

# Environmental Collaboration and Conflict Resolution Forum

## Meeting Notes

CEQ Conference Room  
734 Jackson Place NW, Washington, DC

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**Tuesday, February 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

- CEQ is moving locations to 734 Jackson Place.
- CEQ still does not have a nominee for chairperson of CEQ so Ted Boling (CEQ) is acting.

#### USIECR Staffing

- Brian Manwaring is now the acting director of the USIECR.
- Courtney Owen is a new Program Associate at USIECR based in DC Office.

#### 2015 ECCR in the Federal Government Report

- Report finalized and available for download at:  
<http://www.udall.gov/OurPrograms/Institute/ECRReport.aspx>

#### 2016 ECCR Agency Reports

- Request delivery by February 24, 2017. Please e-mail Courtney Owen at [owen@udall.gov](mailto:owen@udall.gov) if you cannot make this deadline.

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

Stephanie Kavanaugh (USIECR) and members from the “10<sup>th</sup> Anniversary Working Group” gave a presentation on the progress of the “10<sup>th</sup> Anniversary Working Group” Report. The presentation is attached to these notes as Attachment 2. Following the presentation, participants discussed the content. Main points of the discussion were as follows:

#### Title

- Most members seemed to prefer the second title better: “Enhancing Agency Efficiency, Producing Better Results, and Making Government Accountable to the People through Environmental Collaboration and Conflict Resolution”. However, Brian Manwaring (USIECR) suggested switching the title around to read, “Environmental Collaboration and Conflict Resolution: Enhancing Agency Efficiency, Producing Better Results, and Making Government Accountable to the People.” He also suggested having a subtitle that specifies the time period, “2005 – 2015”.

- Jeanne Briskin (EPA) stated: “I think the second title captures how important ECCR is. We will be more accountable. In order to accomplish this, we need better understanding within our agencies and interagencies but also to have a renewed sense of using ECCR.”
- Steve Miller (DOE) mentioned that he likes some parts of the first title, “Bringing People Together to Solve Environmental Challenges: The Benefits of Environmental Collaboration and Conflict Resolution and Recommendations for the Future”. Specifically the bringing people together element.

#### Audience

- The hope of the working group report is to fit the needs of the different agencies including internal and external audiences. This report can be used within your agency as a good platform for advocating ECCR.
- Ted Boling (CEQ) stated that this document will be great to explain to the new administration team that ECCR was formally acknowledged and expanded under the Bush administration. Ted would like to send this to the new Administration ASAP.
- Michael Drummond (CEQ) would like to have agency specific reports as a supplement to the main report.

#### Benefits of ECCR Use by the Federal Government

- Josh Hurwitz (FERC) mentioned that resource allocation can also be used as an example for ECCR savings under the “Efficiency” benefit.
- The original vision for this document was meant to be more of a historic document that showed trends over the past 10 years. The 10<sup>th</sup> Anniversary Working Group has a draft of this document and would be happy to share the trends if they would like to see this document.
- USACE showed that they are using ECCR more often in regulatory contexts as opposed to in previous years.
- It is important to note ECCR has been around longer than the 10 years that the forum has been reporting it. Therefore, the numbers of cases reported are not really showing if there has been increase in ECCR cases. That data shows that there has only been an increase in reporting the ECCR cases.

#### Case Examples for Benefits

- The 10<sup>th</sup> Anniversary Work Group is looking for a diversity of examples where you can really see the stated benefits that make the case to continue ECCR. The cases should make the argument for need for continued and increased budgeting and institutionalization of ECCR by agencies. They are looking for a diversity of cases: regionally, agency, type. There should be two case examples per benefit so six in total. The case examples should be about 3-4 lines and describe the case effectively and succinctly.
- There was discrepancy in opinion regarding the time period of the cases. Some attendees thought that recent examples would resonate the most. Others felt that a range of case examples would be most appropriate. Ted Boling (CEQ) stated that he would like to remind people about the 2005 memo by using examples from the past.
- As a future action, the forum would like to have a larger library of case examples for easy access for future use. USIECR does place all submitted agency reports on the website but attendees suggested the possibility of a database in the future.

