

# Environmental Collaboration and Conflict Resolution Forum

## Meeting Notes

CEQ Conference Room  
734 Jackson Place NW, Washington, DC

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**Tuesday, March 21, 2017**  
**10:30 AM – 12:00 PM Eastern**

### Welcome, Agenda Review, and Introductions

Ted Boling welcomed everyone and went over the agenda. Everyone in the room and on the phone introduced themselves by name and agency.

### General Updates from CEQ and USIECR

#### CEQ Updates

- Mary Neumayr has joined CEQ as the acting Chief of Staff.
- Mario Loyola has also joined the CEQ staff.

#### 2016 ECCR Agency Reports

Please e-mail Courtney Owen at [owen@udall.gov](mailto:owen@udall.gov)

#### 10<sup>th</sup> Anniversary Working Group Update

Steph Kavanaugh (USIECR) and members from the “10<sup>th</sup> Anniversary Working Group” gave an update on the progress of the “10<sup>th</sup> Anniversary Working Group” Report. Participants in the ECCR Forum discussed the content. Main points of the update were as follows:

- The work group consists of members from USIECR, DOI, EPA and USACE.
- Work group members have gathered some level of preliminary feedback from: FERC, DOE, DOT, NOAA, DOJ, Air Force, and DOD.
- The work group will incorporate feedback from this meeting into the document over the next week or so.
- Once the document is updated, there will a way to gather final input from ECCR Forum members.
- Target date for finished product is approximately April 4.

### Discussion Topic: Report Out from “10<sup>th</sup> Anniversary Working Group”

#### General Comments about the Report

- The “10<sup>th</sup> Anniversary Working Group” extended an invitation to the ECCR Forum for additional help in finishing the report. Josh Hurwitz (FERC) and Steve Miller (DOE) have offered to help.
- A question that was posed (but not resolved at this meeting) was, “Will this report be sent around to each Agency to sign off or is this to be signed off by the ECCR Forum?”
- If your agency would like to add an addition to the 10<sup>th</sup> Anniversary ECCR Report for internal agency distribution, you can add an agency specific report similar to the USACE addendum that was

provided via e-mail earlier this month. Such addenda will not, however, be compiled and attached to the benefits report – rather these would be for agency use when distributing the report internally.

- Jeanne Briskin, EPA, suggested the following structure of the report:
  - Definition of what ECCR is would be important, including examples of what falls under ECCR/ mediation/ negotiation. (Don't need to give examples of cases but quick overview.)
  - Examples of benefits. Then I'd give recommendations. T
  - Best practices and recommendations
- One participant suggested to have an appendix that would take people to concrete data to support the benefits. EPA and DOI have offered some numbers to support the benefits, however, any more numbers would be helpful. The data should be put into dollar estimates if applicable instead of percentages.
- Another participant suggested a table or graph so readers could see it right away about what the cost and time savings are.
- Several participants agreed with an executive summary at front and then support with the examples to show the breadth of what can be involved in ECCR.
- On the discussion of length, the Forum came to the conclusion that 1-2 pages is unrealistic for this document. However, Ted Boling (CEQ) suggested to not aggressively self-edit but to go forward at the length of the document is at currently. After we get more feedback from the head of CEQ and others, the Forum working group can pare it down.
- Some of the language could be pared down after the content is finalized.

#### Cases/Benefits Section

- Would like more information about cases but less case study examples. The Forum was split between adding more “trend” data on how many cases each agency worked on over the last 10 years vs not incorporating this information due to its inconsistency. Some Forum members mentioned that the data may not be trustworthy – for example, not all agencies report their ECCR cases every year and the methodology of gathering the information varies from agency to agency.
- Pat Collins (Air Force) mentioned that the Air Force example used in the Benefits section is not well suited for that section. The point of that cleanup message was numerous parties were identified and allowed for rapid resolution of the issues and allowed parties to contribute to beneficial project that was in process of construction. Trying to quantify how much money we saved is wrong the way it's written and needs to be changed or deleted. Strike the 90% number and instead emphasize that additional parties were identified.
- One benefit not listed is conflict avoidance. A lot of times ECCR uses collaboration with or without a third-party neutral which helps with conflict avoidance.
- Rather than dollars, it might be helpful to say, “DOD avoided litigation in “x” number of cases. Because we avoided having to go to court in x number of cases, it saved money.”
- DOI or EPA has satisfaction surveys that can help quantify the time spent on the ECCR cases rather than the cost.
- Line 135: There was disagreement on the “Air Quality” case study. One Forum member felt that this should be cut while other Forum members did not. If the “Air Quality” case study is kept, it should be moved to “Improved Governance”.
- There was disagreement on the “Fish Consumption” case study. One Forum member felt that this should be cut while other Forum members did not due to it was one of the only case studies involving tribes.

