

Environmental Collaboration and Conflict Resolution Federal Forum

Meeting Notes

White House Conference Center
726 Jackson Place NW, Washington, DC
Tuesday, July 24, 2018
10:30 AM – 12:00 PM Eastern

Welcome, Agenda Review, and Brief Introductions

Michael Drummond stood in for Ted Boling for this meeting. Michael Drummond 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

OMB and CEQ sent out a Memorandum of Understanding to the agencies on implementing One Federal Decision under Executive Order 13807. The MOU established “a cooperative relationship for the timely processing of environmental reviews and authorization decisions for proposed major infrastructure projects under the One Federal Decisions policy established in Executive Order 13806. E.O. 13807 requires the Office of Management and Budget (OMB) and the Council on Environmental Quality (CEQ), in consultation with the Federal Permitting Improvement Steering Council (Permitting Council), to develop a framework for implementation of the Executive Order.” A dispute resolution process is outlined in the MOU.

The Council on Environmental Quality (CEQ) is extending the public comment period on the Advance Notice of Proposed Rulemaking (ANPRM) to update the Regulations of Implementing the Procedural Provisions of the National Environmental Policy Act. which was originally scheduled to close on July 20, 2018, through August 20, 2018. CEQ is making this change in response to public requests for an extension of the comment period. The notice of the extension of the ANPRM was published in the Federal Register on July 11, 2018.

CEQ is awaiting the conclusion of the hearing on the nomination of Mary Neumayr to be the Chairwoman of Staff for the Council on Environmental Quality which was held July 19, 2018.

General Updates from USIECR

The U.S Institute is celebrating their 20-year anniversary and distributed pamphlets outlining major milestones in their history they produced to the group attending the meeting.

The U.S. Institute is currently working on producing the FY17 ECCR Forum Annual Report for the group to review. Date for distribution is TBD.

The U.S. Institute recently hired a General Counsel staff member, Marc Rosen, to start August 6th. Phil Lemanski, the Executive Director of the Udall Foundation, will retire April of 2019. The U.S. Institute is actively looking for his replacement.

ACR EPP Conference: The ACR EPP Conference was held at George Mason University this year and was well attended. There were open space breakout sessions and the ECCR centers Federal government

break out session was well attended. Next year's conference will be held in Tucson, AZ in conjunction with the yearly ACR conference.

Discussion A: Agency Updates

Department of Energy: In May, DOE had their annual training for environmental attorneys and other professions, including a training conducted by the U.S. Institute. The Department of Justice and DOE participated in mediations on CERCLA disputes.

Environmental Protection Agency: EPA recently mediated a Title 6 Civil Rights Case. They are currently supporting a community at the West Lake Landfill for a cleanup as part of the superfund initiative. Held their bi-annual training for its ECCR specialists. It was extremely successful to build ECCR and action. They held the bi-annual training in conjunction with the ACR EPP conference which allowed for cost savings and more participation from the employees.

U.S. Forest Service: The Senate may confirm an Under-Secretary soon for USDA.

Department of Transportation: DOT is currently working on historic CERCLA projects. The Operating Administration is using dispute resolution and working on trainings and documents to distribute to the field staff.

Department of Interior: CADR issued their new five-year contract for ECCR at \$35 million. Kearns & West won the bid and are available for anyone in DOI to use. CADR recently established an ECCR network to build a community of practitioners of ECCR. Historically, they've tried to focus on top hierarchy and not the practitioners. Now, they are distributing information and trainings among the bureaus within DOI.

National Oceanic & Atmospheric Administration: Offices within NOAA are gaining more interest in conflict resolution. NOAA is partnering their existing facilitator's network and others within in NOAA who need facilitation for environmental conflicts.

Federal Highway Administration: The U.S. Institute facilitated stakeholder involvement meetings for FHWA regarding the Interstate 11 in Arizona. ECCR services are also being used to update the Programmatic Agreement between FHWA and Puerto Rico under Section 101 of the National Historic Preservation Act. NEPA and collaboration trainings requests are coming from within FHWA.

Bureau of Land Management: More projects are coming through the DOI CADR contract. BLM is putting together a "how to use environmental collaboration on a project" desk guide. Additionally, they are working on rebranding CADR within in BLM as BLM employees think of CADR has resolving internal conflict resolution only.

