

# Allocation of Water for Affordable/Workforce Housing



*Water Demand Committee  
June 4, 2020  
David J. Stoldt*

# What MPWMD Has Done to Date



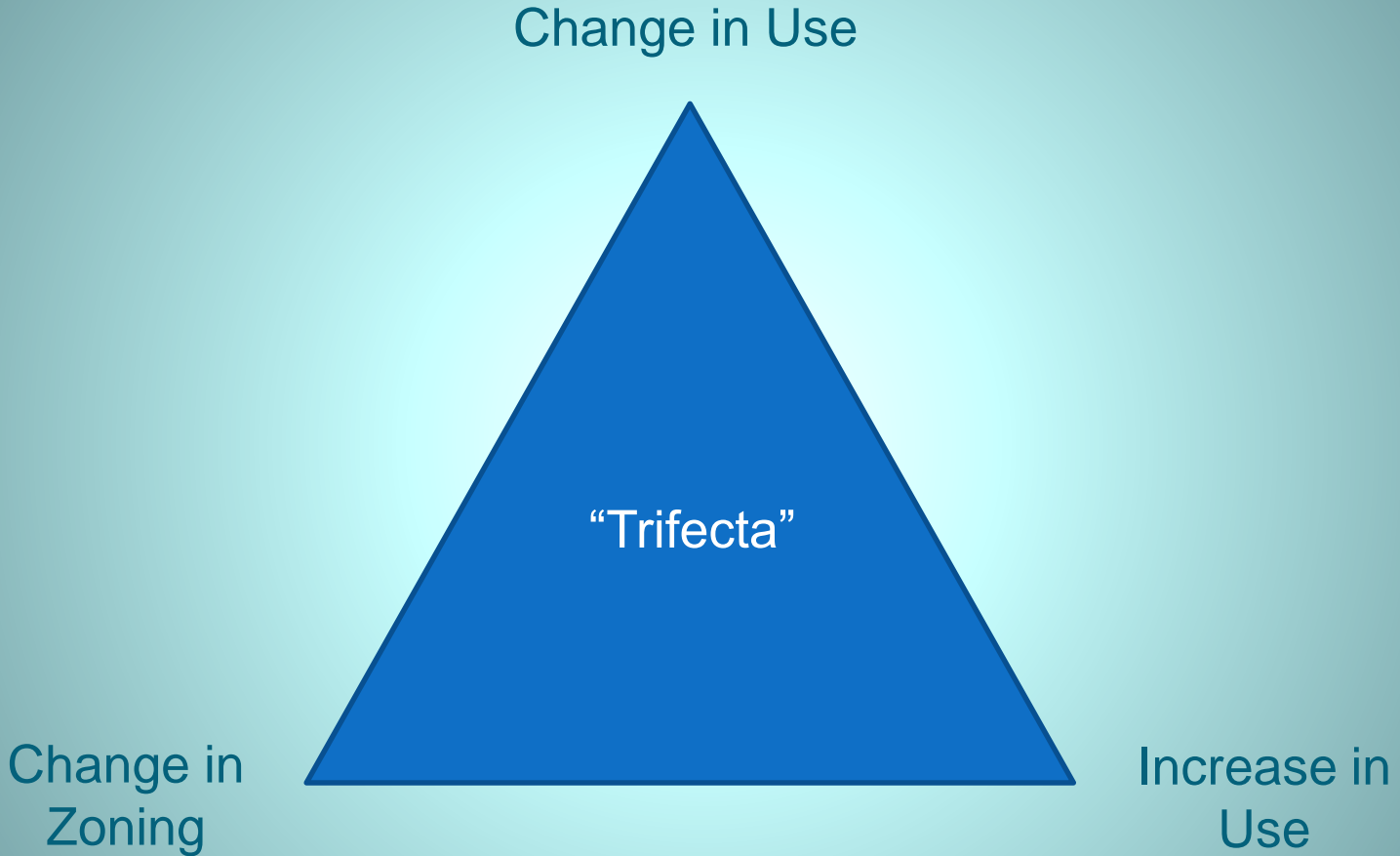
- Concepts presented to Board – Aug 2019
- Concepts to Water Demand – Dec 2019
- Decided to focus on determining total need & consider creating allocation
- TAC given “homework” – Feb 2020
- Garden Road parcels advanced by City of Monterey – March, April, May 2020
- SWRCB “warning” – March Water Demand
- Board award of allocation – May 18
- Staff discussion w/ SWRCB – May 19 & 29

## Condition 2 of the CDO

“Cal-Am shall not divert water from the Carmel River for new service connections or for any increased use of water at existing service addresses resulting from a change in zoning or use.”

