies are limited to: (1) providing water service only to their shareholders or their shareholders’ properties; (2) providing that service “at cost” (i.e., without profit); and (3) no dividends are ever distributed to shareholders, they certainly fit the definition of a non-profit entity that warrants tax-exempt status. We therefore believe that the addition of the following provision to the Revenue and Taxation is appropriate:

“23701aa. A mutual water, ditch or irrigation company, but only if 85 percent or more of the income consists of amounts collected from shareholders or members for the sole purpose of meeting losses and expenses, as described in Section 501(c)(12) of the Internal Revenue Code.”

Section 501(c)(12) is set forth in its entirety in the attached appendix.

**Internal Revenue Code Section 501(c)(12):**

(A) Benevolent life insurance associations of a purely local character, *mutual ditch or irrigation companies*, mutual or cooperative telephone companies, or like organizations; *but only if 85 percent or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses*. [NOTE: the remainder of the section is not relevant to mutual water companies]

(B) In the case of a mutual or cooperative telephone company, subparagraph (A) shall be applied without taking into account any income received or accrued—

(i) from a nonmember telephone company for the performance of communication services which involve members of the mutual or cooperative telephone company,

(ii) from qualified pole rentals,

(iii) from the sale of display listings in a directory furnished to the members of the mutual or cooperative telephone company, or

(iv) from the prepayment of a loan under section 306A, 306B, or 311 of the Rural Electrification Act of 1936 (as in effect on January 1, 1987).

(C) In the case of a mutual or cooperative electric company, subparagraph (A) shall be applied without taking into account any income received or accrued—

(i) from qualified pole rentals, or

(ii) from any provision or sale of electric energy transmission services or ancillary services if such services are provided on a nondiscriminatory open access basis under an open access transmission tariff approved or accepted by FERC or under an independent transmission provider agreement approved or accepted by FERC (other than income received or accrued directly or indirectly from a member),

(iii) from the provision or sale of electric energy distribution services or ancillary services if such services are provided on a nondiscriminatory open access basis to distribute electric energy not owned by the mutual or electric cooperative company—

(I) to end-users who are served by distribution facilities not owned by such company or any of its members (other than income received or accrued directly or indirectly from a member), or

(II) generated by a generation facility not owned or leased by such company or any of its members and which is directly connected to distribution facilities owned by such company or any of its members (other than income received or accrued directly or indirectly from a member),

(iv) from any nuclear decommissioning transaction, or

(v) from any asset exchange or conversion transaction.

(D) For purposes of this paragraph, the term “qualified pole rental” means any rental of a pole (or other structure used to support wires) if such pole (or other structure)—

(i) is used by the telephone or electric company to support one or more wires which are used by such company in providing telephone or electric services to its members, and

(ii) is used pursuant to the rental to support one or more wires (in addition to the wires described in clause (i)) for use in connection with the transmission by wire of electricity or of telephone or other communications.

For purposes of the preceding sentence, the term “rental” includes any sale of the right to use the pole (or other structure).

(E) For purposes of subparagraph (C)(ii), the term “FERC” means the Federal Energy Regulatory Commission and references to such term shall be treated as including the Public Utility Commission of Texas with respect to any ERCOT utility (as defined in section 212(k)(2)(B) of the Federal Power Act ([16 U.S.C. 824k \(k\)\(2\)\(B\)](#))).

(F) For purposes of subparagraph (C)(iv), the term “nuclear decommissioning transaction” means—

(i) any transfer into a trust, fund, or instrument established to pay any nuclear decommissioning costs if the transfer is in connection with the transfer of the mutual or cooperative electric company’s interest in a nuclear power plant or nuclear power plant unit,

(ii) any distribution from any trust, fund, or instrument established to pay any nuclear decommissioning costs, or

(iii) any earnings from any trust, fund, or instrument established to pay any nuclear decommissioning costs.

(G) For purposes of subparagraph (C)(v), the term “asset exchange or conversion transaction” means any voluntary exchange or involuntary conversion of any property related to generating, transmitting, distributing, or selling electric energy by a mutual or cooperative electric company, the gain from which qualifies for deferred recognition under section [1031](#) or [1033](#), but only if the replacement property acquired by such company pursuant to such section constitutes property which is used, or to be used, for—

(i) generating, transmitting, distributing, or selling electric energy, or

(ii) producing, transmitting, distributing, or selling natural gas.

(H) (i) In the case of a mutual or cooperative electric company described in this paragraph or an organization described in section [1381 \(a\)\(2\)\(C\)](#), income received or accrued from a load loss transaction shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.

(ii) For purposes of clause (i), the term “load loss transaction” means any wholesale or retail sale of electric energy (other than to members) to the extent that the aggregate sales during the recovery period do not exceed the load loss mitigation sales limit for such period.

(iii) For purposes of clause (ii), the load loss mitigation sales limit for the recovery period is the sum of the annual load losses for each year of such period.

(iv) For purposes of clause (iii), a mutual or cooperative electric company’s annual load loss for each year of the recovery period is the amount (if any) by which—

(I) the megawatt hours of electric energy sold during such year to members of such electric company are less than

(II) the megawatt hours of electric energy sold during the base year to such members.

(v) For purposes of clause (iv)(II), the term “base year” means—

(I) the calendar year preceding the start-up year, or

(II) at the election of the mutual or cooperative electric company, the second or third calendar years preceding the start-up year.

(vi) For purposes of this subparagraph, the recovery period is the 7-year period beginning with the start-up year.

(vii) For purposes of this subparagraph, the start-up year is the first year that the mutual or cooperative electric company offers nondiscriminatory open access or the calendar year which includes the date of the enactment of this subparagraph, if later, at the election of such company.

(viii) A company shall not fail to be treated as a mutual or cooperative electric company for purposes of this paragraph or as a corporation operating on a cooperative basis for purposes of section [1381 \(a\)\(2\)\(C\)](#) by reason of the treatment under clause (i).

(ix) For purposes of subparagraph (A), in the case of a mutual or cooperative electric company, income received, or accrued, indirectly from a member shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.