## Recommendations Section

- Some members of the Forum believed that the recommendations could prove to be more useful to the Administration because they could help advance the Administration's priorities.
- Some recommendations are stronger than others – some were just reiterations of best practices. There was discussion on whether we should break up the best practices and recommendations. Some felt that because ECCR is not institutionalized within their agency, some of the recommendations are not “best practices” to them since they have not begun those practices within their agency in the first place. An idea to solve this potential issue was to add a disclaimer for the recommendations section stating that each agency should evaluate where they are within the best practices/recommendations section and work their way through these to their agency's ability.
- In the interagency disputes section, the report states that the disputes should be elevated to CEQ but there are other agencies that the dispute should be elevated to such as OMB and FPSIC. This section should be broadened.
- Regarding the tone of the report, most Forum members preferred the use of “should” so that you can incorporate these recommendations but not feel as though you are required.
- Capacity building should be included as a subcomponent under institutionalization.
- Line 191: The word “intergradation” needs to be changed to integration.
- Line 282: This is the first time ADR is being mentioned in the document. We might need to explain what this is being that ECCR is a subset of ADR.
- For the first bullet under “Interagency Disputes” (lines 211-212), consider broadening the language to “disputes or disagreements concerning agency actions or activities” or something along those lines to make it clear that this goes beyond NEPA disputes.
- For the second bullet under “Interagency Disputes” (line 218) consider broadening beyond the ECCR POC. For example, interagency work can come through the contacts made through the ECCR Forum.
- Under litigation (line 245), use the term “agency counsel” rather than “general counsel's or solicitor's office” to be more general. For example, DOT has “chief counsels' offices.

## Updates & Next Steps

- The working group will incorporate input from today and send updated draft to Forum approximately Wednesday, March 29th and final input will be requested.
- Any additional thoughts/comments, please e-mail Stephanie Kavanaugh (USIECR) by COB today, March 21, 2017.
- Target date for finished product is April 4, 2017 which will then go through a vetting process within CEQ and perhaps OMB.

## Next Forum Meetings

**Next Quarterly Forum Meeting:** Tuesday, May 16, 2017, 10:30am – 12:00pm

## Attendees

Name	Agency
Ted Boling	Council on Environmental Quality (CEQ)
Stephanie Kavanaugh	United States Institute for Environmental Conflict Resolution, Udall Foundation (USIECR)
Dana Goodson	United States Institute for Environmental Conflict Resolution, Udall Foundation (USIECR)
Valerie Puleo	United States Institute for Environmental Conflict Resolution, Udall Foundation (USIECR)
Courtney Owen	United States Institute for Environmental Conflict Resolution, Udall Foundation (USIECR)
Katrina Durbak	U.S. Army Corps of Engineers (USACE)
William Hall	Department of Interior (DOI)/CADR
Hal Cardwell	U.S. Army Corps of Engineers (USACE)
Josh Hurwitz	Federal Energy Regulatory Commission (FERC)
Pat Collins	U.S. Air Force
Jake Strickler	Environmental Protection Agency (EPA)
Jeanne Briskin	Environmental Protection Agency (EPA)
Frank M. Sprtel	National Oceanic and Atmospheric Administration (NOAA)
Steven Miller	Department of Energy (DOE)
Brian Manwaring	United States Institute for Environmental Conflict Resolution, Udall Foundation (USIECR)
Sarah Palmer	Department of Interior (DOI)/CADR
Melissa Leibman	Department of Justice (DOJ)
Joy Keller-Weidman	United States Institute for Environmental Conflict Resolution, Udall Foundation (USIECR)
Michael Saffran	U.S. Army Corps of Engineers (USACE)
Sarah	Department of Transportation (DOT)
Mario Loyola	Council on Environmental Quality (CEQ)
Amy Coyle	Department of Transportation (DOT)
Catherine Johnson	Department of Veteran Affairs (VA)
Chris Gamache	Office of Management and Budget (OMB)
Deb Osborne	Federal Energy Regulatory Commission (FERC)
Carrie Greco	U.S. Army
Jerry B	Department of Defense (DoD)
Isabela Ferraz	Department of Energy (DOE)
Mary Neumayr	Council on Environmental Quality (CEQ)