

ULOP CRITERIA REFINEMENT WORK GROUP

WORK GROUP CHARTER

FINAL DRAFT VERSION-May 31, 2013

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Introduction

California Government Code (GC) §65007(n) defines the urban level of flood protection as the level of flood protection that is necessary to withstand flooding that has a 1-in-200 chance of occurring in any given year using criteria consistent with, or developed by, the Department of Water Resources. A recent amendment provides exemptions for shallow flooding and local drainage.

In April, 2012, DWR developed and released draft *Urban Level of Flood Protection Criteria* (ULOP). The draft ULOP Criteria were developed with input from a diverse work group of representatives from cities, counties, other State and federal agencies, and associated professional organizations (ULOP Work Group dialogue). Since release of the draft ULOP Criteria, Senate Bill 1278 and Assembly Bill 1965 of 2012 were passed to amend the original Senate Bill 5 of 2007.

To address public comments, recent legislative amendments, and several implementation challenges that remain, DWR plans to engage in additional discussions with affected stakeholders about revising the draft ULOP Criteria and potentially recommending additional legislative amendments. Therefore, DWR is convening a ULOP Criteria Refinement Work Group consisting of local government planners and other related topic experts to discuss and identify what can be done to support pragmatic implementation of the urban level of flood protection law.

DWR anticipates a high level of interest in document development for the ULOP Criteria Refinement Work Group, consistent with the interest in the original ULOP Work Group effort. To allow for this input, a dialogue is desired with potentially affected agencies and groups to lend their expertise and voice into the development process. The ULOP Criteria Refinement Work Group will consist of local government representatives, planners and other members with expertise in related topics such as floodplain management, floodplain mapping, or engineering of flood protection structures. This charter describes the purpose and context for the new ULOP Criteria Refinement Work Group.

Background

After July 2, 2013 and the subsequent amendment of local general plans and zoning ordinances, all cities and counties within the Sacramento-San Joaquin Valley will need to make Findings related to an urban level or FEMA level of flood protection for lands within a flood hazard zone (see GC §§ 65865.5, 65962, and 66474.5). Findings related to the urban level of flood protection must use “criteria consistent with, or developed by, the Department of Water Resources.”

Considerations of an urban level of flood protection will influence decisions about:

- Entering into property development agreements,

- Approving a discretionary permit or other discretionary entitlement, or a ministerial permit that would result in the construction of a new residence, and
- Approving a tentative map, or a parcel map for which a tentative map was not required, for a subdivision.

While cities and counties located outside the Sacramento-San Joaquin Valley are not required to make Findings related to an urban level of flood protection, these criteria can help inform local land use decisions. (A finding is a written document describing an official declaration made by a city or county related to an urban level of flood protection or the national Federal Emergency Management Agency standard of flood protection).

The draft ULOP Criteria provides both criteria and a systematic approach for cities and counties to make Findings related to an urban level of flood protection.

Work Group Charge and Focus

The ULOP Criteria Refinement Work Group will provide input to DWR in improving and revising the draft ULOP Criteria to be finalized by DWR. The ULOP Criteria Refinement Work Group or one or more subgroups may also work to develop recommendations for additional legislative amendments. The resulting dialogue and recommendations will inform all relevant work to refine content for the document. The charge of the ULOP Criteria Refinement Work Group is as follows:

Discuss, review and provide suggestions to refine the draft criteria with regard to scope, clarity, sufficiency and the ability to implement.

Discuss and identify potential recommendations for legislative amendments that will clarify the law and support practical implementation.

The ULOP Criteria Refinement Work Group will address the following overarching questions throughout the process:

1. Are the criteria comprehensive enough and at the right level of detail to support objective determinations by cities and counties about the status of urban level of flood protection?
2. Are the criteria under consideration reasonably implementable?

More specifically, the ULOP Criteria Refinement Work Group will consider the topics raised by stakeholders through comments offered on the draft ULOP Criteria and other topics that DWR believes may need to be refined.

Membership

DWR will select applicants from a representative group of people to form the ULOP Criteria Refinement Work Group. DWR seeks members with acknowledged expertise in land use

decision-making or other related fields (such as floodplain management, floodplain mapping, or engineering of flood protection structures), who represent agencies and organizations potentially impacted by the legislation and criteria. Members must have sufficient knowledge to help develop the desired information outlined in Charter Section C (ULOP Work Group Focus). Invitations will be sent to cities and counties within and outside the Sacramento-San Joaquin Valley, as well as to the Central Valley Flood Protection Board and other relevant State and federal agencies to participate in the ULOP Criteria Refinement Work Group. Depending on the number and qualifications of interested participants, DWR may choose to select a subset of the applicants who will provide diverse representation of the affected stakeholders in order to assure that the work group is small enough to function effectively.

