

Meeting Summary—DRAFT

ULOP CRITERIA REFINEMENT WORK GROUP MEETING #4 Civic Center Galleria, West Sacramento September 20, 2013 9:00am to 12:00 pm

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Action Items

1. Center for Collaborative Policy will send notes of today’s meeting. (Due: Sept 27th)
2. Members may provide additional written comments on the ULOP Criteria to Lynn Moquette, Water Resources Engineer, DWR Lynn.Moquette@water.ca.gov (Due: Oct 18th)
3. DWR will post final ULOP Criteria on website <http://www.water.ca.gov/floodsafe/urbancriteria/>. (Due: TBD)
4. DWR will present the ULOP Criteria to the Central Valley Flood Protection Board. (Due: TBD)

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 ULOP Criteria, the ULOP Criteria with tracked changes, and a meeting evaluation form.

Mr. Sutkus reviewed the agenda. The meeting's purpose was to highlight final revisions to the ULOP Criteria and discuss next steps and the roll-out process for the ULOP Criteria.

DWR Welcome and Opening Remarks

Paul Marshall (Assistant Division Chief, DWR) thanked everyone for participating in the work group meeting. Mr. Marshall commented that members' input and comments were all considered in the final revision of the ULOP Criteria.

Members Observations and Check-In

Mr. Sutkus asked work group members for general observations and comments regarding the process thus far. One member reiterated the need for discussing the ULOP Criteria roll out process. Another member inquired regarding the status of the General Plan model language guidance document that is being developed by DWR. Mr. Marshall replied that the guidance document is in progress and DWR will keep the work group members advised regarding the anticipated timetable. Allan Oto (DWR) is the Project Manager.

Overview of the ULOP Criteria

Michele Ng (Project Manager, DWR) thanked work group members for their contributions to the revision of the ULOP Criteria. Significant changes were made to the ULOP Criteria based on the input of members. DWR appreciates the help and contribution of the work group throughout the last several months.

Below, for each ULOP Criteria section, are summaries of revisions and additional comments that were provided by members at the meeting:

Section 1. Introduction

Ms. Ng highlighted the following key revisions to Section 1:

- The 200-year maps were renamed as California Water Code Section 9610(d) maps and are described on Page 1-7.
- The maps reflect a snapshot in time and existing conditions. The maps do not include all potential sources for flooding.

- Local agencies are welcomed to access and use DWR models and tools.
- The use of these maps in making findings will require an independent panel review.

A discussion on the maps and how well modeling and mapping efforts reflect levee failure followed. DWR will complete the California Water Code Section 9610(d) maps and provide information for levee failure conditions. There were discussions on how non-project levees were handled in modeling and mapping. Some local agencies may decide to use their own hydrology and develop their own maps and will be responsible for independent panel review. Ultimately, the local agencies are responsible for their mapping assumptions and findings. The use of these maps in making findings will require review by the cities and counties who should exercise due diligence.

DWR funding for mapping is limited. DWR is currently working on 200-year floodplain maps for the City of Stockton.

- A member stated that the timing for completing the maps is critical because it affects the required timeline to amend General Plans. Local agencies worry that current maps used for these amendments will conflict with future maps. Another member suggested that mapping is needed to make findings for development projects, not General Plan amendments.

Section 2. Urban Level of Flood Protection Criteria

Affected Land-Use Decisions, DCN.

Ms. Ng stated that the affected land-use decisions section was revised from the last meeting to reflect members' comments.

- A member asked if a wastewater treatment expansion project would be required to demonstrate compliance with the ULOP Criteria.

Ms. Ng directed members to the development project definition that was added to the glossary (Page B-2) in efforts to clarify which projects may be subject to the ULOP Criteria. The added definition is taken directly from California Government Code Section 65928 and cannot be altered.

- A member added that the scope of the development project as defined in Appendix B is very broad.

Ms. Ng directed members to language on Page 1-3 (ULOP Criteria, bottom paragraph) which clarifies that DWR does not have the authority to enforce the criteria. It is up to the local agencies to implement and make determinations using criteria consistent with DWR's ULOP Criteria.

- A member stated that the language in the ULOP Criteria calls for meeting minimum requirements which is at odds with the idea that DWR will not enforce the ULOP Criteria. The member questioned who, if not DWR, will enforce the ULOP Criteria.

Mr. Marshall suggested that a third party can potentially step in to enforce the ULOP Criteria through legal means. However, Mr. Marshall reiterated that DWR is not intended to be a regulatory authority for the ULOP Criteria.

- A member asked if DWR will provide a review for the General Plan amendment process.

DWR may review, but will not approve, General Plan amendments. Some General Plan amendments may need to be made in consultation with the Central Valley Flood Protection Board (Board) rather than DWR. It was clarified that there are two separate legislative requirements: (1) General Plan safety element revisions pursuant to AB 162, and (2) incorporation of the Central Valley Flood Protection Plan information into the General Plan in SB 5 (2007). The second component is tied to the ULOP Criteria. The guidance document, currently being prepared by DWR, can help with the General Plan amendments.

Applicable location, LOC-1.

Ms. Ng thanked members who participated in subgroup discussions on the definition of shallow flooding. The ULOP Criteria does not provide a shallow flooding definition, but calls out conditions for exemption. Based on previous discussions, the ULOP Criteria refers to the use of FEMA 100-year flood maps for depth reference (LOC-1, 4th bullet).

