

Meeting Summary—DRAFT

ULOP CRITERIA REFINEMENT WORK GROUP MEETING #2

Civic Center Galleria, West Sacramento

July 16, 2013 9:00am to 3:00 pm

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Action items

1. Center for Collaborative Policy will send notes of today's meeting. (Due: July 23rd)
2. DWR will prepare a revised draft ULOP Criteria for work group review. (Due: Aug 15th)
3. Next work group meetings are scheduled for Aug 22nd and Sept 20th, 9:00am-3:00pm.

Introductions and process review

The meeting facilitator, Adam Sutkus (Center for Collaborative Policy), welcomed members and interested parties to the meeting and led introductions around the room.

Mr. Sutkus reviewed the meeting's materials including a workbook with selected attachments, a collaborative process handbook, a compilation of suggested revision options for ULOP Criteria refinement, and a meeting evaluation form.

Mr. Sutkus reviewed the agenda. The meeting's purpose is to review in detail the results of key issues discussed in the three subgroups to the ULOP Criteria Refinement Work Group and structure next steps and timeframes for upcoming work. Mr. Sutkus reminded the members that today's process is directed at hearing and refining recommendations to DWR. DWR will compile and consider all the suggestions provided by the work group members in order to have a transparent process towards the development of the final criteria in the fall.

DWR welcome and opening remarks

Paul Marshall (Assistant Division Chief, DWR) thanked everyone for coming to the work group meeting and for those who attended the recent subgroups discussions. The subgroup meetings were very productive and suggestions from these meetings are now being brought to the larger work group to solicit additional perspectives. Mr. Marshall recognized the level of members' commitment. The project is on track to be completed by the September deadline. Mr. Marshall reported back on his discussion with DWR management regarding whether the criteria will be regulations or guidance. DWR management is keeping the option of turning the criteria to regulation open.

Mr. Marshall continued and said that until this point, the work group addressed issues independent of the document as a whole. Following this work group meeting and given the members input, the DWR ULOP team will prepare a revised draft ULOP Criteria for review.

Mr. Marshall concluded by thanking the work group members for their dedication to the process.

Michele Ng (Project Manager, DWR) reiterated that the focus of the work group meeting is to help establish technically correct and implementable criteria. The question regarding regulations should be put aside and the focus should be on technically correct criteria. Ms. Ng thanked the subgroup participants for sharing their expertise and providing suggestions. Much progress has been made due to the subgroups discussions.

A work group member asked for clarification on the timeline for developing the final ULOP Criteria. Ms. Ng explained that a revised draft ULOP Criteria will be prepared for the work group members to review prior to the next work group meeting in August.

Members observations and check-in

Guidance vs. Regulation Issue

A work group member asked for additional clarification on the issue of whether the ULOP Criteria will become regulation or guidance.

Mr. Marshall responded that at this time, there is no guarantee that the ULOP Criteria will become regulation. Rather, the ULOP Criteria will likely be used in conjunction with funding agreements between DWR and cities or counties that are protected by State Plan of Flood Control levees.

A member suggested that language be added to the ULOP Criteria to explain the distinction between mandatory vs. suggestive format and to clarify the guidance intent of the document until a decision is made to make it regulatory. The member stated that local agencies will benefit from understanding the suggestive rather than mandatory intent of the document.

It was clarified that until the ULOP Criteria is adopted as regulation, it is a guidance document. However, DWR's intent is to provide local agencies with direction on making prudent land use decisions with respect to flood management.

A member raised a concern that if the ULOP Criteria appears too restrictive, local agencies will opt out and prepare their own criteria.

Another member added that the introductory language in the ULOP Criteria should highlight DWR's intent to use the ULOP Criteria as a funding requirement because local agencies will follow the ULOP Criteria for funding purposes. Mr. Marshall reiterated that the ULOP Criteria will be included in funding agreements.