U.S. Army Corps of Engineers: Every year, USACE captures what they think are the best ECCR cases and distribute that document to the collaboration practitioners in USACE. There is a follow up webinar as well. There has been increasing amount of interest in the USACE's Gnarliest Collaboration Challenge. The Gnarliest Collaboration Challenge is a submission of any USACE district that has a particularly difficult case that is either controversial or difficult to receive funding or support from the USACE.

Discussion B: Benefits & Recommendations Report

Objective: Learn how agencies are utilizing or publicizing the report to date and discuss future opportunities.

Department of Energy: DOE widely distributed it to their stakeholders and at their Annual ECCR Training.

Department of Transportation: The Deputy General Counsel at DOT has further questions about the report.

U.S. Institute: The U.S. Institute distributed to the contacts provided by the ECCR Forum members on behalf of CEQ. Also sent the report to practitioners on their ECCR roster. There has been lots of interest in the report from the private sector and offices on the Hill. It has been useful to refer people to NEPA.gov for downloading the report.

Department of Interior: BLM is putting the report in their desk guide. CADR is using the report as context to set goals for FY19.

Environmental Protection Agency: CPRC is currently working with their Administrator to put out a memo supporting ADR using the benefits and recommendations report for language.

U.S. Army Corps of Engineers: They have used this report to borrow some language for their own internal document that they share with people within the USACE about what they do. This helps show the value of what they do. They also have integrated the report into presentations.

CEQ and DOE have posted the report to their websites. EPA, BLM, and the U.S. Institute may post it soon. NOAA has a link to the U.S. Institute's website.

EPA asked how will OMB and CEQ use the information so that the agencies can communicate this back to their management for decision making? CEQ responded that they have been identifying issues to elevate, and to emphasize the practice of ECCR. The U.S. Institute is actively working with the Permitting Council as well. CEQ has not engaged in interagency conversations on the political level but that they will have some renewed conversations with leadership about ECCR and how to go forward. OMB mentioned that they would take a look at the data and use it more ad hoc as they don't have any form processes on the data. They would use this ad hoc for budget decisions.

Other Topics

The U.S. Institute suggested that at the next ECCR Forum meeting the members discuss reviving the committee on streamlining the ECCR reporting document. Members agreed that this would be a good topic. The annual report for FY18 will stay the same. The changes to the reporting system will be for FY19.

EPA suggested incorporating skill building into the ECCR Forum meetings similar to the IADRWG meetings. David Moora, EPA, could come in and discuss the IADRWG plans.

NOAA asked CEQ for guidance on how to effectively use ECCR in the One Federal Decision process. There is no formal guidance, however, please reference the MOU's dispute resolution portion for clarity.

Action Items

- Steve Miller, DOE, will send Jeanne Briskin, EPA, a list of any cases their agencies are involved in so that they make work more efficiently between the two agencies.
- EPA would like the U.S. Institute to send the Benefits and Recommendations report out to more people within EPA. They will be sending the U.S. Institute a list of e-mails and names.

Next Forum Meeting

CEQ and the U.S. Institute will identify a date for the next forum meeting. Forum Members will receive a calendar invite. If you have any suggestions for topics for the next meeting, please e-mail Courtney Owen, owen@udall.gov.

Attachments

Attachment 1: Attendees

Name	Agency
Alicia Bell Sheeter	U.S. Forest Service
Amy Coyle	Department of Transportation
Cathy Humphrey	Department of the Interior
Chris Gamache	Office of Management and Budget
Courtney Owen	U.S. Institute for Environmental Conflict Resolution
Crorey Lawton	U.S. Army Corps of Engineers
Cyan James	Department of Defense
David Cohen	Department of Transportation
Ethan King	Department of Energy
Frank M. Sptel	National Oceanic and Atmospheric Administration
Jacob Strickler	Environmental Protection Agency
Jeanne Briskin	Environmental Protection Agency
Matthew Ray	Department of Energy
Michael Drummond	Council on Environmental Quality
Pat Collins	U.S. Air Force
Sarah Palmer	Department of Interior
Stephanie Kavanaugh	U.S. Institute for Environmental Conflict Resolution
Steven Miller	Department of Energy
Tyson Vaughan	U.S. Army Corps of Engineers
Viktoria Seale	Council on Environmental Quality
William Bresnick	Department of Homeland Security
William Hall	Department of Interior
Emily G	Department of Transportation