

ULOP CRITERIA REFINEMENT WORK GROUP MEETING #3

Civic Center Galleria, West Sacramento

August 22, 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: Sept 5th)
2. Members will provide additional written comments on the August 2013 ULOP Criteria to Michele Ng. (Due: Sept 6th)
3. DWR will finalize ULOP Criteria based on work group members input. (Due: Sept 13th)
4. Next work group meeting is scheduled for September 20th, (Note: a half day meeting is being considered—tentatively 9:00am-12:00pm).

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 packet which included the meeting agenda and ground rules, the August 2013 Urban Level of Flood Protection (ULOP) Criteria, and a meeting evaluation form. A compilation of previous work group and sub group meetings notes was available for reference.

Mr. Sutkus reviewed the agenda. The meeting's purpose was to review the August 2013 ULOP Criteria that was developed with consideration of work group members' suggestions. Mr. Sutkus reminded the members that today's process will focus on clarifying language in the August 2013 ULOP Criteria.

DWR Welcome and Opening Remarks

Paul Marshall (Assistant Division Chief, DWR) thanked everyone for coming to the work group meeting. Mr. Marshall asked that the work group remain focused on pursuing mutually agreeable language and wrapping up the ULOP Criteria in order to meet its deadline.

Members Observations and Check-In

Mr. Sutkus asked work group members for general observations and comments about the process thus far. One work group member commented that the California Department of Water Resources (DWR) has done a good job with the document and thanked DWR for the effort, with the understanding that some items could not find resolution and may require legislative action in the future.

Overview of August 2013 ULOP Criteria Document

Michele Ng (Project Manager, DWR) thanked work group members for their contribution to the drafting of the August 2013 ULOP Criteria. Ms. Ng provided an overview of the August 2013 ULOP Criteria. The document is organized into three sections:

- Section 1 is an introductory summary and provides context to the criteria.
- Section 2 outlines minimum requirements to demonstrate an urban level of flood protection.
- Section 3 provides additional considerations for local agencies.

Ms. Ng acknowledged that work group members were only given a short time to review the August 2013 ULOP Criteria prior to this meeting and asked members to provide additional comments by no later than September 6th to ensure that comments are considered in finalizing the ULOP Criteria. Ms. Ng concluded by thanking members who have reviewed and commented on the August 2013 ULOP Criteria thus far and encouraged the members to share these comments with the work group during the meeting.

ULOP Criteria Document Review

Ms. Ng. reviewed each section of the August 2013 ULOP Criteria and solicited members' comments for clarification. The following are summarized comments and issues raised by work group members.

Clarification on the document structure. Section 2 reflects how DWR would demonstrate an area has urban level of flood protection. Section 3 reflects more detailed considerations that are consistent with Section 2. Work group members offered the following comments:

- Work group members generally agreed that that the introductory section does a good job explaining the purpose of the Criteria that cities and counties can rely on for making findings.
- A member reiterated that Section 2 should only provide for minimum requirements to comply with the law. Items that DWR views as prudent should be part of Section 3.
- Local agencies may choose other means of complying with Senate Bill (SB) 5 (2007); legislative text is provided in the Introduction and this issue is explained in page 1-1, Legislative Background.
- A member suggested that Section 2 and Section 3 need clearer separation. If Section 2, as is, is the minimum requirements, most local agencies will elect to develop their own criteria and this process would have been a waste of time.
- A member continued the discussion on the distinction between Section 2 and Section 3. From the planners' perspective, any decisions on which the Land Use law is silent are made at the discretion of the local agencies. If this Criteria is a road map with intent on developing legislation, the Criteria should not expand beyond the limited requirements of the law. The law allows flexibility on how local agencies make findings.
- A member asked why there is a distinction between Section 2 (must do) and Section 3 (may do). The splitting is very suggestive and DWR may want to reconsider the distinction.

Section 1. Introduction

Sacramento and San Joaquin hydrologic regions map and narrative. Ms. Ng explained that the label of Figure 1-1 was changed to more accurately describe the map. Work group members offered the following comments:

- The map is still vague and may result in some cities determining incorrectly whether the ULOP requirements do or do not apply.
- The definition in the law may not mean watershed. The map depicts the watersheds.
- A member questioned the need for 'within' in the text referencing the map (pg. 1-3).
- It may be helpful to add language about including the valley and tributaries.
- A member suggested adding the phrase 'within the valley' to the definition of the Sacramento-San Joaquin Valley.

