

Meeting Summary | URBAN LEVEL OF FLOOD PROTECTION CRITERIA WORK GROUP MEETING

March 7, 2012, 1:00 pm to 3:30 pm

Location: Galleria Rooms 157 and 160, West Sacramento City Hall, 1110 West Capitol Avenue, West Sacramento, CA 95691

Welcome and Opening Remarks

Rod Mayer, California Department of Water Resources (DWR), welcomed the work group participants. Mr. Mayer explained there has been some progress since the last meeting of the urban level of flood protection (ULOP) work group.

Dorian Fougères, Facilitator with the Center for Collaborative Policy (CCP), reviewed the meeting agenda and objectives.

Update on ULOP and ULDC

Mr. Mayer explained that as required by Senate Bill (SB) 5, DWR submitted a draft of the Central Valley Flood Protection Plan (CVFPP) to the Central Valley Flood Protection Board (Board). The Board is scheduled to adopt the CVFPP by July 1, 2012. He explained that the ULOP and Urban Levee Design Criteria (ULDC) are both incorporated by reference into the CVFPP, and therefore, the Board cannot adopt the CVFPP without public versions of the ULOP and ULDC.

The draft ULDC was released publicly in November 2011, a public workshop was held, and now the work group is addressing comments and intends to release the final version in late March.

The administrative draft *Urban Level of Flood Protection Criteria*, however, has not been publicly released, mainly because of the unresolved issues that came up during the ULOP work group meetings. Since these issues will require possible legislative changes to resolve, DWR proposes to take any final comments on the current administrative draft *Urban Level of Flood Protection Criteria* from this work group by COB Wednesday, March 14th, then DWR will consider/address those comments, and take the draft *Urban Level of Flood Protection Criteria* public at about the same time as the ULDC is finalized. The difference is that draft ULOP will not be made final – it will remain a public draft – since criteria will likely be updated in accordance with future legislative changes. A public draft will allow the CVFPP to be adopted by the July 1, 2012 deadline.

All comments should be submitted to Rebecca Guo at MWH (Rebecca.k.guo@us.mwhglobal.com) by COB March 14th.

Review Document Revisions

Ken Kirby, FloodSAFE Executive Advisor, reviewed the changes made to the Administrative Draft *Urban Level of Flood Protection Criteria* since the last meeting. The major document changes include:

- Changed name of document
- Added potential refinements section
- Clarified there are 3 types of ULOP findings
- Adjusted evidence review order
- Described findings for specific areas and flooding sources
- Added requirement to make finding readily available to public
- Clarified process for approval of exceptions
- Adjusted independent expert panel requirements
- Revised requirements related to significant change (now limited to significant physical changes)

Discuss Recommended Changes to ULOP Criteria

The Administrative Draft *Urban Level of Flood Protection Criteria* was sent out to work group members on February 29th, 2012. All the changes in the document were made in track changes mode so it would be easy to track the updates made.

Mr. Kirby walked through the revised draft document and explained section by section the changes made. The following is a summary of the questions/comments made by ULOP work group members during the document walk through.

Page 1-3 (Introduction) Supplemental Engineering Criteria

- Dave Peterson, Peterson Brustad Inc., mentioned that the first sentence in that section is not true because the ULDC work group did not discuss the minimum requirement of bridges and unleveed streams. He explained that only urban levees and floodwalls are contained within ULDC.
- Mr. Mayer read from the ULDC regarding bridge requirements and offered to work with Mr. Peterson offline on the language to ensure it is accurate.

Page 2-3 the Flow Chart

- Mr. Peterson asked why the criteria Flow Chart includes that “A finding related to FEMA standard of flood protection is needed” when the area is not urban/urbanizing and not subject to the criteria. He explained that those areas will most likely not be using the criteria if they do not need to validate the level of protection.
- Mr. Kirby explained that those areas outside of the boundary for the ULOP requirements still need to comply with FEMA, and it was mentioned in Government Code. Therefore, DWR felt this language is needed.