A member asked for clarification regarding the Urban Levee Design Criteria (ULDC) (DWR, 2012). Mr. Marshall responded that both ULDC and ULOP are tied together; the ULDC is an Engineering document and provides the specifications for levees and the ULOP Criteria lays out the applicability of findings. At this time, neither are regulations, and ULDC is included by reference to the ULOP Criteria. Ms. Ng added that DWR does not want to limit the option to make both a regulation in the future.

A member reminded the work group that the guidance vs. regulation issue is the number one issue that was brought up by the local agencies to DWR in this process. The member stated that local agencies would like to continue this discussion in the future to ensure that all views and arguments are fully expressed. There is a fundamental disagreement on whether or not the law authorizes DWR to make the ULOP Criteria a regulation. The local agencies and DWR, through this process, are developing a product that is implementable. The ULOP Criteria document should help local agencies meet the minimum requirements of the law. The local agencies should have the discretion on going beyond the minimum requirements of the law.

Mr. Marshall responded that he will consult with DWR staff on the request to have additional discussions with local agencies on the regulation vs. guidance issue.

Ms. Ng asked for clarification on the intent of this discussion- should the document be written as regulation? The member reminded the work group that the DWR response letter stated that there will be additional discussions on the regulatory vs. guidance issue.

A work group member reminded everyone that much progress has been made on the ULOP Criteria issues in the last few months and suggested that regardless of whether the document is guidance or regulations, the work group should proceed with the document as is. If DWR proceed with regulations, it will be a separate process and will require additional public comments. If the current revision process is successful—and the Criteria end up being implementable and appropriate and address both local and state interests—that regulations may ultimately not be needed.

A work group member added that if the document is written as an underground regulation, its intent will be confusing to local agencies who will view the document as something that they must comply with.

Mr. Marshall responded that local agencies need to know that they will be held to higher standards for Prop 1E funding and other future funding. Mr. Marshall continued and said that getting funding from the legislation (estimated \$17-20 billion) to revamp the flood control system in the Central Valley is a huge endeavor and DWR wants to make sure that local agencies are prepared to apply and receive funding. It is therefore important to create a document that is not watered down and that is implementable.

A member agreed that all share the interest in funding. The member encouraged DWR and local agencies to be flexible while working through the issues. The member asked to revisit the definition of withstanding flooding. A member commented that in the event of flooding damage, a city will be in a weak position and therefore, would prefer to follow guidance.

Another member stated that local agencies want the criteria to clearly identify the minimum requirements and clearly delineate the areas where the ULOP applies for funding. If there are other means of enhancing protection, they should be provided separately.

A member reiterated that the ULOP Criteria may be misunderstood by local agencies and some local agencies may decide that they do not have to comply with SB 5. This is wrong, and if cities don't follow the ULOP Criteria they will have to prepare their own guidelines. A member followed with an example that if shallow flooding is in area inundated by three-feet or less and another City sets shallow flooding as four-feet, the City is setting itself for additional damage.

Summary

- The request for additional discussion on the definition of withstanding flooding was noted.
- The request for narrative explaining the role of the ULOP Criteria as a funding requirement was noted.

Overview of suggestions received

Ms. Ng provided a broad overview of the subgroup discussions and the resulting compilation of suggested revision options for refining the ULOP Criteria.

Ms. Ng thanked members for their participation in the subgroup discussions which resulted in many good suggestions. The suggestions were compiled based on the iterative process of reviewing suggestions in each subsequent subgroup session. There was limited discussion on legislative intent and it was generally agreed that there is more control in developing a criteria that meets the SB 5 requirement than in a legislative process. The goal of this work group meeting is to review these suggestions and move forward with revising the ULOP Criteria. Ms. Ng concluded by thanking everyone for their time in reviewing and offering comments and recognized David Storer (American Planning Association) for his land use planning 101 presentation. Handouts from the presentation were available at the work group meeting.

A work group member shared that local agencies will need help in amending their General Plan. It will be helpful if DWR provided local agencies a model language to follow.

Summary

- The request for a DWR model language to aide local agencies in amending General Plan was noted.