### Where do we go from here?

- USIECR posed several questions to jumpstart the discussion on the “recommendations/where do we go from here?” section in the report: “What would you like to put in front of the new appointees at your agency? What would you like this to say to them to preserve ECCR?” Responses included the following points:
- Recommendations should reflect both of the quantitative and qualitative benefits. They should also highlight interagency collaboration and environment benefits.
- Jeanne Briskin (EPA) brought up that there is a disconnect between the benefits and the recommendations. She asked what are the key barriers to applying ADR to different types of situations? ECCR is not good for every condition so what leads to a good condition for a case to be ripe for ECCR? If the recommendations are about enhancing the benefits then we need something about the barriers. The barriers portion is written in each of the submitted agency annual ECCR reports. This would be a good trend to write about. For example, you could say a case didn’t go forward because there were not enough resources. Therefore, requiring more resources would be a recommendation.
- Will Hall (DOI/CADR) mentioned that disseminating knowledge about ECCR to a larger audience could be a recommendation. ECCR is not well known to the broader audience.
- Focusing on interagency collaboration as a recommendation was discussed by the attendees. The forum would like to focus on ECCR as an important and underused tool that can be used to accomplish a change. If each agency supports ECCR and are looking to advance the current administration’s agenda then it can move stalemates between agencies. Interagency work as a whole within ECCR has improved tremendously. This can be supported through data throughout the years of reporting.

### Additional Thoughts

- Another attendee recommended the 10<sup>th</sup> Anniversary Work Group highlight where ECCR is not being used as much. Are there specific case examples where the stakeholders should have used ECCR and did not? And if so, what was the outcome? Was it increased spending or longer time frame?
- While this is an overview document, agencies can produce their own ECCR use examples and attach to the back of this document as an appendix. USACE will send out their own document with graphics and 2 pages so that agencies can model for others (Attachment 3). This will underscore the importance of each agency’s individual office.

### Actions

- Ted Boling (CEQ) asked if there would be others willing to help write the report because time is of the essence. He would like this to be in the clear or going to be cleared by next ECCR Forum Quarterly Meeting.
- The Forum agreed to convening meeting before submission of the report. This meeting is now scheduled for March 21 at 1030 AM.
- Case study submission to Courtney Owen ([owen@udall.gov](mailto:owen@udall.gov)) deadline is next Friday (03/03/2017).
- Deadline for submitted the report to the ECCR Forum for distribution is April 5, 2017.

## Select Agency Updates

- U.S. Air Force: The ADR position is possibly being filled this week.
- NOAA: Mississippi divergent action.
- USACE: DAPL is on the radar screen. In-roads with EPA and DOI to serve joint interests.
- DOI/CADR: We are going to use more time to do external ECCR.
- DOE: May 3 is going to be a workshop/meeting on ECCR.
- No updates from other agencies.

## Next Forum Meetings

**Special Meeting:** Tuesday, March 21, 2017, 10:30am – 12:00pm

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

## Attachments

Attachment 1: Attendees

Attachment 2: 10 Year Anniversary Trends Presentation

Attachment 3: USACE Document

# Environmental Collaboration and Conflict Resolution Forum

## Meeting Notes

CEQ Conference Room  
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**Tuesday, February 21, 2017**  
**10:30 AM – 12:00 PM Eastern**

### 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)
Laura Ulmer	Department of Transportation (DOT)
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)
Kathryn D. MacKinnon	Department of Defense (DoD) ADR Liaison
Michael Drummond	Council on Environmental Quality (CEQ)
Marna McDermott	Council on Environmental Quality (CEQ)
William Hall	Department of Interior (DOI)/CADR
Robert Fisher	Department of Interior (DOI)/CADR
Hal Cardwell	U.S. Army Corps of Engineers (USACE)
Josh Hurwitz	Federal Energy Regulatory Commission (FERC)
Steve Leathery	National Oceanic and Atmospheric Administration/National Marine Fisheries Service (NOAA/NMFS)
Pat Collins	U.S. Air Force
Jake Strickler	Environmental Protection Agency (EPA)
Aisha Samples	Environmental Protection Agency (EPA)
Jeanne Briskin	Environmental Protection Agency (EPA)
Frank M. Sprtel	National Oceanic and Atmospheric Administration (NOAA)
Schuyler Lystad	Department of Energy (DOE)
Ida Etemadi	Department of Energy (DOE)
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
Colleen Vaughn	Department of Transportation (DOT)

Melissa Leibman	Department of Justice (DOJ)
Cathy Humphrey	DOI/Bureau of Land Management (BLM)
Tyson Vaughan	U.S. Army Corps of Engineers (USACE)
Joy Keller-Weidman	United States Institute for Environmental Conflict Resolution, Udall Foundation (USIECR)
Lauren Nutter	United States Institute for Environmental Conflict Resolution, Udall Foundation (USIECR)
Michael Saffran	U.S. Army Corps of Engineers (USACE)