Issue	State	District
Change in Use	Residential-to-Residential or Commercial-to-Commercial Look no further	All changes must be examined; Want to foster mixed-use
Baseline	October 2009	Pre-project v post-project As of current date
What Can be Counted	Possibly on-site credit, no jurisdictional allocations, no water credit transfers/offsets, some entitlements	All 4...just like always
Service Address	One or more parcels, contiguous, under common ownership, and identical present use	Same, except allow non- contiguous for Jurisdictions, Public Schools, & Higher Education

# Why Did Garden Road Attract Attention?



## What Did SWRCB Email of March 4, 2020 Say?

- Condition 2 would therefore prohibit increased use of water at the service addresses.
- Under Condition 2, increased use of water at the service address could not be avoided, cured, or offset with such District reserve.
- Permitting and serving the proposed projects as described in Mr. Uslar's letter could therefore lead to a violation of Condition 2, even if they would be allowed under the District's local water permitting system.

## What Does the CPUC Moratorium Say?

- Cal-Am is directed to modify its tariffs to recognize that it is not authorized to provide service in its Monterey District to the extent that such service would violate the terms of Condition 2
- Pub. Util. Code § 453 prohibits unreasonable discrimination in rates and service. No violation of § 453 occurs with the denial of service explicitly involved in the moratorium here because the findings within Order 95-10, the 2009 CDO and the 2010 Order provide a rational basis for the differentiation of service that results from the implementation of Condition 2

# Enter Senate Bill 330 / October 2019



Housing Crisis Act of 2019

## What Does SB 330 Say?

- California is experiencing a housing supply and affordability crisis of historic proportion
- Long commutes increase risk to life and health problems
- Lack of affordable housing is a public health & safety issue
- It is the policy of the state that a local government not reject or make infeasible housing development projects...
- Local governments are restrained from imposing a moratorium or similar restriction or limitation on housing development



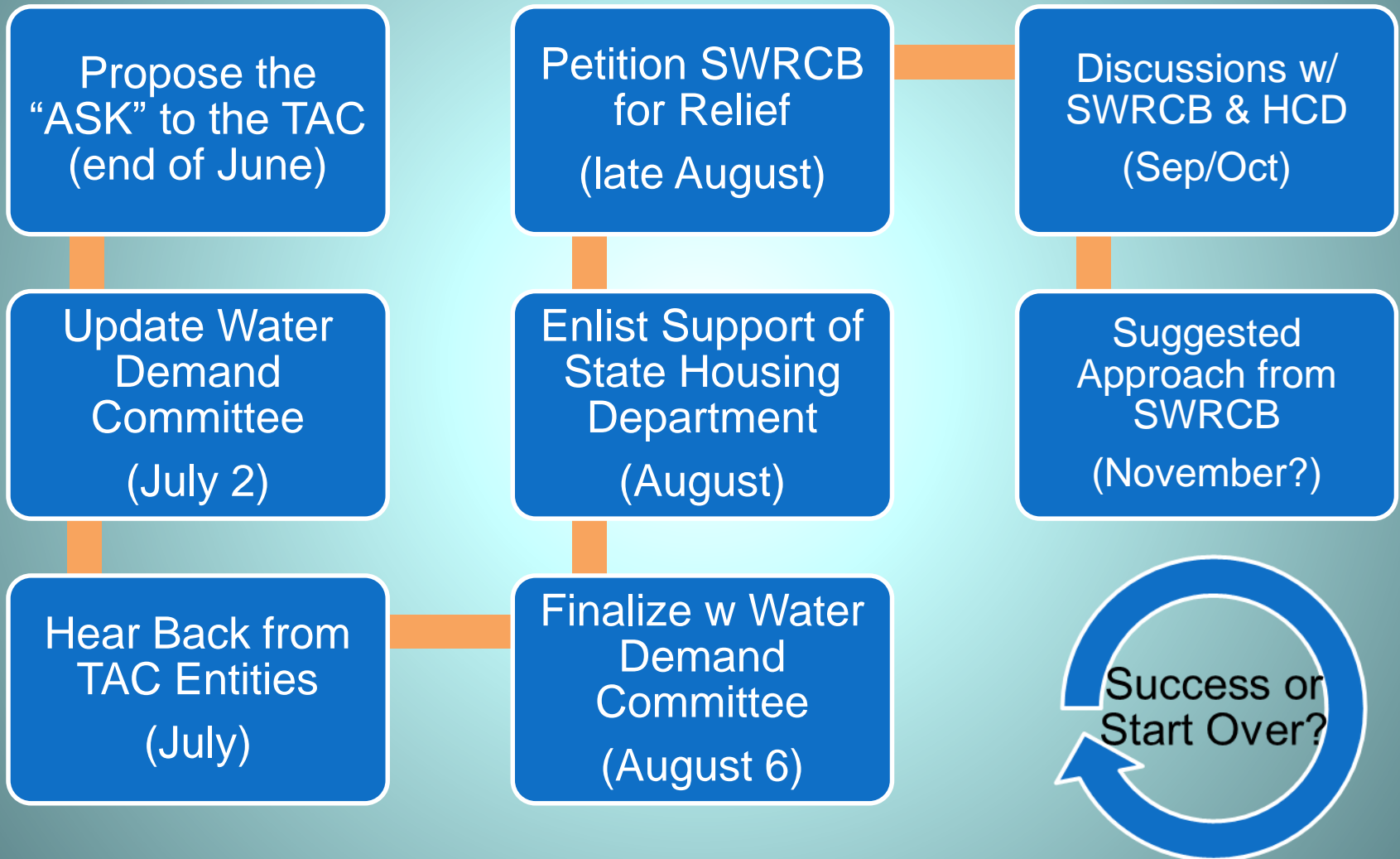
## However, SB 330 Also Says...