Geographic scope

The geographic scope issue relates to the definition of the Sacramento-San Joaquin Valley and the use of the map shown in Figure 3-1 in the April 2012 Public Draft Criteria. Ms. Ng reviewed the three suggestions that were provided in the subgroup meetings. (Please refer to the Compilation of Suggested Revision Options for Urban Level of Flood Protection Criteria Refinement, July 10, 2013 for suggestions text.)

A member asked for clarification on the work group meeting goal. Mr. Sutkus replied that although it would be optimal to achieve as close to consensus on various items, these are recommendations for DWR to decide on and all perspectives will be captured in the notes even if consensus cannot be achieved. Ms. Ng added that the discussion is helpful in clarifying opinions.

The majority of the discussion focused on suggestion #3 regarding the potential elimination of the map (Figure 3-1 in the April 2012 Public Draft Criteria). A member reminded the work group that Subgroup 1 preferred the elimination of the map from the criteria because the removal of the map allows for local discretion.

It was generally agreed that currently there is no one map that clearly delineates the Sacramento-San Joaquin Valley as applied to the ULOP Criteria.

Different types of maps were considered in the discussion:

Watershed map

- Considered confusing in identifying which local agencies are in or out.

Hydrologic Regions map

- This is map currently in the document
- Provide map for local agencies to quickly determine that they are outside of the Sacramento-San Joaquin Valley, but it does not show which ones are in.
- If this map is used, provide a footnote that states that this map represents the hydrologic regions and is not the Sacramento-San Joaquin Valley. This map cannot be used to specify who is subject to the ULOP requirements.

CVFPP map

- A map of the Central Valley and foothills.
- The map designates the Board's jurisdiction.
- This is not an officially adopted map. The Board uses hydrologic map.

CVFPP PEIR Study Area map

- This map was prepared for a specific project and was not drafted to comply with SB 5.
- It is a project-based map rather than a legally defined area.
- Demonstrates a system wide approach and is the closest thing to describing the applicable area.

Hazardous floodways map

- Adopted by the Board.
- Regulations are being revised by the board.
- The survey lines indicate the extent of the hazardous floodways.

A quick straw poll in the room suggested that the majority of the members present would prefer the removal of the map from the ULOP Criteria. DWR staff responded that the criteria will allow for each local agency to draw a map for their own jurisdiction.

Although there was general agreement that the current map should be taken out, there were concerns among members that local agencies will want a map to determine if the ULOP Criteria applies to their jurisdiction. Members agreed that it is not an easy map to draw.

Members agreed that consensus on a map may not be established. Ms. Ng stated that DWR will not attempt to generate a map showing the legal boundaries as defined in the law. A member responded that regardless of the criteria deadline, local agencies will need to be able to answer the first question of whether or not the local agency is subject to the criteria. The group was reminded that geographic applicability is also tied to being within a flood hazard zone (i.e., mapped by FEMA), among other criteria.

A member asked how funding will affect the mapping issue. Mr. Marshall responded that this will depend on what the funding is designated for. Funding criteria will determine the applicable areas with the objective of responsible land use within the 200-year floodplain.

Summary

- Work group members agreed that currently there is no map that represents the area subject by law to the ULOP Criteria.

- Work group members preferred the removal of the existing map from the draft ULOP Criteria.
- A narrative can be added to the ULOP Criteria text to explain why a map is not available.

Shallow flooding definition

Areas only subject to shallow flooding, as provided by SB 1278 (2012), are not subject to ULOP requirements. Ms. Ng reviewed four revision suggestions to the definition that were provided by members during the subgroup meetings. (Please refer to the Compilation of Suggested Revision Options for Urban Level of Flood Protection Criteria Refinement, July 10, 2013 for suggestions text.)

A member suggested that a simple definition, as provided in Suggestion #3, is best with the deletion of the words 'outside local drainage areas.'

Members discussed the need to consider velocity with depth. There was a disagreement regarding the importance of velocity consideration. Members said that it is important to keep the definition as simple as possible. Having to define velocity will complicate the process and be difficult to establish.

