

Allocation of Water for Affordable/Workforce Housing



*Policy Advisory Committee
August 4, 2020*

What MPWMD Has Done to Date



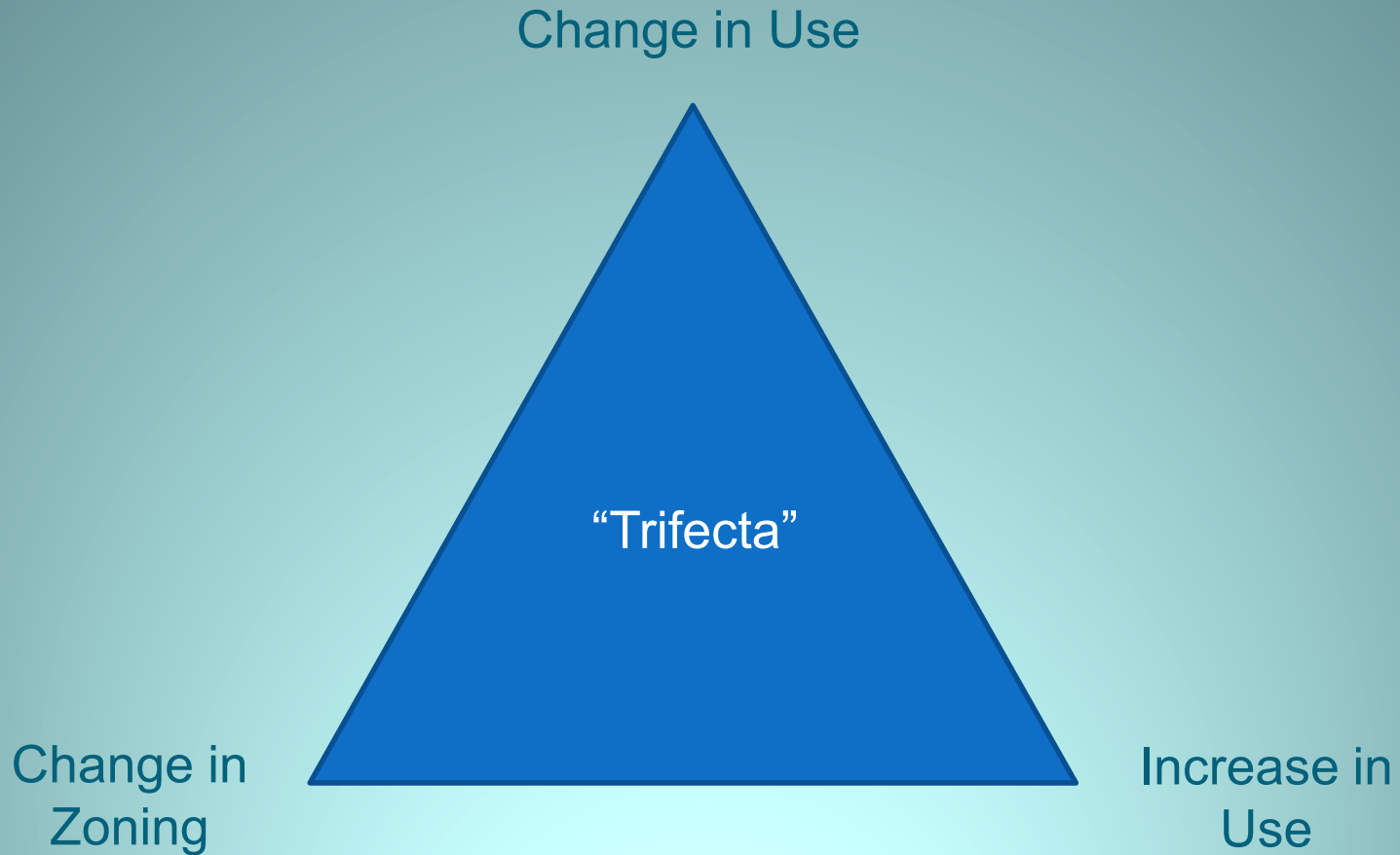
- Concepts presented to Board – Aug 2019
- Concepts to Water Demand – Dec 2019
- Decided to focus on determining total need & consider creating allocation
- TAC given “homework” – Feb 2020
- Garden Road parcels advanced by City of Monterey – March, April, May 2020
- SWRCB “warning” – March Water Demand
- Board award of allocation – May 18
- Staff discussion w/ SWRCB – May 19 & 29
- TAC and District Reviewed “Ask” – July 2