Regular attendance will be essential to the continuity of the group. DWR may permit alternates on a case-by-case basis. If alternates are permitted, they are expected to represent the views of the member. The member and alternate must remain fully briefed and able to work without causing the group to revisit items previously considered.

Anticipated Participants

Executive Sponsor: Paul Marshall

Executive Advisor: Ken Kirby

Project Manager: Michele Ng

DWR ULOP Team Members: Paul Marshall, Michele Ng, Allan Oto, and Yung-Hsin Sun and Rebecca Guo (MWH)

ULOP Criteria Refinement Work Group Members: see roster for specific names and affiliations

1. Cities and Counties within the Sacramento-San Joaquin Valley, and other parts of California
 2. Professional Organizations (invited)
 - A. *California State Association of Counties*
 - B. *League of California Cities*
 - C. *California County Planning Directors Association*
 - D. *American Planning Association, California Chapter*
 - E. *Floodplain Management Association*
 3. Federal and State Agencies, NGOs (invited)
 - A. *Federal Emergency Management Agency*
 - B. *U.S. Army Corps of Engineers*
 - C. *Central Valley Flood Protection Board*
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- D. *California Department of Housing and Community Development*
- E. *Governor's Office of Planning and Research*
- F. *California Emergency Management Agency*
- G. *Non-Governmental Organizations*
 - o *Friends of the River*
 - o *The Nature Conservancy*
 - o *American Rivers*
 - o *Planning and Conservation League*

Topic Specific Subgroup Members: may include any member of the ULOP Criteria Refinement Work Group as determined by expertise as well as subject matter experts brought in to assist with the discussions of that subgroup alone.

Interested Parties: for those stakeholders that wish to monitor the progress of the ULOP Criteria Refinement Work Group deliberations through periodic updates and notices, a comprehensive distribution list will be maintained by DWR in order to allow for this informational interface.

Facilitation Team: Center for Collaborative Policy, CSUS: Adam Sutkus (lead), Orit Kalman (support)

Roles and Responsibilities

Executive Sponsor: Serves as a resource for policy guidance on an as-needed basis for development and completion of ULOP Criteria Refinement Work Group and subgroup deliverables. Responsible for obtaining final decisions from DWR Executives regarding the structure and content of the revised draft *Urban Level of Flood Protection Criteria*

Executive Advisor: Serves as an advisor to DWR Executives to evaluate the rationale of draft criteria by members of the ULOP Criteria Refinement Work Group.

Project Manager: The Project Manager serves as the process leader of the Work Group and helps ensure that identified deliverables are being completed according to schedule. Helps ensure that appropriate people from DWR Divisions and other partner organizations are invited and given opportunity to participate. Responsible for executing the ULOP Criteria Refinement Work Group Charter and producing associated documents. Responsible for coordinating with the Executive Sponsor and other DWR functions, as appropriate.

DWR ULOP Team: Consists of topic-specific subject matter experts from DWR, and outside expertise as needed. Staff will communicate and convene as needed to meet with, plan, and support the ULOP Criteria Refinement Work Group on specific work assignments.

ULOP Criteria Refinement Work Group and Topic Specific Subgroup Members: Will (1) advise DWR staff on how comments might best be addressed and the document improved; (2)

contribute expertise, data and information to clarify discussions, eliminate false assumptions, and potentially develop recommendations for legislative amendments; (3) serve as the liaison to communicate information to and from their organizations and constituencies; and (4) act in a manner that will enhance trust among all partners and interested parties. Subgroup documents and recommendations as tasked will be delivered to the full ULOP Criteria Refinement Work Group for consideration.

Interested Parties. Will receive periodic updates and notices regarding the ongoing deliberations of the ULOP Criteria Refinement Work Group and subgroups in order to monitor the progress of the overall effort.

Facilitation Team: Provides neutral leadership to the dialogue process and meeting management. The facilitators are content neutral, which means they will not try to promote a particular outcome for the group. The facilitators will advocate, however, for the process, which means they will work to help the ULOP Criteria Refinement Work Group and subgroups stay within scope and follow the terms of the Charter. They will also actively suggest methods to accomplish tasks and oversee preparation of meeting notes.

Outreach and Interaction with Other Related Projects

DWR has developed *Urban Levee Design Criteria* (2012) which is incorporated by reference into the draft ULOP Criteria. The *Urban Levee Design Criteria* contains engineering criteria for computing water surface elevations and for designing, constructing, operating, maintaining, and evaluating levees and floodwalls in urban and urbanizing areas.