There was a general agreement that the definition should be simple and that shallow flooding be defined as three feet or less.

A member pointed out that SB 1278 (2012) was driven by the fact that there are no maps. SB 1278 (2012) requires the State to prepare preliminary 200-year floodplain maps for urban areas in the event of the failure of the facilities of the State Plan of Flood Control. It was noted that these maps may not consider all sources of flooding relevant to the ULOP requirements.

A member stated that his local agency cannot determine shallow flooding because they do not have a map or resources to develop a map that will designate the shallow flooding area. The FEMA maps have channel elevations and therefore are not helpful in this determination.

Summary

- Work group members preferred suggestion #3 with a revision to simplify the definition: *Shallow Flooding - Means flooding that is limited to 3.0 feet or less.*

Local drainage definition

Areas only subject to flooding from local drainage, as provided by SB 1278 (2012), are not subject to ULOP requirements. Ms. Ng reviewed five revision suggestions to the definition that were provided by members during and following the subgroup meetings. (Please refer to the Compilation of Suggested Revision Options for Urban Level of Flood Protection Criteria Refinement, July 10, 2013 for suggestions text.)

A member offered context for the local drainage definition. The member believes that SB 1278 (2012) was drafted to include exemptions for local drainage and intended for that to be defined

in the ULOP Criteria. Suggestion #3 was offered to designate local drainage as drainage that is not from levee breach or overtopping but rather as interior drainage. The focus should be on interior drainage behind levees that meet the urban level of flood protection and exclude areas behind levees and other small watershed areas.

The work group considered basing the definition on area: A member questioned whether a small area (1 square mile) would have enough flooding to make a difference.

A member offered a definition based on the FEMA definition with the exception that it should be based on 200-year (not 100-year) events.

A question was raised on the definition of tributary and local drainage. If primary and secondary waterways are combined they may create huge watersheds and will not meet the intent of large leveed areas.

A member raised the option of using flow (800 cfs for 10 years) as a definition similar to the U.S. Army Corps of Engineers.

A member suggested that the three foot definition will address most local drainage areas. Shallow flooding and flooding from local drainage are closely tied. Suggestion #4 brings the two definitions together. Suggestion #4 relies on the FEMA definition and is intended to address watersheds that are less than 1 square mile; this should not be applied to the ULOP Criteria.

A member suggested the following definition: "Areas subject to flooding behind levees interior drainage as defined by FEMA behind a 200-year certified levees."

This definition was further revised:

- "Local drainage area means area of interior drainage where 200-year level of flood protection is provided by levees and areas not protected by levees."
- A distinction was made that the term is local drainage not local drainage area.
- "Local drainage means flooding from areas where 200-year level of flood protection is provided by levees and from areas not protected by levees."

A member reiterated that the law did not provide definitions. Sources of flooding should be excluded if they do not cause catastrophic flooding. The intent is to focus on areas behind levees where there is no breach.

Summary

- Workgroup members preferred the following local drainage definition: *Local drainage means flooding from areas where 200-year level of flood protection is provided by levees and from areas not protected by levees.*
- This issue needs to be discussed further.

Urban area/developed area definitions

Ms. Ng reviewed the discussion on urban area/developed area definitions. The subgroups provided two suggestions. (Please refer to the Compilation of Suggested Revision Options for Urban Level of Flood Protection Criteria Refinement, July 10, 2013 for suggestions text.) It was

decided that the current definition in the April 2012 Public Draft Criteria is sufficient and there was no further discussion on this topic.

Infill and small/minor project exemption

The subgroup discussion on infill and small/minor project exemption focused on adding conditions for infill into the ULOP Criteria while exemptions for small/minor projects were deferred. It was suggested that the term exemptions be replaced with conditions. Ms. Ng reviewed two key suggestions that were provided by members during and following the subgroup meetings. (Please refer to the [Compilation of Suggested Revision Options for Urban Level of Flood Protection Criteria Refinement](#), July 10, 2013 for suggestions text.)