- Section 65589.5 of the Government Code is amended to read:
- (d) A local agency shall not disapprove a housing development project, ...for very low, low-, or moderate-income households, ...unless it makes written findings, based upon a preponderance of the evidence in the record, as to one of the following: (4) which does not have adequate water or wastewater facilities to serve the project.
- Hence, SB 330 likely does not trump CDO
- All roads still go through the SWRCB?

## A Slim Opening Under the CDO ...

- 3.c. Either Cal-Am or **the District may petition** the Deputy Director for Water Rights **for relief** from reductions imposed under this Order. No relief shall be granted unless all of the following conditions are met: (1) Cal-Am and the District continue the moratorium on new service connections; (2) the demand for potable water by Cal-Am customers meets all applicable conservation standards and requirements; and (3) **a showing is made that public health and safety will be threatened if relief is not granted.** Any relief granted shall remain in effect only as long as a prohibition on new service connections remains in effect, and compliance with applicable conservation standards and requirements remains in effect. This section supersedes ordering paragraph 3.b. of State Water Board Order WR 2009-0060.
- Likely only applies to relief from “reductions” not from Condition 2 – But what was the intent?

# Timeline



The background is a light blue gradient with several realistic water droplets of various sizes scattered across it. The droplets have highlights and shadows, giving them a three-dimensional appearance. The text is centered in the middle of the page.

# IMMEDIATE WATER NEEDS FOR HOUSING

2020 RESPONSES FROM JURISDICTIONS

# CITY OF CARMEL-BY-THE-SEA

- 10 AF REQUESTED
  - REQUEST FOR WATER FOR ADU/MU/SFD
- NO IMMEDIATE AFFORDABLE HOUSING PROJECTS
  - RHNA = 31
- ALLOCATION REPORT
  - MALPASO WATER HAS BEEN AVAILABLE
  - REMAINING CITY ALLOCATIONS/CREDITS: 2.661 AF

# CITY OF DEL REY OAKS

- NO RESPONSE
- ALLOCATION REPORT
  - REMAINING CITY ALLOCATIONS/CREDIT: 0

# CITY OF MONTEREY

- 6 NEAR-TERM SHOVEL-READY PROJECTS FOR 300 HOUSING UNITS
  - RHNA = 650 (563 REMAIN TO BE BUILT)
- 23 AF REQUESTED
  - DEVELOPERS AGREE TO HIGH EFFICIENCY & GRAYWATER
  - EFFICIENCY REDUCTION OF 15.58 AF!
- ALLOCATION REPORT
  - REMAINING CITY ALLOCATIONS/CREDIT: 2.575 AF

# CITY OF PACIFIC GROVE

- REQUESTED EXTENSION TO RESPOND UNTIL 5/2021
- 30.7 AF REQUESTED
  - 110 MFD = 13.2 AF
  - 50 ADU = 3.5 AF
  - 70 SFD = 14 AF
- REQUESTED NO RESTRICTIONS ON USE OF WATER
- ALLOCATION REPORT
  - REMAINING CITY ALLOCATIONS/CREDIT: 0.079 AF
  - ENTITLEMENT: 37.676 AF