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.
- SWRCB recently said that likely only applies to relief from “reductions”, not from Condition 2 – But what was the intent?
- April 2012 SWRCB letter provides more open view

What is an Appropriate De Minimis Ask?

Table 1: Initial Responses

Jurisdiction	Request (AF)	Percent
Carmel-by-the-Sea	10	11%
Del Rey Oaks	No Response	0%
Monterey	20 (avg)	22%
Pacific Grove	31	33%
Sand City	10	11%
Seaside	21	23%
Unincorporated County	No Response	0%
NPS	N/A	0%
POM	N/A	0%
School Districts	N/A	0%
Total	92	100%

Table 2: Includes Non-Responders & Under Represented

Jurisdiction	Request (AF)	Percent
Carmel-by-the-Sea	10	9%
Del Rey Oaks	3	3%
Monterey	20 (avg)	18%
Pacific Grove	31	27%
Sand City	10	9%
Seaside	21	19%
Unincorporated County	5	4%
NPS	3	3%
POM	6	5%
School Districts	4	3%
Total	113	100%

What is an Appropriate De Minimis Ask?

- Production in 2009 = 13,432 AF
- Production Last 5-Year Avg = 9,825 AF
- Difference = 3,607 AF
- 2% = 72 AF
- Round to 75 AF

Table 3: Adjusted to De Minimis 75 AF

Jurisdiction	Allocation (AF)	Percent
Carmel-by-the-Sea	7	9%
Del Rey Oaks	2	3%
Monterey	14	18%
Pacific Grove	20	27%
Sand City	7	9%
Seaside	14	19%
Unincorporated County	3	4%
NPS	2	3%
POM	4	5%
School Districts	2	3%
Total	75	100%

Table 4: Weighting by Population

Jurisdiction	Population	Percent	Allocation (AF)
Carmel-by-the-Sea	3,833	4%	3
Del Rey Oaks	1,949	2%	1
Monterey	28,726	31%	21
Pacific Grove	15,349	17%	11
Sand City	544	1%	1
Seaside	34,301	37%	25
Unincorporated County	7,182	8%	5
NPS			2
POM			4
School Districts			2
Total	91,884	100%	75