A member raised a concern regarding an unintended consequence of the law by which single infill projects may have to pay disproportionately for flood control protection for a large area. It is important to identify ways to ensure that infill projects can be approved without allowing development to occur everywhere. The term “withstand flooding”, as used by FEMA, may provide such flexibility (Suggestions #2).

A member asked for clarification on the difference between dry and wet floodproofing. Wet floodproofing allows water to go in and out of a structure whereas dry floodproofing prevents water from entering a structure. Wet floodproofing utilizes water-resisting materials and vents to help direct water without extensive damage to the structure.

A member summarized three ways in which cities and counties can make findings related to the ULOP: (1) already protected, (2) impose conditions to provide 200-year protection, and (3) demonstrate adequate progress. The second option of imposing conditions is being discussed and there are several options including elevating structures above the 200-year floodplain. It was suggested that flood insurance could also be an option for imposing conditions for 200-year flood damage protection. It was suggested that the distinction between residential and nonresidential infill be taken out.

It was stated that the suggested language implies the use of wet floodproofing can only be used for infill projects only, but it should be allowed for other types of projects. The law was intended to limit development in areas without a 200-year flood protection rather than curb infill projects where development is encouraged. It may be sufficient to use the FEMA definition for 100-year level of protection and add one foot.

A member stated that the law, as written, allows flexibility for infill areas and the term withstand flooding does not mean to prevent flooding. The local agencies should be given the discretion to be more restrictive than SB 5 (2007) and impose their own standards.

A member suggested that a legislative fix is needed for this issue. Ms. Ng responded that the legislative fix can be addressed outside of this work group, but DWR would like the work group’s input refining the ULOP Criteria where possible. A member suggested that narrative language be added to the document to explain the flexibility in infill areas.

A member was concerned that this will result in inconsistencies. Mr. Marshall said that DWR may be willing to bring some of these suggestions of providing flexibility for some types of infill

to legislature. A member countered that this may not require a legislative fix since local agencies can provide these flexibilities today. Withstanding flooding refers to ensuring that property damage is less expensive than replacing structures. Avenues for imposing insurance were discussed. Mr. Marshall added that imposing insurance as a condition to development may not meet the intent of the law.

Summary

- Work group members did not agree on how to proceed. The issue was set aside because it may require a legislative change.
- The definition of withstanding flooding will be revisited by DWR.

Permit scope

The subgroup discussion focused on the scope of discretionary permits subject to the ULOP requirements. Ms. Ng reviewed two key suggestions that were provided by members during the subgroup meetings. (Please refer to the Compilation of Suggested Revision Options for Urban Level of Flood Protection Criteria Refinement, July 10, 2013 for suggestions text.)

The permit scope issue, also known as the comma issue, is related to the language in California Government Code Section 65962(a). As explained by a member, all discretionary permits, regardless of type, are subject to SB 5 (2007) even though discretionary permits include many activities that would not increase flood risk. Like ministerial permits, some members believe that discretionary permits for new residences should only be subject to ULOP requirements. Ms. Ng explained that DWR's position is that commercial/industrial infrastructure provides jobs and would represent an economic loss if flooded, and building this infrastructure could potentially encourage development nearby.

A member stated that the comma issue is one of the top issues that local agencies highlighted. It is recognized that the legislative process is frustrating and that it may not be the best way to address the comma issue particularly if it can be addressed through the ULOP Criteria.

A member asked if DWR is willing to discuss the comma issue and Ms. Ng responded that DWR is open to discussion on how this can be addressed through the criteria. A member recommended suggestion #1, except striking out "legislative, quasi-judicial or ministerial":

"A discretionary permit or other discretionary entitlement, or a ministerial permit that would result in the construction of a new residence means any local agency act that would result in the construction of a new residence."

A member said that there are three parts to the law with regard to new development in green fields: (1) the development agreement process, (2) the mapping process, and (3) the permitting process. The member considers the permitting process to be focused on residential permitting and interprets the legislation as not intending to address non-residential permitting. The comma should not be in the text- it must have been an oversight.