- The Consumnes River is an example of a tributary to the Sacramento-San Joaquin River system.
- A member stated that local agencies may rely on Federal Emergency Management Agency (FEMA) maps to determine if they are subject to the requirement to make a finding due to their location more so than whether or not they are within the Sacramento-San Joaquin Valley. Yet, regardless of FEMA maps, areas within the Sacramento-San Joaquin Valley are still subject to the requirements of the legislation to amend their General Plans.
- A member reminded the work group that, in previous discussions, some felt that this map is slightly better than no map at all.
- A member questioned the reference to 'informational maps' (pg. 1-3, 2nd paragraph).

Incorporation of the Urban Levee Design Criteria by Reference

- Pg. 1-5, 3rd paragraph: A member commented that the wording 'when necessary' and 'may develop' are open ended and questioned whether a city that elects to move forward with its own criteria will be subject to a review process and DWR approval.

Additional DWR technical assistance

- Members suggested that on page 1-5, last paragraph, the language be modified to be consistent with California Government Code Section 65302.9(c).
- A member questioned whether a city that decides to develop a 200-year floodplain map for urban infill will be subject to California Environmental Quality Act (CEQA) findings requirements
- A member suggested that the text reflect that local agencies can request DWR assistance with review.
- A work group member stated that it is up to local agencies to determine if a property is within the 200-year floodplain. The *Urban Levee Design Criteria* (DWR, 2012) is referenced in establishing minimum engineering standards (Section 2). This affects how local agencies develop maps. Local agencies need to know whether or not they can rely on the SB 1278 (2012) maps for flood structure and facilities.
- A member added that local agencies need to know if they can rely on the SB 1278 (2012) maps to identify if levees meet ULDC requirements.
- A member suggested that an informational sheet regarding the SB 1278 (2012) maps would be helpful.
- A member commented that the review requirements for a finding, as stated in Section 2, are beyond the intended requirements of the law.
- A member suggested that the SB 1278 (2012) maps be referenced in Section 2 as sources of information.

Section 2. Urban Level of Flood Protection Criteria

- A member asked for clarification of the term 'standard of care'.

- A member stated that DWR is not a regulatory body, but in this case DWR has interpreted how to issue a policy to carry out the law.
- A member explained that the Professional Engineers Act gives engineers the authority to stamp their approval and therefore there is discomfort with the requirement of a review panel which is outside of the Act's scope.
- A member added that DWR is prescribing how to make a finding and asked if that is consistent with local authority.

Affected land use decisions.

- A member suggested combining bullets 2 and 3 on pg. 2-3, section 2
- Another member added that the bullets are fine but a suggestion was made to revise 'projects' to 'all development projects' since California Government Code Section 65962 is part of a broader article and chapter specifically on development projects.

Applicable location. Comments were provided by members regarding language on page 2-4, bullet 4, regarding shallow flooding.

- A member suggested that the reference to a depth of 3-feet should be for a 100-year flood event for consistency with FEMA or not tied to a flood event at all.
- A member offered that the 200-year flood event requirement will create an administrative problem since many areas will have to be remapped. It is simpler to interpret FEMA shallow flooding zone right now. It would be easier to use the FEMA's 100-year flood maps.

Guest Speaker Presentation

Christopher Cabaldon, Mayor of West Sacramento, addressed the work group and shared his perspective on flood control issues. His key theme for addressing flood control is to balance safety, well-being, and economic growth in affected communities. The discussion on the document continued after the Mayor's comments.

Findings. Members raised concerns regarding the language on Page 2-6, FND 2, bullet 1 and provided the following comments:

- Members were concerned with the requirement for a review period of 5 years and an effective period of 20 years.
- A member stated that for levee improvements, a finding should be done only once.
- A member was concerned about the logistics of the review within the permit issuance process. Fees are only collected during the permitting process while improvement costs may be identified in the future.
- A member added that this schedule is not workable. It was suggested that pg. 2-6, FND, 1st bullet language be revised to state that the original finding should remain valid until it is superseded.
- A member was concerned about funding sources for levee and floodwalls maintenance that may be needed to support future findings.

- A member summarized that local agencies do not want to make a finding with every project.
- A member suggested that the language be revised to clarify DWR's intent for the review and duration of findings.

Substantial evidence. Ms. Ng asked work group members to identify any language that is potentially unclear.