Other State public processes that intersect with this element of flood planning include:

- FloodSAFE Statewide Flood Management Planning Program
- 2012 Central Valley Flood Protection Plan
- CVFED Participation in SB 1278 Mapping
- Implementing California Flood Legislation into Local Land Use Planning: A Handbook for Local Communities
- State of California General Plan Guidelines Update 2013
- FloodSAFE Levee Evaluation Program

Products Review Process

ULOP Criteria Refinement Work Group products will be used to refine the revised draft ULOP Criteria developed by DWR. Draft content prepared by the ULOP Criteria Refinement Work Group will be reviewed by DWR Executive.

Schedule and Work Plan

DWR and the ULOP Criteria Refinement Work Group operate under specific time lines. The ULOP Criteria Refinement Work Group is expected to be convened in May, 2013, through June,

2013. Work may continue past this date, subject to a DWR progress and capacity review. The frequency of ULOP Criteria Refinement Work Group meetings is expected to average once per month, with more frequent meetings, or use of subgroups, based on the need to accomplish the ULOP Criteria Refinement Work Group mission.

Decision-Making within the Work Group

The ULOP Criteria Refinement Work Group and subgroups will provide input to DWR for improving and revising the draft ULOP Criteria to be finalized by DWR, and may be asked to help develop recommendations for legislative amendments. The ULOP Work Group will seek broad agreement about recommendations to improve the revised draft ULOP Criteria. If various perspectives offered do not agree, the differences will be recorded as part of the draft content. Additional meetings may be held to address these differences and may be run in parallel to other topics.

Input is used to assist DWR in understanding the extent to which there is shared perspective or meaning about the items being considered. Items will be presented in writing and members allowed sufficient time to consider them. Members will be permitted to note their level of support for an item under discussion as ranging from Unqualified Support, General Support, Qualified Support, Qualified Disagreement, to Fundamental Disagreement. The level of support for various items will be recorded. If disagreements exist, the ULOP Criteria Refinement Work Group will be asked to continue working to reach agreement or until it appears a resolution is not necessary or attainable. At that time the facilitation team will note the nature of the disagreement and, in consultation with the ULOP Criteria Refinement Work Group and sponsors, make a determination as to the best way to proceed in the particular topic area. Straw polls or requests for general preferences may also be conducted. These types of inquiries are for the purpose of refining ideas, providing direction to the project staff, or both.

Protocols and Ground Rules

Protocols

- Outside of ULOP Criteria Refinement Work Group meetings, people will represent comments made in these meetings as organizational or general group comments. Personal references should be avoided.
- All members agree to act in good faith in all aspects of this process and to communicate their interests.
- Members agree not to make commitments they do not intend to keep.
- Parties will act consistently in other forums where similar topics are being discussed, including sessions with the press.
- Members agree to make a concerted effort to provide requested information to other members or to explain the reason why not.
- Meeting summaries will be prepared with a focus on key points, ideas, and action items rather than as transcripts. Unless very specific to understanding the content, references will generally be made to the content rather than the members.

Standing Ground Rules

- Use common conversational courtesy. (Don't interrupt, use appropriate language, avoid third party discussions, etc.)
- Humor is welcome and important, but humor should never be at someone else's expense.
- All ideas and points have value - you may hear something you do not agree with. Please remember that the purpose of the ULOP Criteria Refinement Work Group is to share ideas and capture various perspectives. All ideas have value in this setting. You are not required to defend or promote your perspective, but you are asked to share it. If you believe another approach is better, offer it as a constructive alternative. Please avoid ascribing motives to others.
- Members have a right to change their minds as information is discussed and conditions change.
- Cell Phone/ PDA Courtesy - Most of the members have demanding responsibilities outside of the meeting room. We ask for your attention during the full meeting. Please turn cell phones, or any other communication item with an on/off switch to "silent." If you do not believe you will be able to participate fully, please discuss your situation with one of the facilitators.
- Be comfortable - please help yourself to refreshments or take personal breaks.
- Spelling doesn't count.
- Honor time.
- We have ambitious meeting agendas, in order to meet our goals it will be important to follow the time guidelines provided by the facilitator.

ULOP Criteria Refinement Work Group Support

DWR will provide the necessary staff support to keep the ULOP Criteria Refinement Work Group, subgroups, and interested parties efforts underway as designed in this charter. Other staff resources will be located through DWR as needed and will be discussed with the ULOP Criteria Refinement Work Group membership.

Assumptions

The application of the ULOP Criteria Refinement Work Group recommendations may be impacted by the timeline of the legislative cycle. The relationship of the ULOP Criteria Refinement Work Group progress with the legislative process will be monitored throughout the project.

Amendments

The ULOP Criteria Refinement Work Group may amend the charter in consultation with the Executive Sponsor and Project Manager.