The issue of infill exemptions was discussed as it relates to the permitting process was discussed by the members. It was unclear if this process takes precedence over infill

exemption. Redevelopment will require a new map and permits. When the intent is health and safety, the focus should be on new development. Work environments may not merit as much concern for health and safety. The focus is on life risk and therefore applies to residential development. The findings are made where there is a great financial investment.

A member suggested that restrictions can be made when local agencies amend their General Plans and Zoning Ordinances.

There was disagreement on whether or not the language reflects the intent of the law but work group members agreed to the language as stated in Suggestion #1. Mr. Marshall added that although this is not DWR's preferred language, he will recommend it to DWR management.

Summary

- Work group members agreed to support Suggestion #1 with modification that read: *"A discretionary permit or other discretionary entitlement, or a ministerial permit that would result in the construction of a new residence means any local agency act that would result in the construction of a new residence."*
- Mr. Marshall will recommend the language to DWR management.

Adequate progress

The subgroup discussions on adequate progress focused on requirements as specified in the California Government Code Section 65007(a). Ms. Ng reviewed the four suggestions that were provided by members during the subgroup meetings. (Please refer to the Compilation of Suggested Revision Options for Urban Level of Flood Protection Criteria Refinement, July 10, 2013 for suggestions text.)

Members generally agreed that it is premature to pursue legislative change at this time and focused on potential changes to the ULOP Criteria.

A member stated that the problem with the legislation is that development may be allowed to occur before flood protection is in place. The ULOP Criteria, as written, does not allow much flexibility. The law states that a finding of adequate progress cannot be made without something in place and that planning is insufficient. Ultimately, this needs to be a legislative fix rather than an administrative fix. A member reiterated a subgroup exchange that suggested that local agencies can demonstrate adequate progress by having a plan in place even if critical elements are scheduled to be built in the future. There was a disagreement on whether or not that would meet the adequate progress requirement. In infill areas, funding may be the limiting factor.

The discussion focused on Suggestion #4. The following comments were made:

- Suggestion #4 does not change the definition of adequate progress and the need for legislative fix remains.
- The preference, at this time, is to defer the legislative fix until there is a better understanding of how to change the deadlines.

- The three bullet items for ULOP Criteria language changes under Suggestion #4 are not specified by the law and will not require legislative changes.
- Remove the requirement for public review as provided in Suggestion #4.

Summary

- Legislative changes should be deferred at this time.
- ULOP Criteria language should be removed as stated in Suggestion #4.

Procedure to develop substantial evidence

The subgroup discussions on developing substantial evidence focused on the reporting and peer review requirements starting on page 3-33 of the April 2012 Public Draft Criteria. Ms. Ng reviewed the three suggestions that were provided by members during and following the subgroup meetings. (Please refer to the [Compilation of Suggested Revision Options for Urban Level of Flood Protection Criteria Refinement](#), July 10, 2013 for suggestions text.)

Removal of requirements

A member stated that cities and counties subject to SB 5 (2007) must make a determination based on substantial evidence in the record. There has to be a basis for approval such as engineering reports reviewed by independent expert panels. The ULOP Criteria, as written, requires independent expert panels only when levees or floodwalls are used to provide an urban level of flood protection to more than 5 acres. The law is vague and leaves it for local agencies' discretion. Other construction projects, such as bridges, are designed by licensed engineers, and are checked in-house or by consultants as decided by the local agency. Requiring an expert panel review is beyond what local agencies can do. This requirement should be taken out and be consistent with review of other types of projects.

It was pointed out that these are not requirements but rather suggestions for local agencies consideration when compiling substantial evidence.

Mr. Marshall explained that DWR believes that these requirements are consistent with DWR's standard of care. The range to which this requirement applies needs to be considered. The intention was for independent review to be required for findings covering large areas rather than for individual homes.

The discussion suggested that the intent of the requirements is to maximize the State interest (Suggestions #3) for large construction projects.