# 10<sup>th</sup> Anniversary of the Annual ECCR Use in Federal Government Work Group

REPORT OUT PREPARED FOR

CEQ ECCR FORUM

FEBRUARY 21, 2017

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# Working Group Members

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- Crorey Lawton, Michael Saffran, Katrina Durbak, USACE
- Jacob Strickler, EPA CPRC
- Stephanie Kavanaugh, Dana Goodson, and Courtney Owen USIECR
- Will Hall, Robert Fisher and Sarah Palmer, DOI CADR

# Objectives for Today

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1. Update the full ECCR Forum on work group progress, including refined approach to the report.
2. Obtain feedback regarding the draft product the group plans to produce, specifically:
  - Which case studies best illustrate certain benefits of ECCR use?
  - What, if any, specific recommendations should be made in the product?
  - General feedback

# Report Objectives

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## UPDATED:

- Define and communicate the benefits of ECCR use in the federal government
- Make the case for continued use of ECCR by federal agencies

## PREVIOUS

- Tell the story of 10 years of ECCR use by federal agencies, including qualitative and quantitative trends, innovations, and any lessons learned.”
- Educate federal agency staff and others on the value of ECCR and appropriate circumstances to use ECCR.

# Potential Titles

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- Bringing People Together to Solve Environmental Challenges: The Benefits of Environmental Collaboration and Conflict Resolution and Recommendations for the Future.
- Enhancing Agency Efficiency, Producing Better Results, and Making Government Accountable to the People through Environmental Collaboration and Conflict Resolution.

# Report Format

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## UPDATED:

- 4-5 pages maximum
- “punchy” and “glossy” in order to succinctly communicate ECCR benefits

## PREVIOUS

- Probably too long
- Focus on numerical data collected by the annual summary report (case numbers and types)

# Report Audience

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- Senior agency leadership (both internal and external to ECCR Forum member agencies)
  - Including senior officials in the new administration
- Forum members and their agency ECCR staff
- New Administration
- The public

# Updated Report Outline

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## I. Introduction

- Origin & background of the policy, including impetus for the 2005 memo, and continuity through the 2012 memo
- Increasing use of preventative ECCR, or “upstream” processes

# Updated Report Outline

## II. Benefits of ECCR Use by the Federal Government

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### ➤ **EFFICIENCY**

- Cost savings and more timely processes, including avoidance of litigation

### ➤ **BETTER OUTCOMES**

- Better and more durable outcomes to environmental disputes, including improved economic and environmental results

### ➤ **IMPROVED GOVERNANCE**

- Increased capacity of government to work more productively for and be more accountable to the citizens they serve
- Improved relationships and better communication between government and the people

**Each section would consist of a short, narrative explanation of the benefit, 2 illustrative case studies, and any numerical data available**

# EFFICIENCY

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- Cost savings, more time processes, and avoidance of litigation
- EPA cost-comparison data & EPA CADR SEER results
- Potential Case Studies:
  - DOE: ABB, In. vs. the United States (2014)
  - DOE: Mediation Regarding Cleanup of a Contaminated Waste Site (2015)
  - Air Force: Duncan Canal (2012)
  - DOT: Endangered Species Act Consultations (2013)
  - DOD & EPA: Collaborative Solutions to Stormwater Permitting under Section 404 of the Clean Water Act at Joint Base Lewis-McChord (2014)

# BETTER OUTCOMES

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- Better and more durable outcomes to environmental disputes
  - ✓ Improved environmental conditions – potential case studies:
    - EPA: Oregon Fish Consumption Rate and Water Quality Standards Rule Facilitated Dialogue (2012)
    - DON: Waste Reduction for the First “Green” Navy Fuel Terminal (2015)
  - ✓ Improved economic conditions
    - BOEM: Outer Continental Shelf Development (2012)
  - ✓ External Ownership
    - DOI: Yellowtail Dam and Reservoir (2013)
  - ✓ Furthering agency missions
    - EPA: Coeur d'Alene Community Involvement Project (2013)
    - OSWER: Office of Solid Waste and Emergency Response (2013)
    - BLM: Alabama Hills Stewardship Group (2014)

# IMPROVED GOVERNANCE

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- Increased capacity of government to work more productively for/on behalf of the citizens they serve
- Improved relationships between government and the people
- Potential Case Studies:
  - USACE: Iowa & Cedar Rivers Basin Watershed Climate Change Pilot (2012)
  - USIECR: Agreement to Protect the Endangered Indiana Bat (2015)
  - USIECR/FHA: St. Croix River Crossing (2013)
  - OAR: Clean Air Act and Environmental Justice (2014)
  - EPA: Intergovernmental Cooperation and Public Engagement for Artillery Disposal (2015)

# Report Conclusion

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## III. Where Do We Go From Here?