Page 3-11 (Table 3-1) listed the cities and counties within the Sacramento-San Joaquin Valley. These are the cities and counties expected to have to comply with the *Urban Level of Flood Protection Criteria*.

- Les Harder, HDR, asked if the listed cities are all incorporated. He asked what population constituted bolding the city name.
 - Allan Oto, DWR, explained that list is population based, not based on incorporated cities.
 - Rebecca Guo, MWH, explained the table was taken from *Implementing California Flood Legislation into Local Land Use Planning: A Handbook for Local Communities* (DWR, October 2010) (Handbook) and there may be more information there.
 - Mr. Kirby explained this was a table for informational purposes. He added that an urban or urbanizing area definition in terms of ULOP criteria does not depend on jurisdictional boundaries (so an area can be subject to these Criteria even if it is not in an incorporated city).
- One work group member asked what the diamonds next to some cities indicate.
 - Mr. Kirby explained that the diamonds indicate that those places are within the levee protection zone, it is defined in the glossary at the bottom of the page.
 - Mr. Peterson mentioned that many of the small cities on the list are not going to be aware of this criteria or that they could be subject to it. There needs to be outreach done to those smaller cities.

Page 3-19 (FND-1) Previous Finding Related to an Urban Level of Flood Protection explains the first step in Finding is to determine if a previous finding exists.

- George Booth, County of Sacramento, mentioned that a levee certification does not last for 20 years.
- Mr. Kirby responded that a finding can be based on floodwalls or a map. It does not have to be based on a levee certification.

Page 3-23 and 3-24 (REV-2) explains the criteria for continued periodic review of levee(s), floodwall(s), and their appurtenant structures to verify that areas receiving the urban level of flood protection. This section was updated to provide more clarification in the definitions including what constituted a change, was updated to mean only significant physical changes.

- One work group member asked if climate change was considered a physical change.
 - Mr. Kirby explained that no, because that is changing the hydrology.
 - Mr. Harder suggested it be clarified in the definition that climate change is not a physical change.

Page 3-24 Level of (flood) protection

- Mr. Peterson mentioned that this reference from the ULDC is not true; the ULDC work group did not cover all flood management facilities.
- Mr. Kirby reiterated that Mr. Mayer will work to address those comments.

Page 3-25 (REV-2) – New Text for Periodic Review Requirements Important Considerations

- One new consideration regarding periodic reviews was that if damage, maintenance inadequacies or a significant physical change has occurred, a civil engineer may determine that it is too difficult or impractical to establish the extent to which the level of protection has been compromised. They can determine that the damage, maintenance inadequacies or significant physical change does not warrant expiration of the finding.
- One work group member asked if a reason for not making a determination includes that they cannot afford to.
 - Mr. Kirby explained that is not an acceptable reason.
 - Mr. Peterson asked why the criteria require that the inspection be put out for public review.
 - Mr. Kirby explained this requirement came from the ULDC document/work group discussion.
 - Mr. Mayer added that all inspections are public documents, including those done by the U.S. Army Corps of Engineers (USACE).
 - Some other work group members supported the recommendation that the inspections be made publicly available for review.

Page 3-34 Substantial Evidence

Under examples of supporting document

- In the paragraph beginning with “After making a finding,” Mr. Peterson asked why it says the finding needs to be posted on a website. He mentioned that smaller cities do not have the bandwidth to support this.
 - Mr. Kirby explained it is as suggestion for local entities to make the finding publically available either on the website or in the public area, such as a library, so that they provide themselves with some protection from legal challenges.