Several members concurred that thresholds should be left to the discretion of the local agencies' engineers. The plan-checking process is already in place and the law allows discretion for the appropriate professionals to review plans. DWR can impose other conditions when the ULOP Criteria is used as a funding requirement but under normal circumstances the local agencies should be allowed to use their own process.

Mr. Sutkus asked if DWR may be able to provide some draft language that can be revisited by the group since there is no one suggestion that DWR feels comfortable with.

Mr. Marshall restated that DWR's position is to ensure reasonable care and that local agencies will need to comply with these requirements for funding purposes. Mr. Marshall was hoping that there will be some suggestions on how to modify the language rather than omit it all together (Suggestion #1).

A member asked at what size project or modeling effort does DWR use independent review. The ULOP Criteria refers to an area of more than 5 acres. Mr. Marshall was unsure of the exact number, but responded that he has seen DWR have peer review of models that cover areas less than fifty acres and for small tracks of land.

A member added that the ULOP Criteria should not characterize a threshold and leave it to the discretion of local agencies. DWR can specify threshold as a funding requirement.

The intention is to provide peer review at the program-level rather than single homes. Mr. Marshall explained that these requirements were viewed as a system. Stockton is an example where there are some non-project levees and DWR is looking at additional modeling for non-project levee areas. DWR is analyzing the area as a system. A member agreed that viewing the area as a large system makes sense but is not always feasible. There may be subdivisions of 30 to 40 lots in the middle of town and this type of review may be prohibitively expensive. Requiring local agencies to provide peer review can be construed as DWR mistrust of the local agencies' capacity.

Summary

- Members did not come to an agreement on this topic.
- DWR will revise ULOP Criteria language based on the discussion and will provide it to the work group members for review.

Other technical topic: Parcel map language

The subgroup discussions clarified the technically correct characterization and referencing of parcel maps in the ULOP Criteria. It was suggested that the appropriate reference is "parcel map for which a tentative map was not required." Members concurred with the clarification.

Other technical topic: Elevation requirement

The subgroup discussions focused on elevation and freeboard requirements on page 3-43 of the April 2012 Public Draft Criteria. Ms. Ng reviewed the suggestions that were provided by members during and following the subgroup meetings and reiterated DWR's desire to use existing regulations to the extent practicable. (Please refer to the [Compilation of Suggested Revision Options for Urban Level of Flood Protection Criteria Refinement](#), July 10, 2013 for suggestions text.)

Members agreed that a freeboard is a good management practice but should not be a requirement. The goal should be to fix the levees system rather than elevate specific structures. The law designates a 200-year level of flood protection without a reference to

freeboard. The freeboard requirement should be at the discretion of the local agencies and done as a choice, not a mandate. Agencies should continue to have discretion on this matter.

Summary

- Members concurred that the freeboard requirement should be removed from the ULOP Criteria.

Other work group issues

Future meeting devoted to the issue of guidance or regulation

Mr. Marshall suggested that a conversation with DWR and local's attorneys will likely not bring a resolution to this issue. A member reiterated that not all reasoning has been shared with DWR and that the ULOP Criteria should be written as guidance. It was clarified that if DWR chooses to make the ULOP Criteria into regulations, those regulations will go through the typical process and will be open for comment and revision at that time.

Mr. Sutkus reminded the members that if the work group is successful on coming to an agreement on key items, the need for regulation may diminish.

Mr. Marshall reiterated that DWR wants to make its own imperatives and characterization of the document.

A member reminded the work group members that it was suggested to add a narrative at the beginning of the ULOP Criteria to explain the regulation vs. guidance distinction.

Withstanding flooding definition

A member reiterated a request for DWR to revisit the definition of withstanding flooding because the definition may be too narrow. DWR staff will review the definition.

DWR assistance to locals

Mr. Marshall shared that the State has allocated funding for developing a model language to assist cities and counties in updating the General Plans. Allan Oto is the DWR project manager for this effort. DWR has retained a consultant, Atkins, who compiled the document entitled Implementing California Flood Legislation into Local Land Use Planning: A Handbook for Local Communities (October 2010), to develop a model language. This text will be available for local jurisdictions to use as they see fit. The language will be developed and reviewed by consultants, checked by local planners and professional organizations, and then shared with members. DWR hopes to involve local agencies in this process.