- The Report contains a section about the future for ECCR. Should the Report contain recommendations from the Forum to support and realize that vision for the future? If so, what recommendations would be useful?
- Is it an appropriate role for the Forum to make recommendations?
  - If so, what recommendations would be useful?

# Next Steps

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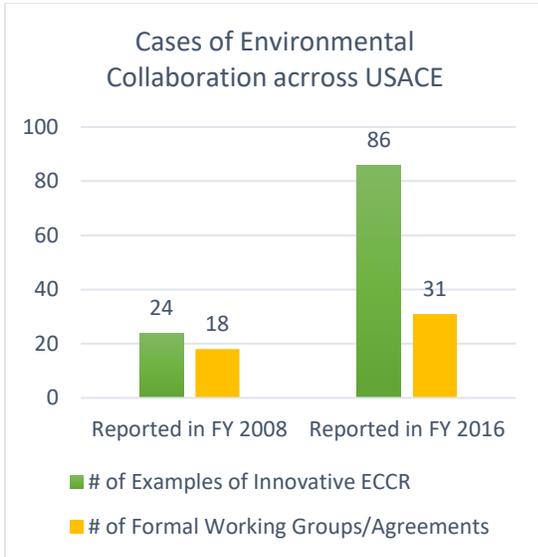
Send additional feedback to [Kavanaugh@udall.gov](mailto:Kavanaugh@udall.gov), including:

- What is the “best example” case for your agency?
- General feedback on how to make this product more useful
- Want to be involved?

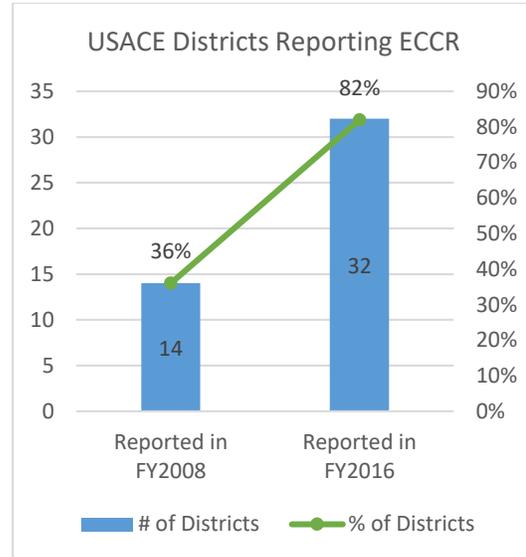
## 10 Years of Environmental Collaboration and Conflict Resolution at USACE

Based on ECCR reporting to White House Center on Environmental Quality (CEQ)

### Increase in Use of innovative ECCR across USACE:



Increased awareness, use, and reporting of ECCR techniques allows for acknowledging efforts and sharing of successes.