Page 3-35 (EVD-1)

- Terri Rie, Board member, asked why there is a requirement under EVD-1 for an independent panel of experts review. She explained that for ministerial permits this seems excessive.
 - Mr. Kirby explained that the document suggests cities and counties make findings for large geographic areas, those findings will last for 20 years, so this process would not need to be repeated for each ministerial permit processed.
 - Ms. Guo added that only new construction ministerial permits would be subject to this law.
- Mr. Harder commented about the advice to avoid the appearance of a conflict of interest where a single entity is contracting for the services of both the civil engineer and the independent expert panelists. He said it is typically the case that the owner would pay for both.
 - Mr. Mayer explained this was a requirement from the latest draft of the ULDC; the concern is that is when the same entity is paying for the engineer and the panel. Local entities need to be careful about this. Mr. Mayer mentioned that in some cases there

are JPAs that may be different from the city or county and they could be hired separately.

Page 3-41 (EVD-2)

- Mr. Peterson asked if urban base flood elevation is a term of art.
 - Mr. Kirby explained that it was a new term for these criteria. He explained that urban base flood elevation is for the 200-year flood.
- Ms. Rie asked how ministerial permits are dealt with in this section.
 - Mr. Kirby explained that once this goes into effect, cities and counties have time to update their General Plans, and for ministerial permits for new constructions they must follow these requirements. How they do that is up the city and county. These requirements will affect ministerial permits for new construction.

Other Updates

Update on Current Legislative Discussions

Mindy Simmons, Office of Senator Wolk, provided an update on the current legislative discussion Senator Wolk is leading. Ms. Simmons explained that Senator Wolk worked on the original 2007 legislative package and is now working to respond to the concerns that were brought forward from cities and counties, as well as DWR.

She explained that SB 1278 (currently a spot bill), is a bill Senator Wolk is working on with the coalition including the League of Cities, California State Association of Counties, The Nature Conservancy, Friends of the River, and The Planning and Conservation League. Senator Wolk's office is also talking with DWR.

The first step in the process is to identify the issues that make the legislation difficult to implement; for instance the issues with the 200 year maps and triggers, discretionary permits, adequate progress, and interior drainage. Ms. Simmons explained they would like to have more details in the bill in late March. The general timeline for the bill is discussions in April and June.

Discussion

- Work group members asked if infill development will be addressed in the bill.
 - Ms. Simmons responded that right now the bill only has the one definition. They are working with the coalition about what are the issues that have been flagged as someone to address and come up with a solution for.
- Mr. Harder asked about interior drainage, he mentioned he did not think interior drainage was included in the legislation when it was drafted.
 - Mr. Kirby mentioned that DWR does have recommendations that they will discuss shortly.

Ms. Simmons explained that the facilitation team helped her put together a worksheet to collect some initial input from the ULOP work group. It asks what types of permits should be subject to this

legislation. Mr. Fougères explained the worksheet will be e-mailed out to the work group and they can return it to Ms. Simmons. She explained that the most common permit exception discussed is a stop sign.

John Cain, American Rivers, added his understanding of the original legislation intent was to limit development in the Delta and within floodplains. He is concerned with possible changes to the legislation that would make it easier to continue development. He explained they would not support that.

Ms. Simmons responded that Senator Wolk is committed to what was done in 2007; her focus now is to make it implementable, not to make development easier.

Discuss Recommended Changes to ULOP Criteria

Mr. Kirby explained that DWR has come up with some recommendations. He explained that DWR is not in a position to take action with the legislature directly. DWR supports minimal changes to address implementation challenges, and the most pressing issues.

DWR's recommended changes are related to:

- Triggers (potential mapping grants)
- Interior Drainage
- Adequate Progress
- Discretionary Permits
- Nonurban Requirements

Triggers: Mr. Kirby explained that DWR is recommending a potential grant program, administered by DWR to support cities and counties in the 200-year floodplain mapping effort. DWR would set guidelines and administer grant funding (potentially up to 90 percent of funds). Then the timing triggers would be tied to this program rather than the adoption of the CVFPP. The trigger would be a reasonable amount of time after the funds are available. The funds would be available for the areas subject to the criteria. Mr. Kirby mentioned if this is recommendation moved forward, DWR would share the draft guidelines with the work group for comments.