Members discussed the need to amend the General Plan (through resolutions) and have a consistent Zoning Ordinances as required by the 2007 flood management legislation.

A member asked if DWR will help outside jurisdictions with map development. Mr. Marshall replied that SB 1278 (2012) required DWR to invest an additional \$6 million in modeling and that funding is already overspent. DWR is using modeling efforts in Stockton to develop

modeling procedures that can be used by other jurisdictions outside of the SPFC protected areas.

A member shared that amending the General Plan is difficult without a resolution on the time constraints and mapping. If local agencies cannot afford the mapping, it would be helpful to be given a time extension. Mr. Marshall shared that the mapping issue was discussed in a recent meeting with Senator Wolk without much support.

Re-visit local drainage definition

A member suggested that the definition for local drainage may be set by exclusion: “Local drainage does not include flooding from riverine sources.”

Mr. Marshall asked for clarification on the definition of riverine sources. It was further stated that using terms and assigning definitions to them (creeks/rivers) may result in inconsistencies.

A member suggested using the State Plan of Flood Control Descriptive Document (2010) map and the definition of the Sacramento River Basin tributaries.

The purpose of this definition is exclusion and clarification of flooding sources rather than areas.

The work group referred to Suggestion #3: “Local drainage means interior drainage meaning flooding from non-river sources consistent with FEMA regulations and guidelines.”

A member suggested further revision to reflect the exemption of flooding behind levees with 200-year level of protection: “local drainage means interior drainage from non-river sources”

A member suggested the consideration of peak flow but other members commented that it would require hydrologic analysis.

The discussion turned to drainage area and different sizes were again considered (10 or 15 square miles). This was viewed as confusing, particularly in defining watersheds and sub watersheds.

Another revision was offered to clarify the definition: “local drainage means all sources other than from a levee failure.”

The work group members did not agree on one definition. DWR will review all suggestions and provide language for further review.

Goals for next meetings

DWR will review all subgroups and work group suggestions and revise the draft ULOP Criteria. The revised draft ULOP Criteria will be shared with the work group prior to the next meeting in August. The August work group meeting will focus on the revised document. An additional work group meeting is scheduled for September to continue the refinement of the criteria.

Next steps and closing thoughts

Mr. Marshall thanked the participants for attending the meeting and providing important input to the ULOP criteria refinement process.

Next meetings are scheduled for:

- **Thursday, August 22nd, 9:00 am - 3:00 pm**
- **Friday, September 20th, 9:00 am - 3:00 pm**

Attendees

Members

1. George Booth, Sacramento County
2. Nick Cammarota, California Building Industry Association
3. Andrea Clark, Downey Brand
4. Brian Keating, Placer County
5. John Maguire, San Joaquin County
6. James Nelson, Stormwater Consulting Inc.
7. Barry O'Regan, Peterson Brustad Inc.
8. Ali Porbaha, Central Valley Flood Protection Board staff
9. John Powderly, City of West Sacramento
10. Antero (Terry) Rivasplata, American Planning Association (ICF International)
11. Don Rust, City of Oroville
12. David Storer, American Planning Association (Development Advisory Services, Inc.)
13. Carl Walker, City of Roseville

Interested Parties

14. Karen Keen, California State Association of Counties
15. Jim McDonald, City of Sacramento (substitute for Connie Perkins)

DWR ULOP Team

16. Paul Marshall, DWR
17. Michele Ng, DWR
18. Allan Oto, DWR
19. Laura Hollender, DWR
20. Ward Tabor, DWR
21. Alan Waltner, Law Offices of Alan Waltner
22. Yung-Hsin Sun, MWH
23. Rebecca Guo, MWH

Facilitation Team

24. Adam Sutkus, CCP-CSUS
25. Orit Kalman, CCP-CSUS