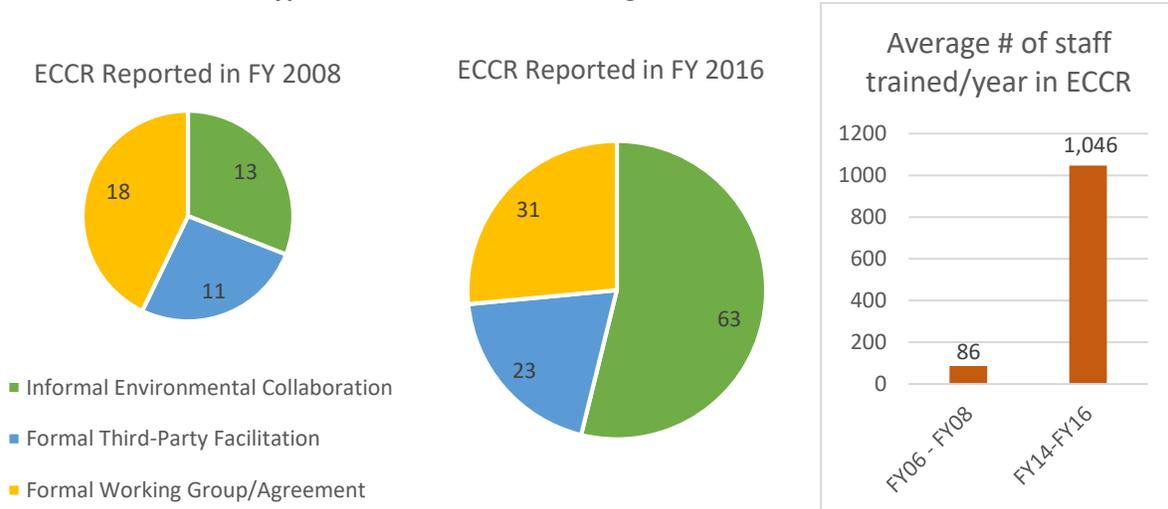
**\*Between FY2014-2016, every USACE district reported examples of using innovative environmental collaboration techniques.**

### Increase in recognition of ECCR benefits

#### Barriers to ECCR reported in 2008:

- Uncertainty about the net benefits of ECR -----> 2009 – 2016: not listed as a major concern
- Inapplicability of ECR to Regulatory decisions -----> not listed as a major concern
- > Regulatory listed as a priority area for ECCR in 6/8 subsequent years.

### Increase in Amount and Types of ECCR Use and Trainings Across USACE:



\*Integrating environmental collaboration approaches into standard USACE business practices may limit or obviate the need for formal third party facilitation.



### Main takeaways on 10 years of Environmental Collaboration and Conflict Resolution (ECCR) reports:

USACE's ECCR report is completed annually by CPCX, on behalf of USACE, as required by all federal agencies by the White House Council on Environmental Quality (CEQ).

### **How is the reporting process itself is useful for divisions, districts, CPCX, and HQ?**

- Captures large and increasing collaboration efforts across USACE
- Allows districts to report on work that may not see immediate benefits in that FY
- Helps districts and divisions allocate appropriate resources to ECCR
- Allows districts to share experiences across USACE, to share successful practices and approaches with other districts, and to reflect on needs and challenges
- Provides CPCX with new/updated information to help better serve districts as well as reporting
- Highlights for HQ the tremendous amount of work being done in ECCR

### **What can we learn about ECCR efforts at USACE over the past decade?**

- Continued takeaways:
  - Across the U.S., USACE districts see greater results, fewer lawsuits, and greater efficiency from early and continued collaboration and engagement with stakeholders.
  - Continued efforts at integrating environmental collaboration approaches into standard business practices may limit or obviate the need for formal third-party facilitation.
  - Lack of resources continues to be a barrier for divisions and districts to utilize ECCR.
  - Challenges exist when reporting on ECCR or comparing reports over time, as districts undertake many different efforts and reporting processes have changed.
- Changes over time:
  - Over the past decade, there has been a large, steadily increasing amount of ECCR activity undertaken by USACE districts, both on their own and with CPCX assistance.
    - There is not always a large year-to-year increase, given the stages of projects and planning processes; however, the trend over any 3-4 year period is notable.
    - The increase in ECCR includes both efforts directly relating to USACE projects as well as on larger watershed issues important to USACE interests.
    - Although the increase in ECCR has happened to varying degrees across districts, every district and division in the U.S. has reported innovative environmental collaboration efforts over the past 3 years (FY 2014 – FY 2016).
  - The perception of ECCR across the USACE is changing, as evidenced by its increased use, demand, and interest in trainings, as well as decreased skepticism of ECCR value.
  - Training in ECCR has increased from fewer than 100 staff trained in ECCR annually between FY 2003 – FY 2006, to over 1,000 staff trained annually in FY 2014 – FY 2016.
  - CPCX periodically makes changes to the reporting questions and instructions, to provide clarity and guidance for the districts, and to better capture ECCR efforts across USACE.

### **In 2016:**

- **47 states** have active Silver Jackets teams.
- **20 public involvement specialists** serve as internal consultants to enhance two-way communication and collaborative problem solving with stakeholders, serving districts in all eight USACE Civil Works Divisions.
- **8 MSC liaisons to CPCX** provide a direct line between CPCX and each division.
- **43 USACE facilitators** listed in Find-a-Facilitator database offer their services to USACE.