Mr. Cain expressed his concern that the trigger is about when SB 5 would limit development, and this seems to be pushing that date back. He is also concerned about the amount of time it would take local entities to receive funding from DWR as that can be a burdensome process.

Interior drainage: Mr. Kirby explained that DWR's view is that this should be included in the maps, FEMA includes interior drainage. DWR is open to clarifying with the legislature whether it was intended to be included or not. DWR will take that direction from the legislature. In DWR's opinion, the difference between a 100-year and 200-year flood from interior drainage is typically only a few inches difference in flood elevation, and interior drainage should be accounted for because property owners are not going to care what the source of flooding is.

Adequate Progress: Mr. Kirby mentioned that since local entities would be depending on State funding, they would most likely need the adequate progress deadline of 2025 amended. However, DWR would like to see more tangible details to go beyond the 2025. DWR also thinks there should be an outer time limit for those areas outside the State Plan of Flood Control.

Discretionary Permits: Mr. Kirby explained that DWR recommends clarifying the types of discretionary permits affected by ULOP requirements.

Nonurban Requirements: Mr. Kirby said that DWR is suggesting clarification regarding nonurban requirements.

Other Sources of Flooding (Update)

Ms. Guo explained that the project team looked into interior drainage and took two example areas to see what the change would be in flood elevation if interior drainage was included. First, the project team did a survey with many of the work group members to see what current standards are. Standards varied depending on the area, but most relied on streets to protect habitable buildings from storm drainage. Then the project team did a selective reconnaissance evaluation. A small portion of Sacramento (north of the American River) and the City of Madera were selected based on the availability of models. They found that the average increase in flood depth between a 100-year and 200-year storm for the selected area in Sacramento was 1 inch. For the city of Madera, the team modeled the average increase in flood depth was about ½ inch.

One possible measure for designing new developments with larger storm water system capacity is to use larger pipes. In a preliminary estimate, the increase in construction cost from using larger pipes for new developments was 4 or less percent (for areas between 500 to 700 acres).

Mr. Booth explained that he is concerned about the engineering burden of determining this is safe from a 200-year flood event, which requires a lot of analysis.

- Mr. Kirby explained that right now DWR is recommending that cities and counties do what FEMA is already recommending.
- Mr. Booth responded that FEMA says for 1 square mile.
- Mr. Kirby explained that DWR is open to something similar and just needs suggestions.
- Mr. Booth agreed to provide his suggestion in writing.

Next Steps and Closing Remarks

Mr. Mayer reminded the group to provide their comments by next Wednesday to Ms. Guo. He mentioned that the next step will be a public draft of the ULOP however DWR does not intent to move that forward and finalize it until the legislation is done.

Attendance

- George Booth, County of Sacramento
- John Cain, America Rivers
- Jami Childress-Byers, California Emergency Management Agency
- Tom Fossum, County of Butte
- Les Harder, HDR
- Pal Hegedus, Floodplain Management Association
- Hoa Ly, DWR
- Dave Peterson, Peterson Brustad Inc.
- Ali Porbaha, Board Staff
- John Maguire, San Joaquin County
- Will Marshall, City of Davis
- Jim McDonald, City of Sacramento
- Mike McDowell, City of Stockton
- Teri Rie, Board Member
- Kyra Ross, League of Cities
- Dave Shpak, City of West Sacramento

- Mindy Simmons, Office of Senator Wolk
- Jim Stone, City of Manteca
- Judy Soutiere, US Army Corp. of Engineers
- Jon Tice, Board Staff
- Darren Wilson, City of Elk Grove

Project Team

- Charlotte Chorneau, Center for Collaborative Policy (CCP)
- Dorian Fougères, CCP
- Rebecca Guo, MWH
- Ken Kirby, DWR Advisory
- Rod Mayer, DWR
- Allan Oto, DWR
- Ricardo Pineda, DWR
- Yung-Hsin Sun, MWH