- A member asked for clarification on flood management facilities. The appendix provides a definition that includes a list of items with some that may not require peer review (such as pipes, culverts, etc.). Requiring some of these items included in this definition to be peer reviewed is not standard engineering practice.
- A member suggested revising the definition to narrow down the list to appurtenant structures.
- A member suggested that language be added to the ULOP Criteria to explain the role of the SB 1278 (2012) maps.
- A member, not present at today's meeting, provided written comments in advance for pg. 2-9, EVD 2, bullet 2 indicating that a developer, subdivider, permittee or their agent must satisfy the conditions imposed on or before the time of final inspection or the issuance of a certificate of occupancy for the habitable building to which the conditions apply.
- A member explained that local agencies do not have a choice regarding imposed conditions.
- A member added that local agencies issue permits and the permittees are bound by the requirements. Adding a bullet that states that the permittee has to agree to comply is redundant.
- A member suggested that written acknowledgement from previous owners may be helpful when property zoning is changed.
- A member suggested that it may be more appropriate to consider this bullet item as part of Section 3 rather than Section 2.
- A member stated that requirements can only be imposed on new development and therefore suggested changing the language on pg. 2-11, EVD 5, bullet 2 from 'residents' to 'new residents' in order to spread the cost of the ULOP process.
- A member stated that this requirement should be at the discretion of local agencies and should be placed in Section 3.

Section 3. Other Considerations

Affected land use decisions. A member provided DWR with some written corrections regarding page 3-1, Table 3-1. It was further suggested that the table be taken out.

Sources of flooding. Members did not provide comments.

Sacramento-San Joaquin Valley definition. Members did not provide comments.

Source of flooding. Members agreed that shallow flooding issues were sufficiently covered in the discussion of Section 2.

Findings. Members suggested that language be consistent with DWR's intent. A member asked how the 20-percent reduction was determined in Page 3-6, significant physical changes section.

Additional comments were provided for clarifying specific text:

- Page 3-9: A member stated that the language regarding panel review is the same as in Section 2. The language, therefore, seems redundant.
- Page 3-10, Exceptions to the ULDC: A member stated that the intent is to allow exceptions to the design and not the procedure. As written in the ULOP Criteria, DWR grants an exception as long as ULOP is provided. The member suggested that the language replace "urban" with "200-year" level of flood protection.
- A member suggested that Section 3 may be setting local agencies up for legal exposure.

Ms. Ng thanked the work group members for their comments and their help in identifying areas for clarification. Additional written comments from members are encouraged and will be considered in the next revision if received no later than September 6th.

- A member added that it would be helpful if the appendix include the complete relevant statutes.
- A member asked for clarification on the purpose of the last meeting.
- A member raised concerns regarding the representation of the work group process in the document.
- Some members stated that they would prefer to not be listed in the document.

Information Sharing: Model language development for General Plan updates

Tracey Ferguson (Consultant, Atkins Global) presented on the development of DWR's General Plan model language guidance document. It will provide model language and sources of information for cities and counties to use as they update their General Plans per legislative requirements. The document will undergo the same review process as the *Implementing California Flood Legislation into Local Land Use Planning: A Handbook for Local Communities* (Handbook) (DWR, 2010) and is anticipated to be completed and released to the public in October 2013. An announcement will be publicly made when the document is complete.

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 meeting is scheduled for:

- **Friday, September 20th, 9:00 am - 12:00 pm** (*note suggested half-day timing*)

Attendees

Name	Affiliation
Work Group Members	
Booth, George	Sacramento County
Clark, Andrea	Downey Brand
Cocke, Mark	City of Woodland
Countryman, Joe	Central Valley Flood Protection Board Member
Maguire, John	San Joaquin County
McDougall, Paul	California Department of Housing and Community Development
McDowell, Mike	City of Stockton
Morgan, Scott	Governor's Office of Planning and Research
Nelson, James	Storm Water Consulting, Inc.
O'Regan, Barry	Peterson Brustad, Inc.
Perkins, Connie	City of Sacramento
Porbaha, Ali	Central Valley Flood Protection Board Staff
Powderly, John	City of West Sacramento
Storer, David	American Planning Association
Tatayon, Susan	The Nature Conservancy
Walker, Carl	City of Roseville
Interested Parties	
Wilson, Darren	City of Elk Grove
McDonald, Jim	City of Sacramento
DWR ULOP Team	
Marshall, Paul	DWR
Ng, Michele	DWR
Moquette, Lynn	DWR
Waltner, Alan	Outside Legal Counsel
Hollender, Laura	Legal Counsel
Sun, Yung-Hsin	MWH
Guo, Rebecca	MWH
Sutkus, Adam	CCP
Kalman, Orit	CCP
Ferguson, Tracey	Atkins