# CITY OF SAND CITY

- 9.54 AF REQUESTED
  - INDEPENDENT PHASE 2: 50-60 UNITS
  - WEST END MIXED USE PROJECT: 12-16 UNITS
  - PROJECTED ADUS: 5-6 UNITS
- ALLOCATION REPORT
  - REMAINING CITY ALLOCATIONS/CREDIT: 23.273 AF
  - ENTITLEMENT: 199.634 AF

# CITY OF SEASIDE

- 20.6 AF REQUESTED
  - MULTI-FAMILY 125 UNITS
  - ADU 80 UNITS
- ALLOCATION REPORT
  - REMAINING CITY ALLOCATIONS/CREDIT: 34.703 AF

# UNINCORPORATED COUNTY

- NO RESPONSE
- ALLOCATION REPORT
  - REMAINING COUNTY ALLOCATIONS/CREDIT: 12.844 AF
  - PEBBLE BEACH ENTITLEMENTS: 276.918 AF
  - MALPASO ENTITLEMENT: 63.464 AF
  - WATER WEST: 3.347 AF



## CITY OF PACIFIC GROVE

### Community Development Department

300 Forest Avenue, Pacific Grove, CA 93950

T : 831.648.3190 • F : 831.648.3184 • [www.cityofpacificgrove.org/cdd](http://www.cityofpacificgrove.org/cdd)

Stephanie Locke, Water Demand Manager  
Monterey Peninsula Water Management District  
5 Harris Ct. Building G  
Monterey, CA 93940  
Email: [locke@mpwmd.net](mailto:locke@mpwmd.net)

April 30, 2020

### **Re: Water Needed for Housing Request**

Ms. Locke,

The City of Pacific Grove (City) respectfully requests the Monterey Peninsula Water Management District (MPWMD) extend the response date to May 2021 in order for the City to estimate its near-term water needs for housing projects. The District's information request was made prior to the COVID-19 shelter in place order took effect. Pacific Grove has been operating at a reduced capacity, with staff working remotely, since the March 17, 2020 COVID-10 order. This restriction was then superseded by the more restrictive April 3, 2020 County shelter in place order. City staff has been focused on COVID-19 and operational issues which took precedence over the MPWMD request. It is also important for the City Council to provide additional comment and direction. Given the reasons listed above; this item has not yet been brought before Council.

In addition, the City's near term water demand estimate would be better informed when the upcoming Regional Housing Needs Assessment (RHNA) numbers are known, or can be approximated. This data will be assigned to the City in the upcoming Housing Element cycle and these numbers help inform the target number of affordable units the City is expected to achieve. Also, the City has recently contracted with Baird + Driskell using SB2 grant funds to assist the City with its housing needs, including evaluating housing policies, needs and estimating new units. They anticipate having data that will be vetted by Council by May 2021 which will allow the City to provide more meaningful information to MPWMD.

Moreover, the City requests to be considered fairly and equitably in concert with other jurisdictions and receive its fair share of water if there is excess water allocation available. The City respectfully requests MPWMD refrain from directing the City's water allocation to specific land uses, or mandate use of any existing allocation, be it either entitlement or non-entitlement, to specific land uses. The City retains land use jurisdiction and authority over land use applications. MPWMD's request that water demand solely be used for housing and any inference that additional water, or existing entitlement water, may be available only for housing needs, means that MPWMD is directing land uses within the City of Pacific Grove. This usurps the City's land use planning authority.

If for any reason MPWMD cannot delay its request that the City approximate the number of units that may receive near-term entitlement approvals, the City's current rough estimate, based on the approved 2015-2023 Housing Element and identification of additional potential sites results in approximately 110 multi-family (13.2 AF), 50



## **CITY OF PACIFIC GROVE**

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ADUs (3.5 AF), and 70 Single-family units (14 AF). The rough estimate total water demand approximates 30.7 AF based on MPWMD water factors for housing. The City estimates an increase in ADU numbers beyond the Housing Element estimate, based on recent experience showing increased applications for building permits for these unit types over the past two years and also based on the State amnesty program affecting illegal units.

The City is not aware of existing water credits for the subject properties, nor does it have the capacity at this point to examine each potential site to the level of detail necessary to determine existing on-site water credits.

The City looks forward to continue to work with you on this matter to facilitate housing for our residents to meet State mandates and ameliorate the Statewide housing crisis.

Sincerely,

/s/

Anastazia Aziz, AICP, Director

Community Development Department

c.c. Ben Harvey, City Manager