- A member expressed concerns over this definition. It could prematurely exclude certain areas that are protected by levees and should be subject to the ULOP requirement, but are exempted due to the use of 100-year map reference.
- A member suggested revising LOC-1, 5th bullet to state: 'It is located within a contributing watershed more than 10 square miles.'
- A member suggested that shallow flooding and local drainage be separated rather than combined. Language could specify 'shallow flooding is 3-feet' and define local drainage separately to avoid confusion.
- It was proposed that shallow flooding be simply 3-feet. Local agencies will be responsible for identifying which standards the 3-feet determination is based on (100- or 200-year flood event).

Ms. Ng clarified that the language was revised to meet legislative requirement while relying on local agencies' due diligence. DWR will consider the suggestions made by members.

- A member shared their concern on how the ULOP Criteria and flood risk finding will be incorporated into the permit process since different jurisdiction areas have different permit processes.

Mr. Marshall stated that the ULOP Criteria is based on the assumption that local agencies will ascertain their legal risks when permitting projects. DWR will not enforce nor provide opinion on the permitting process.

- A member suggested that language be added to Affected Land Use Decision section (Page 2-3): 'Local agencies have discretion or ability to interpret what constitutes a development project that affects risk and loss of life.'
- A member asked that the word 'vesting' be added to tentative maps for clarification since the ULOP Criteria applies to both tentative maps and vesting tentative maps.

Members discussed how previously approved projects may be affected by the ULOP requirements. It was mentioned that even though a project is approved, there is a separate permitting process for building and construction where ULOP requirements may apply.

Substantial Evidence, EVD.

Members offered the following additional suggestions:

- A member was concerned with the use of 'shall' in Substantial Evidence EVD-1, -3, and -4. The use of 'shall' in this section seems inconsistent with the tone of the document.
- A member inquired about the additional bullet in EVD-2 that appears to be an imposed condition. It was clarified that this was added in response to previous discussion and the need to simplify the language.

Section 3. Other Considerations

Adequate Progress Annual Report.

Ms. Ng highlighted the following revisions to this section (page 3-12), based on input from the work group members:

- The annual report deadline requirement was removed.
- The language suggests that the Board will need to approve the annual report from a local agency was removed. The legislation was silent on that.
- The section provides suggestions, rather than requirements, for items to be included in the annual report.
- DWR will not be approving the annual report.
- Legislation does not specify a deadline for the annual reports to the Board.

Appendix B. Definitions

Members offered suggestions for revising definitions that are provided in the Appendix B – Definitions:

- Flood management facility definition: A member suggested the omission of the last sentence of the definition. However, other members suggest that it was correct as is.
- Development project definition: It was suggested that the definition be revised to clarify development of a structure. The definition of development can include the definition of structure in the context of discretionary permits. Another member suggested revising the definition to include ‘habitable structure’ to ensure that the ULOP Criteria addresses safety.

Roll Out and Next Steps

Ms. Ng summarized next steps and the roll out process for the ULOP Criteria:

Next Steps for the ULOP Criteria

DWR will consider the discussion and comments from today’s meeting and decide if the ULOP Criteria document needs to be revised. Additional comment from members may be submitted to Lynn Moquette (DWR) for the next 30 days. All comments will be recorded and compiled as the history for this effort.

Public Roll Out for the ULOP Criteria

Ms. Ng and Mr. Marshall mentioned that DWR will present the ULOP Criteria to the Board. Notification will be sent out to the work group when the Board presentation is scheduled. The ULOP Criteria does not need to be approved or adopted by the Board. The Board will determine how to address the ULOP Criteria at their discretion. A reminder was offered that DWR currently has no plan to turn the ULOP Criteria into regulation.

DWR will update work group members on the status of the General Plan model language guidance document as soon as information is available.

- A member raised concerns that city and county planners will have difficulties deciphering and applying the ULOP Criteria.
- A member asked if there will be opportunities to work with DWR to address unresolved issues such as the comma issue, infill development, and flexibility for adequate progress.

Mr. Marshall suggested that a focus group may be formed to look at some of the unresolved issues and to identify the details that are necessary to address these issues in the future, whether legislatively or administratively.

- A member asked if there is an educational component to the roll out that can advise local agencies on the implementation of the Urban Levee Design Criteria (ULDC) (DWR, 2012) since it is referenced in the ULOP Criteria. Of concern, in particular, is the application of the ULDC to existing levees.
- A member inquired regarding funding opportunities for existing levees certification. Another member added that if funding is unavailable, it would be helpful to obtain time extension for implementation.

Mr. Marshall concluded the meeting by thanking the participants for attending the meeting and for their involvement throughout the ULOP Criteria refinement process.

Attendees

Name	Affiliation
Work Group Members	
Cammarota, Nick	California Building Industry Association
Clark, Andrea	Downey Brand
Cocke, Mark	City of Woodland
Dolan, Jane	Central Valley Flood Protection Board
Keating, Brain	Placer County Flood Control and Water Conservation District
Maguire, John	San Joaquin County
Nelson, James	Storm Water Consulting, Inc.
O'Regan, Barry	Peterson Brustad, Inc.
Porbaha, Ali	Central Valley Flood Protection Board Staff
Powderly, John	City of West Sacramento
Rivasplata, Antero (Terry)	American Planning Association
Storer, David	American Planning Association
Walker, Carl	City of Roseville
Interested Parties	
McDonald, Jim	City of Sacramento
Pitto, Mary	Regional Council of Rural Counties
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
Sutkus, Adam	CCP
Kalman, Orit	CCP