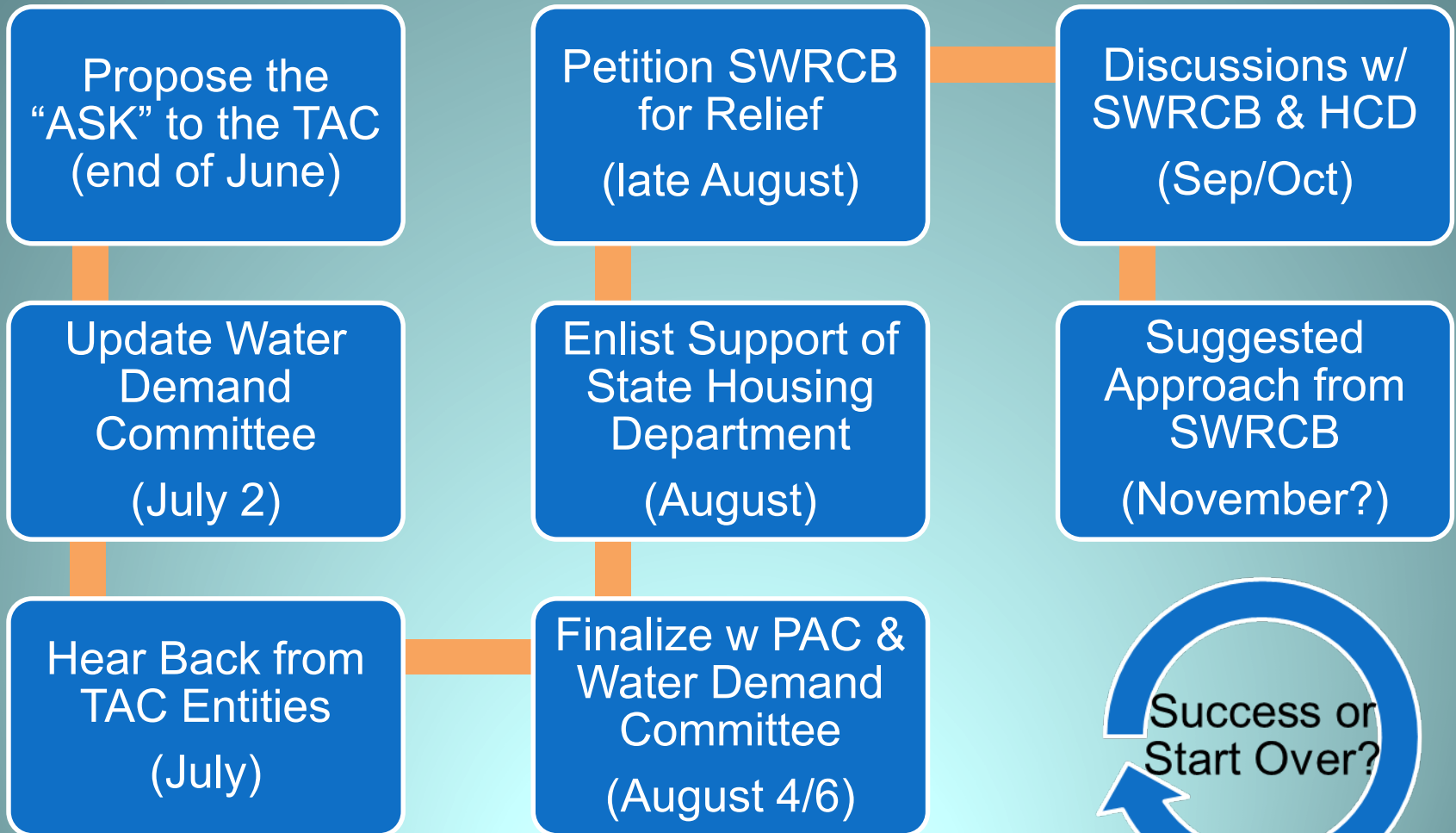
Table 5: Weighted by RHNA Goal

Jurisdiction	RHNA Goal	Percent	Allocation (AF)
Carmel-by-the-Sea	31	2%	1.5
Del Rey Oaks	27	2%	1.5
Monterey	650	47%	31
Pacific Grove	115	8%	5
Sand City	55	4%	3
Seaside	393	28%	19
Unincorporated County	125	9%	6
NPS			2
POM			4
School Districts			2
Total	1,396	100%	75

Table 6: Adjusted Weight by RHNA

Jurisdiction	RHNA Goal	Allocation (AF)
Carmel-by-the-Sea	31	3
Del Rey Oaks	27	3
Monterey	650	20
Pacific Grove	115	5
Sand City	55	4
Seaside	393	19
Unincorporated County	125	6
NPS		2
POM		5
School Districts		3
District Reserve		5
Total	1,396	75

Timeline



Other Steps Needed...

- A Coalition of Supporters
- 1 or 2 Staff Assigned to Join Meetings
- Letters of Support